HOUSE OF ASSEMBLY

Wednesday 13 February 2008

The SPEAKER (Hon. J.J. Snelling) took the chair at 11:00 and read prayers.

PUBLIC WORKS COMMITTEE: CRAIGMORE HIGH SCHOOL

Ms CICCARELLO (Norwood) (11:02): I move:

That the 274th report of the committee, entitled Craigmore High School Redevelopment, be noted.

Today I would like to report on the Craigmore High School, which was opened in 1970 to cope with the rapid increase in enrolments as a result of the development and expansion of industry in the Elizabeth area during the 1960s. The proposed upgrade of the school involves the redevelopment of the school at an estimated cost of $4.42 million (excluding GST) to accommodate a maximum of 900 students.

The development is predominantly within existing buildings; however, new construction in the performing arts area is proposed to provide a contemporary feel to the school. Administration and teaching spaces will include a re-orientation of the general office and main entry to provide a visible gateway and main entrance to the school and a new separate student foyer and entry directly off the main quadrangle. There will be a better connection between the general office and student reception back-of-house areas. A general rationalisation of office areas and staff preparation and two new senior student classrooms will also occur.

The redevelopment will also provide new resource centre facilities and three common teaching spaces. The new library layout provides excellent sight lines from the reception, office and work areas, with an open-plan teaching space and connected staffrooms. A covered link-way will address the requirements of the Disability Discrimination Act and also become a feature entry to the new resource centre.

The existing shelter shed will be redeveloped to provide a new performing arts facility. It will house the music department, with two permanent music teaching rooms plus two practice rooms and a staff preparation area overlooking the main courtyard area. The existing shed structure will be refurbished into a new multipurpose space, which can be divided into two drama studios or integrated to form one performance space with theatrical lighting, control box and tiered seating.

The existing canteen will be significantly improved by creating a new external servery and rationalising the internal layout. A new canopy will create a shaded outdoor dining space and feature for the quadrangle. The replacement of the site water mains will address the repeated failure of the system. Removal of surplus accommodation will reduce long-term maintenance costs, provide space for the future expansion of on-site parking, and improve the aesthetic appeal of the site.

A staged construction program has been developed in consultation with the school to minimise disruption and ensure smooth school operations. Temporary fencing will be erected to limit access by both students and staff during the course of construction works. However, there will be times when a crossover of contractor/staff and students will occur, and appropriate management procedures will be put in place to suit those requirements. General teaching facilities services will not be affected, other than requiring temporary relocation within existing facilities.

Initiatives include maximising the existing structures' thermal performance potential when refurbishing existing buildings, maximising daylight and natural ventilation opportunities in the new extension and installing high efficiency T5 lighting. Best practice passive design elements are incorporated into the design of the new building. The redevelopment aims to provide modern, efficient and functional areas for the effective delivery of education to the community of Craigmore. The key drivers are to:

- upgrade accommodation and services for the school, including removal of surplus accommodation; and
- address non-compliance of existing facilities and associated risks.

Enrolments are expected to increase to approximately 900 and remain constant at that level.

Three options were considered. The preferred option will result in the immediate redevelopment and minimise potential capital escalation cost if the project were to be deferred. All of the issues currently being faced by Craigmore High School will be resolved and will ensure the provision of a facility that would meet the current and future needs of the school.

Construction commenced in November 2007 and is expected to be completed by December 2008. The project will provide modern upgraded educational accommodation, meet legislative compliance requirements and deliver DECS benchmark accommodation for the secondary school students. In particular, it will:

- allow students to experience a variety of teaching methodologies;
- provide opportunities for enhanced professional learning for all staff;
- improve the amenity of the site for the wider community; and
- aesthetically improve the presentation of the site.

So, based upon the evidence submitted to it, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

Mr PISONI (Unley) (11:07): I too support this project. It is great to see this type of work going on, particularly in our most disadvantaged suburbs. As the shadow minister for education, I am very keen to see improvements in our schools. I commend this project. However, I think that it has also fallen victim to the Premier's spin on his so-called green credentials, where he is always out there telling us what he is doing but also at the same time ensuring that the smallest windmill that pops up somewhere can be seen.

Just remember that there have been several articles in the press now which tell us that the most important criterion for the Premier in using windmills and solar panels is not so much their effective positioning but their visual positioning, so they can be seen. It does not matter that if in the most appropriate visual position it only gets half its efficiency; the important thing to the Premier is that it can actually be seen, not actually deliver the power required.

One of the interesting sections of this report, you will notice, is that it boasts about its green credentials and about the use of solar power and the use of wind power. When I raised the question as to the extent of the solar and wind power in this project I was told that, well, really it is only just for students to study. I asked a question about a reduction in the global allowance for the school to pay for electricity for these new innovations of wind and solar power that were being boasted about in this project and, of course, there is no reduction; they are not expecting any savings at all.

I then called for a report on how much power will be generated in the use of these windmills and solar panels that were boasted about on this project. The report came back—I did not want it in kilowatts, as kilowatts are a bit hard to understand for the average person like me; I wanted to know how many computers it would power—telling me that on a sunny and windy day—so it has got to be sunny and windy at the same time—the school will actually be able to power seven and a half computers for eight hours.

But what a great visual effect of the solar panels and the windmill and what great credentials to be able to write into that report—that environmental concerns have been considered in this project. So, this is a con on environmental grounds, just also as are the other environmental projects the Premier hangs his hat on.

I cannot let this project go without expressing concern about the federal government's dropping the Investing in Our Schools program. It was interesting that, in the lead-up to the election, in March last year the government (then the Labor opposition) welcomed the policy document, Directions in Our Schools. They stated that they understood the shortfall in spending facing Australian schools (of course, our schools are run by state Labor governments right across the country) and, consequently, the additional funding to invest in our schools, provided by the previous Liberal government, was welcome.

Yet we now have a situation where many of our schools, particularly those category 6 and 7 schools, will be disadvantaged. They have lost that Investing in Our Schools project. Some of the projects implemented in schools around the state really should be undertaken by the state government under its education budget, as they are essential and important projects.

For example, $53,000 was allocated for floor coverings for the Blakeview Primary School. This was last year, but remember that there have been three years of these grants at $150,000 a pop per school. We see the library resources at Blyth Primary School. Of course, primary schools are the biggest losers.

Ms CICCARELLO: Madam Deputy Speaker, I think that the member has strayed from what we are actually talking about, and I ask that you request him to come back to the report.

The DEPUTY SPEAKER: I uphold the point of order. I ask the member to return to the subject of the report.

Mr PISONI: I have obviously hit a raw nerve with the member for Norwood on this issue. She herself is embarrassed about the way that the Rudd government has performed on the Investing in Our Schools project. The member for Norwood is embarrassed, and she is trying to shut me up. But she will not shut me up, because I will be telling everyone I meet in schools about her lack of interest in capital projects and other projects in our schools.

The DEPUTY SPEAKER: Order! Member for Unley, have you finished your remarks?

Mr PISONI: No; I have not, Madam Deputy Speaker. I have another five minutes, as you can see. You can read the box as well as I can.

The DEPUTY SPEAKER: The point of order was to continue—

An honourable member interjecting:

The DEPUTY SPEAKER: Interrupting the Deputy Speaker is not in order. Please return to the subject of the report.

Mr PISONI: The point I am making is that state Labor governments have been running our education systems for years now, and the only thing that has been saving them is the Investing in Our Schools projects, which have helped disadvantaged schools such as Craigmore High School and others in that area. Other disadvantaged schools this government is ignoring and is not delivering resources to are schools that are growing in other areas, particularly in and around my electorate of Unley, and they will be missing out now.

Primary schools will no longer receive any funding whatsoever from the federal government for important projects such as windmills and solar panels, which the Premier continually boasts about and which are mentioned extensively in this report. As I mentioned earlier, as to sustainable energy, this government is only interested in using it as a prop, if you like, for espousing the myth that this Premier is in fact a green Premier.

This project is evidence of the perfect opportunity the government had to spend some more money producing a real wind turbine, such as, for example, the wind turbine I visited at Forest City High School in Iowa over the Christmas break, which actually produces 65 per cent of the school's electricity. That project was put together by the school community as well as the general community. That wind turbine was impressive to see, because not only did it have the benefits of energy savings, greenhouse gas savings and saving of money for the school but also it had the benefit of educational advantages for the students. I am pleased that the government is spending money on our schools in areas such as this and, certainly, I would like to see the government opening its purse for other schools throughout the state.

The Hon. P.L. WHITE (Taylor) (11:16): I rise to support the government's position in spending this significant amount of money on the redevelopment of Craigmore High School. I believe it is a very worthwhile project and will lead to more enhanced outcomes at that school. I think that the member for Unley speaketh with forked tongue when he takes such a pot shot at the government on its education record. One has to look only at the millions of dollars that this Rann Labor government has poured into our schools since its initial election compared with the millions of dollars the previous Liberal government in its 8½ years took out of our school system.

Craigmore High School is a very good school to look at when one considers this point, given what the previous Liberal government allowed to occur at that school. I was involved in some controversy at that school in what came to be known as the 'Craigmore five' incident when our Labor government realised that the school was grossly underperforming and moved teachers. I am pleased to say—and I commend the principal—that the school has made a significant turnaround, and that is because Labor is willing to act not only in terms of the significant investment it has put into our schools in South Australia in the last six years—the significant investment in redevelopments of our schools which we are seeing and which is ongoing (Craigmore High School

is having a significant facilities upgrade)—but also in terms of educational programs that have been introduced in our schools, including the literacy programs and programs to help retain our students in high school to year 12.

Our daily newspaper has reported an increase in the number of students attending government schools. That has been a turnaround. What was the record of the previous Liberal government? Each year we saw a decline in the number of students attending our public schools—a significant drift away from our public schools. We are seeing a turnaround and, as a member of the Rann Labor government, that makes me extremely proud. I do think that the member for Unley's contribution was delivered with a bit of a forked tongue, because the record of the Rann Labor government stands in distinct contrast to the complaints the honourable member has made. Hundreds of millions of dollars have been put into schools as compared to the hundreds of millions of dollars—I think it was about $300 million, but my memory is fading me a little on that point—of maintenance backlog left to us by the previous Liberal government. We have seen massive investment in education works.

Mr Pederick interjecting:

The Hon. P.L. WHITE: I am not sure what the honourable member's interjection meant, but the facts speak for themselves. A Rann Labor state government means a massive injection into education, and the former Liberal government meant massive amounts of money taken out of our school systems, schools closed without replacement—a degeneration. It was just not the Liberal government's priority. It is a priority for Labor. I am very pleased that Craigmore High School, in particular, has seen this investment of funds. I thank the opposition for its support in carrying this recommendation unanimously on the Public Works Committee, and I look forward to the day when we can look at the opening and see the massive improvement in the facilities that this latest project will bring to the students of Craigmore High.

Mr PENGILLY (Finniss) (11:21): I will pick up on a few points the member for Taylor made. Together with other members of the committee I supported the Craigmore school redevelopment, and perhaps the former minister should be elevated to the position of minister of education again or to something similar. The member for Taylor has selective memory loss in having a crack at the former Liberal government. The former Bannon government left the state broke—absolutely flat, motherless broke—and there was no money to spend on much at all, including education. It was absolutely criminal, so I am not prepared to sit in this place and hear once again about the virtues of the Rann government and how much it is spending on education.

Going back in history we can remember the debacle left to the incoming government in 1993. I would rather look forward than back, but that needs correcting in *Hansard* and it is most inappropriate to have a go at that government that came to power with no money and lots to be done. It turned the state around and got the economy going again, and the Rann government was then able to hop on the bandwagon and spend everything created by the former Liberal government.

In supporting the Craigmore High School redevelopment, it is important to be aware of history and get the facts right, and I hope in the forthcoming Rann reshuffle the member for Taylor will be elevated, perhaps along with the member for Little Para, and they will both get back on the front bench and we can get the place cracking again.

The Hon. L. STEVENS (Little Para) (11:23): I rise to support the motion and to support the government's capital works program of over $4 million at Craigmore High School. I will be brief. Craigmore High School is not in the Little Para electorate but in the electorate of Napier, but it is one of the local schools in the Elizabeth/Munno Para area. Craigmore High School is going very well at the moment. It has had a new lease of life, and I congratulate the principal, the staff, the students, the parents and the community on the way the school is now focused on great results and enhanced learning opportunities and outcomes for its students.

As the member for Taylor mentioned, things have not always been so at Craigmore High School. I know the school well, even from my time as a principal of other secondary schools in that area, and there have been difficulties over the years at Craigmore High School. In particular, those difficulties culminated in the action the member for Taylor took as minister for education when there was direct intervention, dealing head on with staff matters and issues arising at the school and making significant changes to enable that school to get back on track and be able to deliver the necessary educational outcomes for students. I congratulate the member for Taylor. Many people knew about this and did not take action. She took action as minister—and it needed to happen. In

combination with other measures taken that school will now be an outstanding place for students in the Elizabeth-Munno Para areas to gain an excellent secondary education.

I congratulate the government on this money. As a neighbouring MP, I look forward to watching the continuing good things happening at Craigmore High School for the benefit of the students in the north.

The Hon. R.B. SUCH (Fisher) (11:25): I welcome this development: $4.4 million is a fairly modest amount, as the chair of the Public Works Committee informs me. I am happy to say that I am a product of the state school system. I am a great believer in it. In my view, it needs hundreds of millions of dollars spent on infrastructure to bring many of the schools up to the standard they should be. The member for Finniss said that previous Liberal governments did not have the money. Of course, there is some truth in that. However, the reality is that the present government—and I commend it for this—is spending much money on capital works in schools, but we need to spend much more.

In the community we often hear people saying that we need more sporting facilities. To me, they should come after we have addressed the issue of properly providing for the education of our children. If members look at the schools in our community overall, we have a two-tiered system. The private system has been generously funded by the commonwealth in recent years for infrastructure, but when you compare it with many, if not most, state schools, they are the poor relations when it comes to their infrastructure.

I challenge any person to look at this objectively and in a fair-minded way. I believe that they will have no option other than to agree with what I am saying. I would like to see our state schools with the infrastructure that has been funded in the private school sector. I am not being critical of the private school sector, I am just saying that there is a disparity, as a result of very generous commonwealth funding over the past 10 or 11 years in particular, to the private school sector.

Whilst Craigmore High School is clearly not in my electorate, I am pleased that money is being spent on schools such as Craigmore. I have noticed that many areas which are predominantly—but not exclusively—in Labor electorates should be given the highest priority for spending on public schools. I was in the Seaton area last weekend and I noticed that many of the buildings at the high school are temporary and need to be improved significantly or replaced with solid construction. I am pleased that locally (and this was obviously with the support of the member for Davenport) we managed to obtain money for an improvement to Flagstaff Hill Primary School. Small bickies in the scheme of things—I think about a million dollars—but still welcome.

I am fortunate that, in my electorate, most schools are relatively new because it is a newly developed area, comparatively speaking, with other parts of Adelaide. I am not one to say that my schools are in a situation where they need huge amounts spent on them. Many of them would like some sort of meeting hall. Schools such as Reynella East, which I think is one of the largest schools in the state with a combined campus of probably 1,600 or 1,700 students, cannot fit their students in one building (that is, the hall) within the school premises. They need money spent there.

Likewise, for a while now, Aberfoyle Park High School has also made a request to make improvements, including a security fence. That still has not happened. It highlights the fact—and it is a topic for another day—that we need to give more authority to local schools by way of school councils and the principal to run and to govern their schools and to have a greater say in when money is expended on things such as fencing and other infrastructure. At the moment, I believe the system is too heavily orientated towards decision making in Flinders Street.

I commend this project. I look forward to the government spending the hundreds of millions of dollars that I said earlier is needed on our state schools to bring them up to where they should be. We should be proud of our state and private school systems, but I think when it comes to capital works (infrastructure) the state school system needs a huge injection of funding, and I do not care whether it comes from the commonwealth or the state: it is something that is necessary and should be one of the highest priorities of this government.

The Hon. I.F. EVANS (Davenport) (11:31): I want to support the project for the reasons outlined by previous speakers. However, I make the point while we are talking about school capital works that I think it is time the Elizabeth Special School was treated more kindly by this government. It is a school with a student body that has special needs. I have visited the school. It is in poor condition, and I know the school has been lobbying its local MPs for some years now. Even a $200,000 injection would make a significant difference to some areas of the school, and I note

that the government had a spare $200,000 to spend at Port Lincoln on the garden in front of the new hotel on council property (not on private property). I say to the government: if you are dinkum and if you have $200,000 to spend on a garden in Port Lincoln, I think you have $200,000 to spend on the students of Elizabeth Special School. I see no reason why the government cannot give it an initial $200,000 and then plan a major upgrade of the school.

I encourage all members of the parliament to go out to Elizabeth Special School, meet with the parent and teacher bodies, as I did, and do a tour of the school facilities and meet the students. You will see that the school is in desperate need of an upgrade. I encourage the government, even though the school is not in my electorate, to commit to a major upgrade of the Elizabeth Special School.

Mr PEDERICK (Hammond) (11:32): I wish to make a brief contribution to this debate. I think it is a very good thing that Craigmore school has had this money spent on it. As everyone knows when looking around the state at the various educational facilities, there are needs to be addressed and it is a continuous program. There are issues with the number of square metres per student when rooms are deemed surplus, so schools need to maintain even assembly halls to keep them operational and be able to hold their school assemblies under some in-house system.

I challenge the government regarding the maintenance backlog and, if it is dinkum and so proud to shout from the rooftops about how good it is at funding maintenance, why was it removed from an education department website around 18 months ago? This website was accessible by anyone and everyone, and you could see what moneys were needed to be spent over time at schools right throughout the state. So I put out the challenge to this government: if it is so good at maintaining and upgrading schools, it should bring back the public website so that the government can be publicly accountable for what money is being spent and then we can have the debate on what this government is spending versus previous governments. But let us move forward and get on with the job.

Motion carried.

PUBLIC WORKS COMMITTEE: VIRGINIA RECLAIMED WATER PIPELINE

Ms CICCARELLO (Norwood) (11:35): I move:

That the 275th report of the committee, entitled Extension of the Virginia Reclaimed Water Pipeline to Angle Vale, be noted.

The Virginia Pipeline Scheme currently distributes about 15,000 megalitres per year of treated waste water from the Bolivar treatment plant to irrigators in the Virginia area. It is owned and operated under a build-own-operate-transfer scheme by Water Reticulation Systems Virginia, which will transfer the asset back to SA Water in 2018. An affiliate company approached SA Water in 2003 and proposed an extension, which has now been adopted as part of Waterproofing Adelaide, to achieve increased water recycling targets.

The proposed extension of the Virginia reclaimed water pipeline will be north-east of the existing pipeline and include just over 20 kilometres of new pipe. It will bring up to 3,000 megalitres per year of Class A reclaimed water from the Bolivar treatment plant to irrigators in the Angle Vale area. Indicative capital and operating cost estimates have been prepared by SA Water and are based on concept design data. The total estimated capital cost is $4.7 million. After allowing for commonwealth funding, the whole of life cost of the project in present value terms is $3.8 million.

The extension will be owned by SA Water, but Water Reticulated Services Virginia will operate it, in conjunction with the existing Virginia scheme. The extension will not be part of the BOOT agreement. SA Water will enter into a new operation agreement consistent with and using relevant portions of the original terms, and will receive an annual payment to lease its infrastructure. SA Water will take over maintenance and operation of the scheme in 2018, along with the existing Virginia scheme.

In addition to the economic benefits expected for the Angle Vale community, positive community impacts will include a move toward more sustainable use of resources in irrigation practice through the application of reclaimed water and improved flexibility of choice in sources of irrigation water. The primary environmental benefits will be a reduction in nutrient discharge to the Gulf St Vincent and reduction in abstraction of the over-allocated groundwater resource. Other positive environmental outcomes include some reduction in the use of water pumped from the River Murray for irrigation.

A flora and fauna assessment was undertaken along the proposed pipeline route in February 2007. The results of the assessment indicated that no significant flora or fauna impacts are likely. Management of potential impacts to soil and groundwater from irrigating with reclaimed water is to be undertaken in a manner consistent and in conjunction with the existing Virginia scheme; that is, using irrigation management plans. Several different pipeline routes were considered to find the most feasible way to:

- deliver reclaimed water to irrigators who had expressed interest;
- minimise the potential environmental impacts of construction on native plants and animals, significant trees and creeks and drains;
- adapt to the Department for Transportation Energy and Infrastructure's Northern Expressway route plans;
- site the new pumping station to minimise disruption to irrigators served by the existing Virginia scheme; and
- minimise long-term energy costs and greenhouse gas emissions.

An economic analysis indicates a positive net present value of $0.6 million, but the uncertainty about values of some key items has led to the project being considered to simply break even. The analysis also indicates that the government sector investment will see the majority of the quantifiable benefits flowing to the irrigators via additional water supplied, reduced use of the groundwater resource and reduced groundwater pumping costs. The value of the additional irrigation water supplied and net irrigator benefits in total are about $5.7 million and $6.3 million respectively, in present value terms. Construction is to commence in February 2008 and be completed by July 2008. In summary, the following project outcomes are expected:

- economic growth associated with increased horticultural production;
- increase of land values in new service areas;
- reduction of nutrient discharge to the Gulf St Vincent; and
- reduction of demand pressure on the over-allocated and overused groundwater.

Based upon the evidence it has received, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

Mr PISONI (Unley) (11:40): I support the project. It was a very interesting Public Works Committee when this matter was discussed. It is so important that we recycle as much water as we can. It is a pity that this government has been very slow to act on the water crisis that we have in South Australia at present. I should use this opportunity to remind the house that it was actually John Olsen who first raised the prospect of dealing with our dying gulf. During the 1989 state election John Olsen, wearing his scuba gear, dived into the gulf to show us all the dying seagrass because of the effluent flowing straight into the gulf.

That was a defining moment for South Australians and water reuse in South Australia. This is an addition to a great project that was initiated by the Brown-Olsen governments. It has expanded our food bowl at Virginia, although I believe that more work needs to be done. Obviously, we need it in the southern suburbs. Ultimately, it would be great if not one single drop of effluent goes out into the gulf so we can preserve the precious seagrass and sea life in the gulf. I commend this project, and I say to the government: let us see more of it.

The Hon. L. STEVENS (Little Para) (11:41): As a local member in the northern suburbs, I welcome and support the extension of the Virginia pipeline. We all know how important the Virginia area is to South Australia's food production. It is fantastic to have it as part of the wonderful range of industries in the northern suburbs, but this pipeline is absolutely critical in terms of future water requirements. About a week ago I had the pleasure of going on a trip organised by the natural resources management group from the Mount Lofty Ranges.

One of the things we discussed on that tour was the issue of water retention and better use of water in terms of all the areas in our neck of the woods in the northern catchment areas, including the Virginia food bowl. This pipeline extension, of course, is an important part of that whole mosaic of better use of water resources. I welcome the project, which is absolutely critical for the area and which will be part of a range of other things to improve our water use and retention over coming years.

The Hon. P.L. WHITE (Taylor) (11:43): It gives me great pleasure to support the motion and this project as a member of the Public Works Committee, and also the local member of parliament representing Virginia and parts of Angle Vale and the Northern Adelaide Plains. This is a $4.7 million project to extend the Bolivar to Virginia pipeline in order to deliver around 3,000 megalitres per year of additional reclaimed high-grade water to growers in the Angle Vale area. I am a passionate supporter of the growers of the Northern Adelaide Plains. They do an incredible job in an area that previously has not had the amount of water that it currently has as a result of the reclaimed water delivered from Virginia via the existing pipeline.

Of course, the amount of well-priced water that a grower can receive directly translates (apart from instances of natural disaster) into output in terms of horticulture in the area. I make that qualification about natural disasters because just over two years ago, in November 2005, we had the devastation of flooding in Virginia that wiped out over $40 million worth of horticultural production in the region. I commend the state government agencies, non-government agencies and local government for the effort that has been made in the past two years, not only in restoring in many parts what was there for those growers, but also in developing markets and production methods in order to go better than replacement of the assets that were there before the floods in some instances.

I also commend the Virginia community for its ability to deal with the devastation of that flood and to move forward. The intervention of money from the state government in relation to the development of that community has been a very welcome addition in the area. But we can always do more, and this project will be a boon to the area. As I said, production is directly related to the availability of water, and for growers to be able to get that water at a reasonable cost is very important.

I support this project. I am always advocating to the government for more for my growers in terms of availability of water, use of water and also in the way that government interacts with the growers of the Northern Adelaide Plains in allowing them to run profitable, productive businesses. The project about which we are concerned today, extending the existing Bolivar-Virginia pipeline, will make a real difference to a lot of the properties along the route of the pipeline and within its reach.

Mr GRIFFITHS (Goyder) (11:48): I wish to make a brief contribution. Unfortunately, this project is not in my electorate; my electorate is to the immediate north of the area where the Light River forms a boundary between Goyder and the electorate of Taylor. I note that the member for Taylor referred to it as the Northern Adelaide Plains area. As I represent constituents a little further north, I would call it the southern Adelaide Plains area, but we will not get caught up in the semantics of it.

As someone who came into the parliament particularly concerned about water in whatever form across South Australia, I am interested to hear the contributions made this morning. From the presiding member's report it is obvious that this investment of $4.7 million will have enormous benefit to the Virginia area, so I commend the government and all involved in the investment.

I had the opportunity about three months ago to attend the official opening of the Divine Ripe tomato factory. I will call it a factory because I am not sure how else I could describe it. It is an amazing growing area which is completely under cover. It completely recycles all water that is used on the site. From memory, about $16 million has gone into this investment. It really is the way of the future on how water can be used to grow foodstuffs for South Australians. I know that the people involved there have some great contracts in place to ensure that what they grow is what the market needs, and it is a credit to them because they are showing the way. I heard Greg Prendergast, the managing director, speak at a meeting at Balaklava about the uniqueness of their project and the fact that it has provided 80 employment opportunities to the Adelaide Plains area, and it gave me inspiration to know that a lot of people are investing serious money these days to make sure that South Australia moves forward.

I note that the Premier often mentions that Adelaide treats and reuses 20 per cent of its water. The State Strategic Plan target is to increase that to 45 per cent in comparison to the national average of nine per cent. It is interesting to note that the member for Morphett has quoted to me quite often that in the last few years the Glenelg Wastewater Treatment Plant has actually increased the cost of the water from its treatment works made available to users by 1600 per cent and that the water reuse percentage has decreased from 11 per cent to six per cent.

I would hope that in respect of the Virginia extension, and certainly the Bolivar treatment plant, that pricing is seriously considered because, while the investment in the infrastructure to get

it out to people is there, it really does have to be at a cost rate. I have no knowledge on this so I might be talking about the wrong thing, but it is important that the cost of the water is actually at a level that will attract people to it.

I commend the government on its investment in this project. I think that it will have to occur many times in the future because the drought in the last two years has demonstrated that, without improving the technologies available to us to reuse water as much as possible, our state faces very serious circumstances that all in this house are concerned about.

We want to make sure that we have a bright future. It is obvious to me—and I would hope to everyone—that the provision of potable water supplies for drinking and for human use and for industry use is a key factor in that, so the reuse technologies that exist must result in government investment taking place.

The Hon. R.B. SUCH (Fisher) (11:51): I will be very brief. I commend this motion. The report of the ERD Committee will come up shortly for further debate. One of the key issues raised during our inquiry was the effect of grey water and stormwater going out into our coastal areas, and the huge damage that is being done as a result.

Any project such as this to extend and expand the use of reclaimed water, I think, is fantastic. I would like to see South Australia do a lot more in this regard and not only use reclaimed grey water but also do a lot more with stormwater. I support this measure; it is a great thing to be happening.

Motion carried.

PUBLIC WORKS COMMITTEE: WHYALLA PIPELINE PUMPING STATIONS

Ms CICCARELLO (Norwood) (11:53): I move:

That the 276th report of the committee, entitled Whyalla Pipeline Pumping Stations—Replacement of High Voltage Switchboards, be noted.

This project is again to do with water. It is the Morgan-Whyalla pipeline which will certainly bring benefits to the northern part of the state. The high-voltage switchboards and associated low voltage switchboards and control panels on the two Morgan-Whyalla pipelines were installed between 1961 and 1969.

These pipelines are essential for the supply of water to the northern towns of Port Pirie, Port Augusta and Whyalla, the Bundaleer, Clare Valley and Jamestown offtakes and areas of the Eyre Peninsula. There are no direct measures for calculating the useful life of high-voltage electrical switchgear.

The need for replacement is often dictated by the capacity of the switchgear to perform the function for which it was installed. However, an investigation conducted in 2004 concluded that the Morgan-Whyalla pipeline high-voltage equipment had exceeded its life expectancy and recommended its replacement.

All others were assessed to have at least 15 years' remaining life assuming the establishment of maintenance and overhaul programs. By December 2008 it is proposed to replace eight high-voltage switchboards and eight control panels—one for each of the pumping stations on the Morgan-Whyalla pipeline. The works constitute part of SA Water's program to reduce the risks associated with operation of its major pipelines and will enhance the plant's safety reliability and ease of operation.

This project will reduce the risks associated with high-voltage switchgear ownership and its operation and is essential to ensure the ongoing viability of SA Water's business. Changing supply conditions and operating standards have made isolation of pump motors, even for non-electrical functions, comparatively complex at a time when it is becoming difficult to provide the necessary qualified staff in country locations.

Further, the age of the switchgear means that spare parts are no longer available to replace consumable items, particularly vacuum bottles for the contactors. A failure of any item may lead to failure of the associated switchboard and a prolonged outage of the entire pipeline system, leaving thousands of customers without a secure water supply. In addition, the switchgear does not comply with present-day expectations with respect to limitations of fault consequences, and even a minor fault could cause failure.

Alternatives for the connection and configuration of switchgear were shortlisted on the basis of security, cost and compliance with three considered for risk analysis. Benefits from options

with isolatable sections of switchboards include enhanced security and flexibility for installation and switching of equipment. When considering installation, options which allow part of the installation to be energised whilst the rest is being installed give more flexibility during installation, requiring shorter outage times. Similar criteria apply to the capacity for extension in the future.

The selected option has an estimated cost of $10.55 million and a present value of $9.8 million and is the optimal engineering solution to mitigate the risk posed by the age of the switchboards. It is cost effective, offers a significant degree of improvement and has the lowest number of high risk items. It also has a lower cost and level of high risk in comparison to the other shortlisted option.

By protecting against water supply interruptions for up to 14 days, the project will reduce the risks associated with high-voltage equipment failure that could have significant impact upon the security of water for 38,500 customer connections, or approximately 100,000 South Australians. I am sure that there are a number of members in this house whose constituents are affected by this who will be very pleased to see the installation occur. I know that the member for Giles, in particular, is very concerned for her community—as are all other members—to ensure that they have a continuous supply of water for their constituents.

Based on the evidence it has received and considered, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work.

Mr PENGILLY (Finniss) (11:57): The member for Norwood, the Presiding Member of the Public Works Committee, has adequately explained the benefits of upgrading this high-voltage switchboard on the Morgan-Whyalla pipeline and I endorse her remarks on the importance of it. However, I was somewhat surprised, when this matter did come to the Public Works Committee, about the length of time that it had been in place without actually having had a lot done to it. I was mightily impressed at the good work of the Playford government which put the Morgan-Whyalla pipeline in place. It lasted a very long time. It was an excellent project undertaken by the Playford government and it is still serving the people of South Australia.

It is a pity that the reality is that the current government has done absolutely nothing about providing additional water to put through that pipeline and that, along with the rest of the state, the areas in question are drying out rapidly and there is no water. I sincerely hope that the good people of Whyalla will have cause to appreciate the efforts that were made by the Playford government so many years ago. Indeed, as the member for Norwood said, this was a very necessary project. It is one of those bits of state infrastructure that you probably see when you drive past and do not think a lot about, but it is absolutely critical to the wellbeing of the people of the Upper Spencer Gulf and the City of Whyalla, which I had the pleasure of visiting a week or so ago. Whyalla is going very well.

Ms Breuer interjecting:

Mr PENGILLY: I was passing through and I had a cup of coffee in the main street, but I do have friends who live in Whyalla. As a matter of fact, the son of the member for Giles works for one of my friends. It was good to talk to them. Whyalla is going ahead extremely well at the moment, and that is good to see. As part of the Iron Triangle, Whyalla was going well, in the scheme of things, but then it went substantially downhill population-wise.

My sister used to teach up there many years ago, and then that school closed. However, Whyalla is coming back into its own, and that is excellent. I hope that the switchboard and the associated infrastructure serve the purpose and last for many years. It is a project which I heartily endorse and support.

Debate adjourned.

CRIMINAL LAW CONSOLIDATION (DOUBLE JEOPARDY) AMENDMENT BILL

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (12:02): (for the Hon. M.J. Atkinson) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935. Read a first time.

ELECTRICITY (FEED-IN SCHEME—RESIDENTIAL SOLAR SYSTEMS) AMENDMENT BILL

Consideration in committee of the Legislative Council's message.

Amendment No. 1:

The Hon. P.F. CONLON: I move:

That the Legislative Council's amendment No. 1 be agreed to.

I indicate that, as a consequence of the amendment, we have placed on file some subsequent amendments. In short—and this is what I will say to all of it—we have agreed to an amendment about the eligibility for 'qualifying customers' to extend it to small customers, rather than the amendment sought. Our original objection was that it was not a doable suggestion for the distribution company. We believe we have found something which is administratively achievable and which achieves the spirit of the amendment sought in extending it to small customers, whether they be residential or business. The other amendments, as I will indicate later, are not agreed to; in particular, I think the last sticking point is the wish to give this a 20-year life time, instead of five years.

I want to place on the record again the reasons for the five years. There is great movement now in Australia, with the election of a new federal Labor government, in regard to matters surrounding renewable energy and greenhouse warming. It is very likely that within that period of five years we will see significant changes made to a number of things that may well affect the pay-back time in the investment of photovoltaic cells. Just so that it is absolutely clear that the reason for the five-year period is not that people would lose this benefit in that time: it is that there may well be a superior scheme or something that conditions the operation of this.

I can say that it is certainly the intention of this government that, if there was nothing of that nature or no additional benefit, we would be seeking to preserve this one, but we think that is a very unlikely scenario. I place on the record that it is our intention that, if there is not a scheme which does the same sort of thing or which gives a superior benefit, or at least an equal benefit, it would be our intention to seek, if we were still the government, to continue this one but, as I have said, we think that is very unlikely.

Mr WILLIAMS: The opposition accepts the amendment.

Motion carried.

Amendment No. 2:

The Hon. P.F. CONLON: I move:

That the House of Assembly agrees with the amendment made by the Legislative Council with the following amendment:

Clause 4, page 3, before line 1—Definition of qualifying customer—Substitute:

qualifying customer—a small customer is a qualifying customer for the purposes of this division;

and makes the following necessary consequential amendment:

Clause 4, page 2, lines 16 to 19—

Clause 4, inserted section 36AC—delete the definition of domestic customer

Mr WILLIAMS: I am delighted the minister has seen the sense of the amendment which was put in the other place and which was supported by the opposition.

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: We always support business people. Small businesses provide jobs for about 85 per cent of the people employed in South Australia. That is why we support business.

More importantly, we support this particular amendment as proposed by the government. It is a very sensible amendment that picks up the amendment moved by the Hon. Mark Parnell in the other place (which was supported by the opposition), because it vastly improves the scheme. It means that the scheme will now be available not only to householders but also to small businesses and a whole range of other community organisations. Back before Christmas I received a letter from a church group who wanted to know why on earth it would be precluded from such a scheme. The group argued that, as a church group, it was very important for it to do what it could to meet the challenge of climate change and global warming, and the group thought it may well be interested in putting photovoltaic cell systems on some of its buildings. It wanted to be part of the scheme because it would make it much more economically viable and attractive for the group to do that.

I commend the minister for coming on board with the expansion of the scheme. I note that the small customer is already defined in the Electricity Act 1996 as being, 'a customer with an annual electricity consumption level less than the number of megawatt hours per year specified by

regulation for that purpose, or any customer classified by regulation as a small customer.' When we go to the regulations, a small customer is currently defined as one using less than 160 MWh of electricity per year. That very much broadens the amount of customers who will now be able to access the scheme the government has brought forward, and (as I believe I have argued at least twice in this place since we have been debating this piece of legislation) I would have thought that that was the government's initial aim—to make this as freely and widely available as possible. I am delighted that the government has seen the commonsense in that and that it has brought this amendment forward. The opposition supports it.

Mr HANNA: I am pleased to note that one of the two ideas I put forward when this matter was debated in the House of Assembly has been agreed to by the government. The two things I thought could improve the original government bill—which, in itself, was worthy—were the inclusion of small businesses and the extension of the guarantee period for people interested in installing photovoltaic cells to 20 years. When it comes to the inclusion of small businesses I think previous speakers all agreed that the more people involved in the scheme, the better it will be for the environment. That is the ultimate goal of the bill so it is very pleasing to see—on this point at least—that everyone is now in agreement.

Mr VENNING: I support the bill. The whole concept is very appropriate and correct. We live in times where we are having difficulty meeting demand, and we talk about green electricity—well, this is certainly green electricity. I also believe that this is a good way for the community at large to be involved in solving a problem for the government. I commend members of this parliament, including the member for Mitchell, for their input and congratulate the government for accepting the amendments in goodwill.

We have ended up with a good situation where, in the first instance, no-one is really excluded from the process—particularly in relation to small business. I am also very pleased the member for Mitchell had the time extended out to 20 years, or tried to, because there is a fair bit of money involved here and even when people make use of the government rebates they still expend quite a bit of personal money. Over 20 years (which is probably the life of the photovoltaic cells anyway) they can recover almost all the initial expenditure, and I certainly welcome that. I think most South Australians would now have a jolly good think about why they should not be part of electricity generation in the future.

In fact, all new homes ought to be wired for photovoltaics, because it is so much cheaper when you are building a house. I have made inquiries on my own behalf. We have a farm; why should we not all be doing our bit to generate electricity? At the same time, you do not get money back. You do not make money, minister, do you? All you do is offset the large electricity accounts. I think it is a good move, a positive move, and I congratulate the government, the opposition and, indeed, the member for Mitchell.

Motion carried.

Amendment No. 3:

The Hon. P.F. CONLON: I move:

That the Legislative Council's amendment No. 3 be agreed to.

Motion carried.

Amendment No. 4:

The Hon. P.F. CONLON: I move:

That the House of Assembly insist on its disagreement to the Legislative Council's amendment No. 4.

This matter is consequential on the matter I shall be addressing in a moment.

Motion carried.

Amendments No. 5 to 15:

The Hon. P.F. CONLON: I move:

That the House of Assembly agree to the Legislative Council's amendments Nos 5 to 15.

Motion carried.

Amendment No. 16:

The Hon. P.F. CONLON: I move:

That the House of Assembly insist on its disagreement to the Legislative Council's amendment No. 16.

This will be the last time I will speak to this matter, unless I am severely or sorely provoked by egregious comments by the opposition. The remaining sticking point on this issue is the wish to extend a five-year period to a 20-year period. I stress that the intention of that five-year period was merely to see what evolves out of what will be a major set of changes. It may even include a national feed-in law—who is to know? Certainly, there will be matters going to the cost of carbon and matters going to the promotion of renewable energy, we believe, in the next few years.

It is certainly the view of this government that, if those things do not emerge to the extent that it makes the proposition at least as attractive as the feed-in law that we have, we would seek to preserve this feed-in law beyond that time. I hope people understand that there is never an intention that people should get only a five-year benefit; it is merely to allow us to see what other schemes emerge in that time. For those who are knowledgeable in this area, we have seen—in the absence of federal leadership in the past—a proliferation of state-based renewable energy schemes: in New South Wales and Victoria, for example, and this scheme which goes to feed-in laws here. I stress that it would certainly be the clear intention of this government that if something was not at least equal or possibly superior to this scheme that we would seek to continue this one.

Mr WILLIAMS: It is most interesting. The minister has told the house that it is the government's intention that this scheme or some other scheme should continue on into the future to encourage people to invest in photovoltaic cells. I sincerely hope that that is the government's intention, and the minister has said that it is.

The minister has implied that, whether or not we accept this amendment, there will most likely be needed at some point in the future, and probably before 2013 (the expiration of five years from when it is intended that this legislation will come into effect), the parliament will have to come back and address this matter again. The minister is suggesting that we will come back and address it because other events, possibly in the national sphere, will have overtaken this piece of legislation and—

The Hon. P.F. Conlon interjecting:

Mr WILLIAMS: Not international: the national sphere—I thought that is what I said—will have overtaken this piece of legislation and, as a consequence, the parliament would need to come back and have a look at this legislation and maybe readjust it to fall in line with a national approach.

Alternatively, the minister is suggesting that, if we accept the amendment that is put in the other place by the Hon. Mark Parnell and give this piece of legislation a 20-year life, events that may overtake this legislation will mean we have to come back prior to 2013, or in four or five years' time, and have another look at the legislation.

The reality is that, no matter what happens, if there is a national scheme which overtakes this piece of legislation, or if there is not, I believe this parliament will have to come back, probably in four or five years' time, and say: what are we going to do for the next period, whether that be another five years—and that seems to be the way the government wants to go—or whether it be for a longer period.

The issue at stake is: what signal are we sending? This legislation is all about sending a signal, it is all about sending a signal to those people who may be disposed to investing money in a photovoltaic generation system—it is about sending them a signal. With the feed-in scheme and the proposal in this bill that people would get a higher rate of return than what they are actually paying for electricity—and it is proposing 44¢—I am told that the payback time for a photovoltaic system is reduced down to about 17 years.

On average, if you invested today and the scheme was operational, the average installation on an average home with the average consumption and consumption characteristics, it would take about 17 years to achieve payback. What we are trying to do with this legislation is, first of all, bring that payback period back to a reasonable time so that people are encouraged to invest, because without this scheme that payback period is probably in excess of 25 years, which is in excess of probably the life of the photovoltaic cells themselves. I think you can buy them now with a guarantee of about 25 years, and they probably have a life expectancy of close to 30 years.

So, the whole point of this legislation is to send a signal to those who would be predisposed to investing to invest, in the knowledge that they are going to achieve payback. I am yet to be convinced that, if we put in legislation that the system only has a life of five years, that actually sends the right signal, especially when the government acknowledges that things might

change and that, irrespective of whether or not we accept this amendment from the other place, we will probably have to come back within four or five years and revisit this.

I suggest to the committee that, in accepting the amendment (which the opposition supported in the other place), to give this piece of legislation a 20-year life sends the right signal—that people can invest with confidence. They can look at the legislation and know that there is bipartisan support from the parliament of South Australia in an ongoing manner for at least 20 years and that, if they invest today, they will be able to achieve payback.

If we accept the minister's proposition, and give a life of only five years to this measure—and the minister's statement is that it is the government's intention to extend it at some time in the future—I do not know that that necessarily sends the right signal. In fact, I am told that all people within the industry (the manufacturers and the retailers of this equipment) support the amendment that was made in the other place. They support 20 years.

These are the people at the coalface, and they are saying, 'This will give us the assurance to tell our potential customers that, yes, the Parliament of South Australia does intend that this scheme should come into effect later on this year and will be in effect for at least 20 years.' Irrespective of what other schemes may overtake it, they will only overtake it if they are better in the sense that they give even greater benefit to the people who are investing.

So, I think that, by supporting the amendment made in the other place, we will have a bill (and, hopefully, an act) that will send the right message and encourage people to invest in this new technology and do all the things the government suggests it is trying to do with this measure. The opposition supports the amendment made in the other place and does not support the motion moved by the minister.

Mr HANNA: I am sorry to hear that the government does not support the amendment to allow a 20-year guarantee for those who install photovoltaic cells and want to get the benefit of the feed-in law. One of the problems with the existing bill is that it fixes a date in June 2013 for the benefits to stop. Even if we talk about a five-year guarantee, it is only a five-year guarantee, as I understand it, for those people who install something in the next six months. As you get closer to the 2013 date, it is a guarantee for three years, two years or one year, until there is no additional benefit.

As it stands, the bill, if it is left at five years, really will have little practical effect. There is so little incentive for people to get into it, with the capital cost of installing the cells. If they cannot afford to do it for another year or two, or if they are planning to buy a house in a year or two and then install photovoltaic cells, they will get a guarantee of some feed-in repayment for maybe two or three years. So, effectively, it is little guarantee at all. It is very weak.

I am not doubting the sincerity of the minister when he says that something better may come along and I am not doubting the sincerity of the Premier in wanting to do something to improve renewable energy use in South Australia; however, if this bill is left as it is, as the government wishes, it will not have any effect. That is the problem. It will be just a couple of days worth of press releases and that is all. I do want this bill to have an effect. The upper house amendment adds 15 years to that 2013 date and gives the cut-off date as 2028. It means that people have some knowledge that they will get a benefit of repayment for the capital cost they are asked to contribute. If something better comes along it will supersede the benefit that is promised in this bill. It will not get worse. We would like to see a ratcheting up of benefits to people who wish to install solar panels, not offering them something today which is of minimal value. Again, I would urge the government to reconsider.

Certainly, I will go out to all the people I can tell and say that it is the government that is holding up this legislation, not the opposition, not the upper house and not any other group. If the government can agree to this there will be a lot of happy customers out there, that is for sure. The other problem with the 2013 date is that it provides scope for a couple of the big players in the electricity market to make appropriate donations to one or other major party or both major parties before the election—not that that should influence the decisions made in the next parliament, but it just might do that.

I must say that, if it were a matter of favouring any particular industry, I think I would rather favour the producers of photovoltaic cells with government policy than the big electricity players.

The Hon. P.F. CONLON: I thank the member for Mitchell for his comments. He at least brings a genuine view to the debate. It is somewhat annoying to hear the opposition members

because for years their party has been the greatest stumbling block to addressing issues of global warming, clean energy—

Mr Williams interjecting:

The Hon. P.F. CONLON: Oh, sorry, get on with it! Here is the man who believes somehow that the tedious repetition of the one thought he has somehow makes it more convincing. He spent a lot of time saying the same thing over and over and he wants me to get on with it. I guarantee him that I will take a lot less time. What I will say to the honourable member is that he proves why we want a sunset clause, because—

Mr Williams interjecting:

The Hon. P.F. CONLON: See? He cannot listen in peace. He is just a small-minded bullying farmer from down in the South-East, not like those nice farmers like Ivan Venning, who is a good guy. The member for MacKillop will have to come out well in front before he ever puts photovoltaic panels on, unlike the member for Schubert. I come back to the point. What concerns me is that if in the next few years, as I believe is very likely, something intervenes to increase the payback time, or in fact there is a federal feed-in law, naturally we would want to come back to the parliament with a bill without this clause to adjust it because I do not believe that electricity consumers should overly subsidise those people through an unintentional duplication.

We are the only parliament to have a feed-in bill. What I do know is that, having seen its attitude on this, the Liberal Party is likely to oppose any sensible change to the law, because it opposes anything that is sensible. Its whole track record is that it opposes what is sensible. I would love to put their track record in opposition up against ours when we persistently supported things on their side which we thought were sensible. Here they play games; they invent reasons; they have arguments. Do members really believe that the Liberals have lined up with the Greens to improve a feed-in law because they genuinely like feed-in laws? If anyone believes that I have a bridge to sell them. It is completely contrary to their entire behaviour on this matter over a decade. But let me say—

Mr Hanna: It's the new Liberals.

The Hon. P.F. CONLON: It's the new Liberals, yes. We saw their performance today. I will not say more on this. I do not believe my arguments are more persuasive by dull repetition. I just make the point that we do this with the best motivation. It is the first law in the world. Certainly I have to say that, on these matters, the member for Mitchell has always dealt with them quite reasonably. He has been a person you can persuade to a different point of view if he believes that you have a genuine argument. Sometimes I do think that the Greens have a notion just to cut off the environment's nose to spite its face.

I have said enough. It is, I think, embarrassing to hear the new look Libs—who have been the greatest stumbling block to progress on these matters in the country—suddenly becoming the champion alongside the Greens, which convinces me why they would never deal genuinely with any bill we brought to this place.

Mr WILLIAMS: You always know when this minister and his colleagues have nothing worth while to say, because they attack the man. You always know when they do not have a reasonable argument, because they attack the man. One of the reasons the Liberal Party is supporting this is that we understand this is the first such piece of legislation in Australia and that we are the first state to legislate for this sort of feed-in scheme, and it will set the benchmark. Not only will it have an impact in South Australia but it will also set the bar for the rest of Australia. We do not want the bar set as low as the minister wants it set but a little bit higher. We are genuine, and that is why we are talking about the issue and not about the motivation for the piece of legislation.

Members interjecting:

The CHAIR: Order!

Motion carried.

SERIOUS AND ORGANISED CRIME (CONTROL) BILL

Adjourned debate on second reading.

(Continued from 21 November 2007. Page 1818.)

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (12:36): I will not be the lead speaker on the bill, but I will speak first for 20 minutes. The opposition will support this measure. Along with all South Australians, we live in hope that this bill does not become the latest in a long line of ineffective promises and posturing by the Rann Labor government. We all know why we are here. It began years ago when the Labor Party decided there should be 10 marijuana plants liberally grown by whoever wanted to grow them all around the state. We became the manufacturing centre for the entire country for drugs, and the bikie gangs and organised crime flowed from that. We all know it! The Premier was around as he was part of that Labor movement. He was part of that great idea. The gift: organised crime like South Australia had never seen before. It is almost eight years since Mr Rann said, 'It's time!' He said on 16 November 2000:

> It's time we tackled the problem. In South Australia too much crime has been associated with these bikie fortresses.

If words and flowery rhetoric could kill, there would not be a bikie standing in South Australia. It is not that simple. In 2002 during the election campaign he told South Australians, 'All South Australians are entitled to be safe and feel safe and feel secure in their homes, at school, on the streets or wherever they may be.'

Isn't it easy? Six years later what does the Premier have to say to the people of Paskeville? What does he have to say to the patrons of nightclubs who know how bikie gangs rule the roost—the network of drugs and crime running through city clubs, hotels and bars? What does he have to say to the men and women who worry themselves sick at the sight of gangs that roll down their streets?

We are full to the brim with the constant claims of how Mr Rann, the Attorney and their government will crack down on bikies. History shows they have failed. The Premier does not understand that all the Rann government laws are simply aimed at taking action after the bikies have committed their crime, rather than tackling the gangs themselves. The Premier should have listened to the man he dubbed 'Eliot Ness'. He was going to get Eliot Ness and he was going to find out who the bad guys were, and he was going to get them. He quickly worked out who the bad guys were and he set about getting them. The state's Director of Public Prosecutions, Stephen Pallaras, has some good ideas on the issue of organised crime. Mr Pallaras has had extensive experience in controlling unlawful gangs by making them and membership of them illegal.

I note that some steps in this bill are in the right direction. The question is: are the steps strident enough? However, the Premier dismissed the honourable intentions and suggestions of Mr Pallaras, a former top prosecutor with experience tackling Triad gangs in Hong Kong. Why? The Premier did not take kindly to the true independence of Mr Pallaras. It seems that he was a bit too much of an Eliot Ness. He would not play the Premier's media games, and he would not go along with the rhetoric and the routine. He actually said what he thought. We cannot hire senior people to do that, can we, if we are a state Labor government? Heavens, they might criticise us. They froze him out.

Fortunately for South Australia, Mr Pallaras is made of sterner stuff on the question of organised crime and his views thereon, but let us consider the suggestions made by the DPP and compare them with where this bill takes the law in South Australia. The problem with the Triad gangs in Hong Kong was the same as that which afflicts South Australia. The difficulty of policing these gangs is that it is hard enough to catch them red-handed breaking the law: it is even harder to get witnesses to come forward to testify against them.

Look at what we have just seen in Paskeville. Try threatening someone with death; try threatening their wife, or their three-year-old child; try threatening them with the risk that a bikie gang might turn up at the school of their children and slaughter them. Try that. That is the problem you have to address because that is happening in South Australia right now. Just look at the news headlines this week alone.

As Mr Pallaras told South Australians and the government last year—he has given them all lists–such potential witnesses would find themselves short of an arm and a leg if they testified against a Triad gang. It is no different today. You have had six years to do something about it, yet you have delivered nothing. The problem is worse today than it was when you came to office. In Hong Kong, rather than try to catch them in the act of a criminal offence, they focussed on attacking their status as members of a particular association. Again, I acknowledge this bill is an attempt. The question is whether it is an adequate attempt.

They defined particular associations as being unlawful and, if you were found to be a member of that association, you were, by that fact, committing an offence and could be dealt with criminally. And do you know what—it worked. The problems and solutions from Hong Kong are worth considering because it is a stern reminder of just how tough it is to prosecute in Adelaide. We know of the problems with our courts; we know of the underfunding; we know of the issues; and we know of the inadequate resourcing of our justice system by this government. On ABC Radio Mr Pallaras said:

> The same issues apply in our jurisdiction, people are terrified to give evidence against bikies.

Hear it from the man who is responsible for prosecutions: witnesses are terrified and, over the past six years, your laws have done nothing. We have heard it all; we have heard the huff and puff. We have heard the Premier jumping around. We had the big demonstrations organised when he was in opposition. He has had his chance—six years to prove to the people of South Australia that he can get results. Listen to what the DPP—the prosecution service—is telling you: terrified witnesses; a legal system bound up; and bikies running rampant. Listen to the facts!

Let us think about these issues for a second. In Adelaide in 2008, all those years after the Premier promised a safer state, people are terrified to give evidence against bikies. In other words, justice cannot be and is not being done. The law and order regime under Premier Rann is unable to bring offenders to justice. Six years have been wasted. So we now have this bill—this bill which takes up the suggestions of the opposition and the DPP, in part, to tackle the real problem, that is, that outlaw gangs are tolerated and allowed. In fact, they are flourishing under a state Labor government. I repeat: if these laws before us today fail, the next step must be to look at whether the gangs themselves should be outlawed. They exist outside the law and therefore deserve no protection from it.

Concerns have been raised about the possible impacts on people who are not the intended targets of this legislation, and they are legitimate and rightful concerns. In some respects, the unintended consequences and impacts these provisions may have on those whom they do not target may go too far, but in regard to the villains themselves they may not go far enough. We will see, once these bills are enacted, whether or not the Attorney's proposal works. The innocent need protection. Six years of tidying up Labor's sloppy legislation is beginning to exhaust members on this side of the house, and there has been a mountain of sloppy legislation. I look forward to the shadow attorney's correcting the Attorney on a few sloppy aspects of the bill before us.

There are civil rights issues with this legislation, and there are civil rights issues with any subsequent legislation that may be needed. This is a debate this state needs to have, but it is difficult to see how someone, as it was suggested yesterday, might be a member of an outlaw bikie gang because they like riding bikes. I do not think there are too many of these people who are tied up in the drug and prostitution business. I do not think the guys who gunned down that former bikie at Paskeville were motor cycling enthusiasts. This may come as a complete surprise to the Attorney, but I do not think they were out for a Sunday cruise—

The SPEAKER: Order! There is a point of order. The Attorney-General.

The Hon. M.J. ATKINSON: The Leader of the Opposition has just accused the victim of the crime of being a former bikie. I ask him to withdraw.

The SPEAKER: Order! There is no point of order. If the Attorney has a point to make he can make it in his reply.

Mr HAMILTON-SMITH: Thank you, Mr Speaker. I just wish the Attorney could contain himself. How he loves being in government—he can get up and lash whoever he likes. He does not like getting it back, but I can say that we love giving it to him.

History tells us that the outlaw motorcycle gangs have come to prominence among disenchanted Second World War veterans. Disaffected with society, they have sought refuge in organisations that have their own rule of law. When you are initiated into membership of such gangs, you agree to abide by their rule of law above and beyond that of general society. Despite what the Democrats may think, they are not conducting knitting and tapestry classes in the chapters of the Hell's Angels. They are not motorcycle mechanics out for a wonderful day at Mallala. Society has come to a point where it says that in the balance of things we would rather impinge on or challenge some civil rights of those who choose to join gangs and ignore the rule of law. This is the issue that the attorney is having trouble with. Some of these people need to be tackled, and they need to be tackled firmly.

The bill proposes an annual review by a judicial officer, and that is welcome. However, it also proposes a sunset clause on the legislation in 10 years. That may be too long. Perhaps five years might allow us to reflect sooner on its effect. We will see as the debate unfolds. My other concern with the legislation is that it relies on the minister's making a declaration about certain organisations and prohibiting people from associating with or supporting such an organisation. What it does not do is outlaw the organisation itself.

The government has made a judgment that these are not tinkering measures; that they will have an effect. Let us see. However, the broader question may need to come back to the house about whether the gangs themselves should be eradicated. The laws against Triads in Hong Kong made the organisations themselves unlawful and, therefore, they could not hold property or premises. Again, the pressure here is on the police to find these organisations and gather evidence that they should be declared.

I will take a moment to thank the men and women of our police force. They are doing a fantastic job, and they need the resources and the clear political direction to do their job. They are putting their lives on the line every day in the battle with these bikies. What they need from us is support and the authority and the resources to get rid of the influence in our society of these gangs. I am not certain that this bill will do that. However, we will give it a go.

The Hon. M.J. Atkinson: That's because you haven't read it.

Mr HAMILTON-SMITH: Again, another stupid, silly remark from a stupid, silly Attorney. I have, in fact, and I have discussed and considered it at some length. I wish he had done the same. Again, we have the same problem as we did with people not wanting to give evidence. The government needs to decide whether or not it wants the Hell's Angels, the Gypsy Jokers or the Finks to reside and operate in this state. Does it want them here or not? They are evil villains. Does the government want to keep them or not? If it does not want them, then get rid of them. I do not want them, and I do not care where they go.

Some time ago, the Attorney and the Premier were getting up here—another media stunt: 'We'll have a national approach.' In this new era of cooperation with Labor governments coast to coast, north to south, east to west, I look forward to seeing this national approach. You know what I care about? I am the Leader of the Opposition in South Australia, and I represent the constituents of Waite. I care about what happens in South Australia. I do not care where they go. They can go to Antarctica. I do not care if they go to New South Wales, Victoria or Oodnawoopwoop. They can go anywhere—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —as long as it is outside of South Australia. If Victoria, New South Wales and Queensland want to have sloppy, soft laws on bikies, fine; that is up to them, but let us not have them here. Let us get them out of this state. Waiting for these organisations to give you a reason for them to be declared—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —will be a long and involved process of investigation and evidence gathering. Who will give—

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: —the evidence against them?

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney-General will come to order!

Mr HAMILTON-SMITH: The opposition will support this legislation, as it seems that it is the best piece of legislation that Labor members can come up with. However, I warn them that they should have listened to their own experts long ago and considered the proposition that the most effective way to control outlaw organisations involved in drugs, violent crime and prostitution is to make them illegal. We will give these laws a go, Mr Speaker.

Members interjecting:

The SPEAKER: Order!

Mr HAMILTON-SMITH: What an intelligent group of people we have opposite!

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition will take his seat. Interjections on both sides will cease. I warn the Minister for Education and Children's Services for interjecting out of her seat.

Mr HAMILTON-SMITH: Thank you, Mr Speaker. It would be true to say that South Australians deserve better. They actually deserve a better government, but they certainly deserve better laws from the government. These laws, which were introduced this week, have taken a long time to get here. They were scheduled to be debated some weeks from now, but they were hurried forward with indecent haste to today when the opposition announced it would be calling for a debate in parliament this week.

I can just imagine the panic: 'What will we do? We will race forward this legislation.' We welcome that decision. At least we have the debate. These laws were needed some time ago. We will give them a go, but it is Labor's last chance on bikies. 'Get rid of them' is the message from South Australians. 'Get rid of the bikie gangs. You said you would.'

I remember the material issued during the election campaign: 'Mike Rann gets results'. People should go to Paskeville or the nightclubs in Adelaide where people are gunned down. They should talk to people who have knowledge of organised prostitution, drug racketeering and organised crime—all run by bikies. Mike Rann has results all right, and we are living with them every day. They should do it by March 2010 or they will face the wrath of a very angry electorate. They want results.

While the government has been out there spruiking about Nemer, this and that, these people have been spreading their wings. While the government has been pulling all the stunts on the ground, they have been proliferating. Thank you: you got it terribly wrong—now get it right and get rid of the bikie gangs. Do the things that actually matter, not the rhetoric, media stunts or carefully orchestrated events. Get out and do the work. If these bills fail, they must be replaced by tougher measures that get results.

Time expired.

Mrs REDMOND (Heysen) (12:57): I am the lead speaker on this legislation. I am happy to be talking about it in one way, but I am somewhat annoyed that it has been called on today, simply because the Labor Party decided that, because of the Paskeville shooting on Monday, they could make a bit of media mileage out of bringing it on for debate today.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: The Attorney-General correctly points out that we have had this bill for more than two months. He offered a briefing on Wednesday last week, which I attended for three hours. The briefing had to be curtailed somewhat because there was so much information that, at the end of three hours, people (not me) had to go off to other things; so the briefing was curtailed to some extent.

I thank Assistant Commissioner Tony Harrison and other senior SAPOL officers who attended the briefing in order to tell us how the bikie problem has grown in South Australia under the watch of this government. It has grown significantly—and it continues to grow. We all agree it is time for us to take some fairly dramatic steps to address it.

At that meeting I specifically asked the Attorney-General's chief of staff when the bill would be coming on for debate, and he specifically said that it would not be in this week of sitting but, rather, two weeks hence. The Attorney-General keeps talking about when it was tabled, but the reality is that this bill was not to be debated. His chief of staff told me specifically that it would not be debated this week.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order!

Mrs REDMOND: I am quite happy to debate this bill at any time but, even in the terms of the Attorney-General's own chief of staff, it is quite draconian in its terms and, therefore, needs to

be carefully considered. We all know that it is based on the terrorism legislation. My view is that most people in Adelaide would accept that terrorism is far less likely to touch us than the activities of outlaw bikie gangs. The shooting in Paskerville on Monday is clear evidence of the problem that we have with bikie gangs. There is no doubt that we need to deal with it, and there is no doubt that we need to take some action to try to do some things that are a bit different from what we have done in the past.

Traditionally, under our legal system one only finds oneself in court if one commits an offence. Then it is up to the prosecution to prove beyond a reasonable doubt that the individual has committed a particular offence. That goes nowhere to addressing the problem of collective activity—which is the nature of what bikie gangs are involved with—and it does nothing to prevent problems before they arise. I will be examining a range of ways in which other countries have sought to address this issue, for example, the RICO or racketeering legislation in the United States. I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 13:01 to 14:00]

MODBURY HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 4,681 residents of South Australia, advising the house of their opposition to the government closure of the paediatric and obstetric services at Modbury Hospital which denies these services to families in the northern suburbs.

EUTHANASIA

Mr KENYON (Newland): Presented a petition signed by 592 residents of South Australia, requesting the house to reject any move to legalise euthanasia or assisted suicide, including the Voluntary Euthanasia Bill 2006.

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the following written answers to questions be distributed and printed in *Hansard*.

BLANCHETOWN TO MORGAN ROAD

33 The Hon. G.M. GUNN (Stuart) (24 June 2007).

1. What plans are there to seal the Blanchetown to Morgan road?

2. What is the purpose of the antennae attached to the sign at the Blanchetown weigh station?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Department for Transport, Energy and Infrastructure (DTEI) has no plans to seal the Blanchetown to Morgan Road at this time.

DTEI ensures that regular patrol grading is undertaken when necessary and has an annual re-sheeting program in place to maintain the road to a satisfactory standard.

There is an alternative access between Morgan and Blanchetown, via a sealed council road, on the eastern side of the river, which runs parallel to the unsealed Blanchetown-Morgan Road. DTEI provides and maintains a free 24 hours ferry service at Morgan to support this alternative access.

The antennae is to allow the remote control (or wireless connection) of the variable message sign for the Blanchetown checking station. The antennae receives the signal that allows the variable message sign to indicate whether the Blanchetown checking station is operational and whether heavy trucks and commercial buses are required to enter.

UTILITY WORKERS

34 Mr GRIFFITHS (Goyder) (10 July 2007). What plans are in place to replace the predicted one third of the utility workers employed in the water, electricity and gas sectors who are expected to retire in the next decade?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The State Government is fully committed to working with industry to address its skill needs. This is evidenced through the announcement, in 2006, of $98 million, over four years, for South Australia's Skills Statement: Building on Strong Foundations. Initiatives announced as part of this commitment, in support of the needs of the utilities sector, include:

- 2,600 additional apprenticeships and traineeships;
- targeted pre-apprenticeship programs to areas of skill shortage;
- industry cadetships in targeted sectors; and
- the establishment of 10 Trade Schools for the Future.

Furthermore the State Government has provided funding for the Electrical, Electrotechnology, Energy and Water Industry Skills Board (EEEWSB) to:

- support the development and implementation of the Mature Workers New Career Prospects Model—to up-skill experienced workers are trainers so that the industry does not lose its expertise;
- implement an e-learning program for Year 11 and 12 students; and
- establish a dual qualification in Water Operations to increase the supply of qualified industry-ready employees.

FURTHER EDUCATION, EMPLOYMENT, SCIENCE AND TECHNOLOGY DEPARTMENT, EXPENDITURE

35 Mr GRIFFITHS (Goyder) (10 July 2007). Why will the budgeted Initiative Spending in the Department of Further Education, Employment, Science and Technology decrease from $9.5 million in 2007-08 to $3.8 million in 2010-11?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling) : The 2007-08 Budget provided $9.5 million for a range of expenditure initiatives in 2007-08 decreasing to $3.8 million in 2010-11. The decrease is mainly due to the reduction in transitional support funding for the VET System and the impact of the one-off funding of $0.75 million for Constellation SA in 2007-08.

TAFE GRADUATES

36 Mr GRIFFITHS (Goyder) (10 July 2007). Are there any development schemes in place that are likely to maintain or increase the proportion of TAFE graduates, who were unemployed prior to commencing training and who find work after completing training and if so, what are the details?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): Through South Australia Works, a number of programs support TAFE graduates, who were previously unemployed, to find employment.

South Australia Works programs target employment and training opportunities to people most disadvantaged in the labour market. Participants are supported through who are typically training and are then assisted into employment.

Many of the training opportunities offered through South Australia Works programs are delivered by TAFE SA and as such, on graduating from TAFE SA, these participants are helped into jobs. Examples of this include:

South Australia Works in the Regions projects, such as the Goal 100 project in Whyalla. This project supported people to undertake training in the heavy industry sector. To date 79 people have gained employment through participation in this project.

CareerStart SA, a South Australia Works in the Public Sector program, provides entry level traineeship, apprenticeship and cadetship opportunities for young people within the public and community services sectors. Those participants who are not offered ongoing employment on completion of their traineeship, apprenticeship or cadetship, can register with the Skills Register. Skills Register participants are provided with employment support for up to three years.

The Aboriginal Apprenticeship Program, under South Australia Works, supports unemployed Aboriginal people to move into trade based apprenticeships in the private sector. The majority of the 50 new apprentices employed each year through the program undertake their nationally recognised trade qualification with TAFE SA. The program provides extensive monitoring and support to both employers and employees for the full 3-4 year term of the contract of training, as well as post placement support on completion.

TAFE SA Regional Institute also has Multi-trade Pre Vocational courses specifically designed to create a pathway into the mining industry for remote and regional people. A part of this program has been customised for Aboriginal people.

The Aboriginal Access Centre (AAC) is offering courses in Port Augusta and Coober Pedy to assist students in gaining employability skills for work in the mining industry. The AAC state wide program is also developing a strategy to provide Aboriginal students with cadetships and traineeships, which is expected to provide students with avenues for employment in the health sector.

A number of Primary and Allied Industry subprograms within TAFE SA Regional have also conducted specific training initiatives, in partnership with regional groups, to address skill shortages. Specific examples include:

- Barossa Seasonal Employment (2007) program. An SA Works in the Regions developed initiative in partnership with the Barossa and Light Development Board. It is designed to provide induction training in identified skill areas where skill shortages exist in the Barossa region, for example, warehousing, cellar operations and cellar retail.
- SA Works Citrus Picking & Packing. A SA Works in the Regions initiative in partnership with Mission Australia, which is delivered in the Riverland. There were 28 participants (all unemployed) and the majority found work.
- Three Workskills Training workshops have been conducted through the Port Pirie Internet Centre. Of the 24 participants who were unemployed and who completed the training workshops, 12 have found employment, 3 are undertaking further study and 2 are currently working as volunteers.
- The Agricultural multiskills program achieved 8 employment outcomes.
- TAFE SA Adelaide North is involved in the Learn2Earn program which began in 2004.

This year the Elizabeth and Port Adelaide campuses at TAFE SA Adelaide North are building two plate aluminium boats to support the shipbuilding industry.

In previous years, students who have been involved in the project have either gone directly into apprenticeships, into allied industries, continued with further education or have returned to school.

Students are actively encouraged to find employment within the industry whilst they are undertaking their studies. The Hospitality program, for example, invites industry to attend graduations, training restaurants and functions to enable direct approaches to students for potential employment.

TAFE SA Adelaide South aims to ensure that all students are meaningfully employed in a casual or part-time capacity prior to or near to graduating.

Hospitality Group Training (HGT) meet with Hospitality students to discuss potential opportunities for apprenticeships. This approach has achieved a number of full-time employment opportunities for cookery students.

The recent Dreams to Reality project with Hyatt Regency Adelaide was a joint initiative between Hyatt Regency Adelaide, SA WORKS and TAFE SA Adelaide South Hospitality Studies Program. The initiative provided training for up to 16 disadvantaged young people, with the aim of securing work after the program. Eleven participants completed the program and all students who were seeking work were offered apprenticeships with either Hyatt Regency Adelaide or HGT.

Close links with Industry mean that many employers a range of program areas register job vacancies with TAFE SA Adelaide South and Institute staff can recommend and introduce potential employees to employers. This provides work for students either on a full time or a part time basis.

SOUTH AUSTRALIA WORKS

37 Mr GRIFFITHS (Goyder) (10 July 2007).

1. Why was there a decline in mature aged people participating in 'SA Works' programs in 2006-07?

2. Why is the number of participants in 'SA Works' programs expected to decrease by 5,358 in 2007-08?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling):

1. The target which was identified for mature aged people to participate in 'SA Works' programs in both 2005-06 and 2006-07 was 3,050 people.

This target was significantly exceeded in 2005-06 (with 4,510 participants), while the estimated result for 2006-07 is consistent with the target of assisting 3,050 participants. The main reasons for exceeding the 2005-06 target are:

- The 'Parents Return to Work Program' was oversubscribed during 2005-06 by nearly 700 participants. The program was subsequently realigned to maximise State Government funds by targeting people who were not receiving Commonwealth Government assistance;
- Improvements to the Employment 40 Plus Infoline website in 2006-07 provided a more efficient service for mature aged people;
- The Employment Assistance Program assisted 1,107 mature-aged participants, exceeding the 2005-06 participant target by 587. In 2006-07, the program was refocussed to better target cohorts from the 'SA Works' priority areas, and also broaden targets to include migrants and people with a disability; and
- During 2005-06, one-off industry projects were funded to assist industry sectors meet immediate workforce needs, also increasing participation and employment outcomes for mature-aged people in 2005-06.

The participant target for 'SA Works' programs in 2007-08 is higher than the participant target set for 2006-07 and 2005-06 financial years. The reasons it is lower than the 2005-06 actual participant result are:

- The 2007-08 participant target does not include data for the Labour Market Adjustment Program. This is a demand-driven program which provides support to workers as a result of redundancies or closures in an industry. In 2005-06, 2,004 participants were assisted, and in 2006-07 it is estimated 866 will be assisted;
- A number of 'SA Works' programs exceeded their targets with additional funding of $4.4 million from external sources, including the Commonwealth Government;
- Collaboration with the Employment and Skills Formation Networks and community-based service providers resulted in additional resources, which augmented participant outcomes; and
- Additional participant outcomes from one-off industry initiatives funded through the 'SA Works' Workforce Development Fund and SA Works in the Regions, contributed to the significant effort in 2005-06.

VET PROGRAM

38 Mr GRIFFITHS (Goyder) (10 July 2007). Why is VET funding under the Commonwealth-State Agreement for Skilling Australia's Workforce expected to decline by 2.2 per cent in 2007-08?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): Commonwealth revenue under the 2005-2008 Commonwealth-State Agreement for Skilling Australia's Workforce is estimated to increase from $101.5 million in 2006-07 to

$101.6 million in 2007-08. Included in this estimate are a number of one-off and temporary revenue items that had the effect of increasing actual income from the Commonwealth in 2006-07 relative to 2007-08. When the impact of these items is removed, the underlying base level of funding under the Agreement is anticipated to increase by around 2 per cent.

VET PROGRAM

39 Mr GRIFFITHS (Goyder) (10 July 2007). How will the increase in the proportion of employers engaging in the VET system be achieved?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The Department of Further Education, Employment, Science and Technology has implemented measures designed to boost employer engagement with the VET system. This includes the following:

- As part of the *South Australia Works* initiative, 370 industry wide projects aimed at improving workforce practices (such as succession planning, and staff recruitment and retention) have been instigated. These projects have addressed the current and future labour and skills demands of more than 2,200 businesses and industry organisations;
- As part of *Skills for South Australia: Building on Strong Foundations,* $98 million has been invested in skills initiatives for strategically significant industries with the potential for rapid jobs growth and skills demands; and
- The establishment of Industry Skills Board clusters to support workforce planning and address skills shortages in the minerals and defence industries, to further strengthen engagement with employers in those sectors.

VET PROGRAM

40 Mr GRIFFITHS (Goyder) (10 July 2007).

1. How will the targeted increase the number of South Australians participating in VET programs be achieved, given that there is a decrease in funding for these programs in 2007-08?

2. Why did the number of student hours by South Australians participating in VET programs fall short of the 2006-07 target by 140,000 hours?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling):

1. The Department of Further Education, Employment, Science and Technology has been implementing a number of changes which are aimed at reducing administrative overheads so that a higher proportion of funding could be available for training delivery. The increase is equivalent to about 2,000 more students on a base of around 110,000 and this is expected to be accommodated within the savings already made.

2. The number of student hours (18,260,000) was an early estimate, based on the assumption that the adjustment factors used to convert raw student data into the measure used for national reporting would be the same for 2006 as for 2005 (the Portfolio Statement targets are required before the actual figures are known). In fact, this was a conservative estimate. The final 2006-07 result is now estimated to be around 18,700,000 hours.

TAFE CAMPUSES

41 Mr GRIFFITHS (Goyder) (10 July 2007). What are the actual details of the $1.35 million Minor Works budget for the refurbishment of existing facilities within a number of TAFE campuses in 2007-08?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): Projects planned for expenditure against the line for the $1.35 million Minor Works budget listed for Further Education, Employment, Science and Technology (page 49) listed in budget paper 5 are:

- part funding of a lift in the Library at Noarlunga Campus—$150,000;

- replacement of air-conditioning and building management system at Noarlunga Campus—$600,000; and
- replacement of evaporative air conditioning, transition pieces and ductwork at the Gilles Plains Campus—600,000.

TRAINEESHIP AND APPRENTICESHIP SERVICES

42 Mr GRIFFITHS (Goyder) (10 July 2007). How will the targeted proportion of apprentices and trainees completing their training be achieved in 2007-08 and what initiatives will be implemented?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): Improving the completion rate is a target of the 2006-08 DFEEST Strategic Plan and some initiatives are outlined below.

Traineeship and Apprenticeship Services (TAS) in DFEEST monitors completions against trades and vocations and assists Industry Skills Boards to develop industry specific initiatives.

In addition, the introduction of a competency based completion guideline on 1 January 2007, now allows apprentices/trainees who have completed an AQF qualification to complete their training contract prior to the nominal completion date, if their employer agrees that they are competent. The impact of the new guideline is not quantifiable (due to lags in commencements and completions) until the first or second quarters in 2008. TAS expects that this will serve to increase completions in vocations that have a traditionally high non-completion rate.

Additionally, TAS has also implemented a number of initiatives aimed at assisting completions, such as:

- Advertising the TAS Service to employers and apprentices. Information Service staff and TAS Consultants provide advice and assistance to the parties to help preserve contracts that may be in jeopardy;
- Providing a free and impartial mediation service to parties in dispute to help preserve training contracts;
- Targeting employers who have a large number of expired training contracts (the term expired refers to contracts that have reached the nominal duration without the employer and apprentice/training advising TAS of the outcome);
- Advising New Apprenticeships Centres electronically of the contract expiry date so that they can track outcomes for the purpose of paying DEST employer incentive completion payments. DEST completion payments are not made until TAS has received the completion confirmation. This provides an incentive for employers to notify TAS of the outcome of the traineeship/apprenticeship;
- Notification of each employer and apprentice/trainee whose contract expired in 2007 of the changes to the completion guidelines. Employers and their apprentices/trainees who are due to complete in 2008 will shortly be advised by mail of the new guidelines.
- One month prior to that date the employer and apprentice/trainee are again contacted and asked to complete and return an enclosed completion form to advise TAS of the traineeship/apprenticeship outcome; and
- The new Drought Apprenticeship Retention Program which is designed to assist rural employers in drought designated areas to retain their apprentices. Assistance is in the form of a subsidy paid directly to the employer over the 2007-08 financial year. Employers who meet the funding criteria will be able to apply for $1,500 (two instalments of $750) for each apprentice employed under a contract of training.

FURTHER EDUCATION, EMPLOYMENT, SCIENCE AND TECHNOLOGY DEPARTMENT, IT UPGRADE

43 Mr GRIFFITHS (Goyder) (10 July 2007). Why will the replacement and upgrade of computing and IT Systems and Infrastructure across the Department of Further Education, Employment, Science and Technology be completed by June 2008, in lieu of June 2007?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for

Gambling): I am advised there are no delays at this point in time in the replacement and upgrade of computing and IT Systems and Infrastructure across the Department of Further Education, Employment, Science and Technology.

EDUCATION AND CHILDREN'S SERVICES DEPARTMENT

44 Mr GRIFFITHS (Goyder) (10 July 2007). Why have the total expenses indicated in the Department of Further Education, Employment, Science and Technology's Income Statement for 2006-07 increased by $20 million since 2005-06?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The question has been taken to refer to 2007-08 compared with 2005-06. As shown in Budget Paper 4 Volume 3 on page 13.30 of the 2007-08 Portfolio Statement, the 2007-08 Budget for total expenses shows $481.4 million compared to total expenses in 2005-06 of $461.3 million, an increase of $20.1 million.

The increase is due to a variety of factors, but is primarily due to an increase in employee benefits, including those related to Enterprise Bargaining, and costs, including the indexation of goods and services. In addition, transitional support funding was provided to enable DFEEST to reduce its overall operational expenditure without impacting on service delivery.

EDUCATION AND CHILDREN'S SERVICES DEPARTMENT

45 Mr GRIFFITHS (Goyder) (10 July 2007). Why has there been a significant increase in the level of employee benefits and costs, and consultancy expenses in 2006-07?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): As shown in Budget Paper 4 Volume 3 on page 13.30 of the 2007-08 Portfolio Statement, employee benefits and costs increased from $246.734 million in the 2006-07 budget to $256.362 million in the 2006-07 estimated result. The increase is due to an expenditure initiative approved in the 2006-07 Mid Year Budget Review to provide additional transitional support funding of $9 million to DFEEST and the effects of a 3.5 per cent enterprise bargaining increase approved for PSM Act staff in 2006-07.

As shown in Budget Paper 4 Volume 3 on page 13.30 of the 2007-08 Portfolio Statement, consultancy expenses in 2005-06 were $668,000. While the actual expenditure for 2006-07 is still subject to audit verification, consultancy expenses in 2006-07 are estimated to be $102,000, a decrease of $566,000 compared to 2005-06.

FURTHER EDUCATION, EMPLOYMENT, SCIENCE AND TECHNOLOGY DEPARTMENT, EMPLOYEE BENEFITS

47 Mr GRIFFITHS (Goyder) (10 July 2007). Why will employee benefits and costs increase in 2007-08, when the Workforce Summary indicates a reduction of 80 Departmental employees?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The increase reflects the effect of higher costs arising from enterprise bargaining increases that were only partly offset by a decrease in employee benefits and costs from a reduction of employees within DFEEST in 2007-08.

MINING SECTOR EMPLOYMENT

48 Mr GRIFFITHS (Goyder) (10 July 2007). How many extra jobs were created in the Mining Sector as a result of the increase in mineral exploration in South Australia in 2006-07 and how many extra jobs are expected to be created in 2007-08 and forward estimate years?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): According to the ABS, employment grew by 1,800 in the mining sector between May 2006 and May 2007. These figures do not distinguish between direct and indirect employment and were sourced through a survey sample estimated to be less than 100 people. Forward estimates are not provided by the ABS.

While these numbers can, and will continue, to fluctuate, as mining companies define and redefine their scope of operations, the State Government is continuing to work in close partnership with these companies to maximise employment opportunities.

FURTHER EDUCATION

49 Mr GRIFFITHS (Goyder) (10 July 2007). Why did the actual cost of regulating South Australia's Further Education and Training system exceed the budgeted amount by $1.5 million in 2006-07?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): As shown in Budget Paper 4 Volume 3 on page 13.15 of the 2007-08 Portfolio Statement, the 2006-07 estimated result for the net cost of Sub-program 1.3 Regulatory Services was $5.8 million compared to the 2006-07 budget of $4.3 million, an increase of $1.5 million.

The increase mainly reflects the impact of additional costs arising from the 3.5 per cent enterprise bargaining increase approved in 2006-07 for PSM Act employees, additional funding approved for COAG initiatives in 2006-07 and an improvement in the method used for allocating expenses to the sub-program in calculating the 2006-07 estimated result.

TAFE CAMPUSES

50 Mr GRIFFITHS (Goyder) (10 July 2007). Which TAFE campuses will benefit from the $2 million funding allocated to the purchase of plant and equipment?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The funding identified under the heading annual programs is for the benefit of each TAFE Institute. The purchasing of equipment from this funding is devoted to the institutes.

GROUP TRAINING ORGANISATIONS

51 Mr GRIFFITHS (Goyder) (10 July 2007). Why did the actual number of commencements in group training organisations not achieve the targeted number of 1,800 in 2006-07?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The projected commencement figure of 1,800 is based on the projected numbers supplied to DFEEST each year by the group training organisations.

The actual number of commencements, however, and in-training numbers for group training organisations have been consistently around 1,600 and 3,500 respectively, for 2004-05 and 2005-06.

In 2006-07 group training commencements were 1,568 or 90.4 per cent of their projected apprentice/trainee commencements.

The level of Joint Group Training Program funds available to the group training organisations has remained constant.

CAREERSTART SA

52 Mr GRIFFITHS (Goyder) (10 July 2007). Why was funding for 'CareerStart SA' decreased by $20,000 in 2006-07?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The budget allocation for this area for the financial years of 2005-06 and 2006-07 was $5 million and therefore the budget allocation has not been reduced.

The apprentice and trainee numbers reflect this constant level of funding.

DIESEL EMISSIONS EQUIPMENT

54 Mr GRIFFITHS (Goyder) (10 July 2007).

1. How many diesel mechanics are currently training at the Diesel Emissions Equipment Training Facility at the O'Halloran Hill Campus?

2. How many of these mechanics are employed by Transport SA and is this facility also available to the private sector?

3. Will other TAFE campuses implement a Diesel Emissions Equipment Training Facility and if so, what are the details?

4. How much State Government funding has been allocated to the Diesel Emissions Equipment Training Facility over the forward estimate years?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): The exhaust emissions testing facility has been used to train approximately 60 mechanics since its commissioning in late 2006. The training has been warmly received with positive feedback from all sectors of the industry.

The mechanics are from a broad cross section of the industry and to date eight staff from the Department of Transport Energy and Infrastructure (DTEI) have attended the training.

As part of the initial infrastructure expenses DTEI assisted in purchasing the new emissions measuring equipment with funding support provided through the Commonwealth Government. As part of the agreement for the supply of equipment, 200 diesel mechanics will receive highly subsidised training.

The Memorandum of Understanding (MOU) between Department of Transport Energy and Infrastructure (DTEI) and TAFE SA Adelaide South specifically describes the use of the emissions testing equipment for the use of TAFE SA and DTEI.

The MOU will remain in place until the completion of the contractual arrangements with DTEI (that is, to train 200 diesel mechanics), there is no discussion or allowances for third party access under the current MOU.

The O'Halloran Hill Campus provides the majority of heavy vehicle diesel training in South Australia for TAFE SA. The facilities have been made available to other appropriate programs across TAFE SA. There are no plans to implement a Diesel Emissions Equipment Training Facility at another campus at the present time.

The allocated resources for the 2007-08 financial year are estimated to be $43,000. This is based on 150 remaining diesel mechanics to complete the initial training.

RAIL TRACK REPLACEMENT

142 Dr McFETRIDGE (Morphett) (31 July 2007).

1. How much funding will be allocated in forward years to the replacement of rail track points and crossings?

2. Is the replacement of railway track points and crossings at Goodwood, Woodville, Adelaide Rail yard and Railcar Depot and the Glenelg Tramway on time?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

Prior to the intended asset transfer of TransAdelaide's assets to DTEI, TransAdelaide's forward estimates for replacement of rail track points and crossings was as follows:

2007-08	$500,000
2008-09	$513,000
2009-10	$526,000

Goodwood—The materials for this project are currently being manufactured for delivery in September 2007. Installation has been deferred to coincide with major concrete resleepering proposed for the Noarlunga line to avoid multiple closures and minimise inconvenience to the travelling public.

Woodville—This work has been completed.

Adelaide Rail Yard and Railcar Depot—The relocation of the Railcar Depot to facilitate the construction of the new hospital has now made replacing this trackwork unnecessary. Routine inspections will ensure that the trackwork is monitored until the relocation.

Glenelg Tramway—All mainline points and crossings on the tramway except the crossover at Leah Street have been replaced.

LEVEL CROSSINGS

155 Dr McFETRIDGE (Morphett) (31 July 2007). How many level crossings will receive safety upgrades at a total cost of $3 million in 2007-08 and what are the details?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The Department for Transport, Energy and Infrastructure (DTEI) has proposed 29 railway level crossing sites for safety improvement works in 2007-08.

Below is a list of the 29 sites:

Port Road, Woodville

Hawker Street, Bowden

Goodwood Road, Goodwood

Hayman Road, Two Wells

Dutton Road, Mt Barker

Dunorlan Road, Ascot Park

Howard Street, Gawler

Wenzel Road, Balhannah

Pym Street, Dudley Park

Sixth Avenue, Glenelg East

Thevenard Road/Bergman Drive, Ceduna

Woodville Road, Woodville

Jetty Road, Brighton

Alawoona Avenue, Clovelly Park

LeBrun Street, Port Lincoln

Fenchurch Street, Goolwa

Shepherd Avenue, Port Lincoln

Institute Road, Cummins

Alexandrina Road, Mount Barker

Bethany Road, Tanunda

Bowmans Road, Bowmans

Blakiston Road, Littlehampton

Mallee Highway, Yappara

Mallee Highway, Jabuk

West Terrace, Wolseley

Alawoona Road, Veitch

Steer Road, Ulyerra

Spoehr Road, Balhannah

Norris Road, Littlehampton

TAFE CLOSURES

216 Mr HANNA (Mitchell) (31 July 2007). Are there any plans to close any TAFE campuses or sell land at the same sites and if so, what are they?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling): At this stage there are no approved plans to close campuses nor to sell any associated land. Any reconfiguration of the TAFE asset base would have as a primary objective reinvestment to upgrade buildings and facilities to best benefit students and community in furthering skills development in the State.

TOURISM EYRE PENINSULA

347 Mrs PENFOLD (Flinders) (12 February 2008). How much funding is allocated to Tourism Eyre Peninsula in 2007-08 and how much more that funding would be available if this amount was adjusted for inflation and other increased costs?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide): The South Australian Tourism Commission has provided the following information:

In 2007-08 the South Australian Tourism Commission (SATC) will allocate $243,500 to Tourism Eyre Peninsula to market the Eyre Peninsula region.

It is not possible to provide advice regarding the question relating to 'other costs' because the question is unclear

CONSULTANTS AND CONTRACTORS

In reply to various members (27-29 June 2007 and 2-4 June 2007) (Estimates Committees A and B).

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): This question has been asked of all Ministers during the 2007 Estimates Committee.

The following information is provided on behalf of all Ministers:

The Department of Premier and Cabinet Circulars PC013—Annual Reporting Requirements and PC027—Disclosure of Government Contracts covers all payments to consultants and large payments to contractors.

The Annual Report shows all payments to consultants and the nature of their work.

Contract Disclosure requires certain information about contracts to be published on the Tenders SA website:

- Contract title
- Contractor's details
- Start and end date of the contract
- Contract value
- Procurement process used

The Contract Disclosure requirements apply to all consultancy contracts (regardless of value) and other goods and services contracts where the value of the contract is more than $500,000.

PUBLIC SERVICE EMPLOYEE NUMBERS

In reply to **Mr GRIFFITHS (Goyder)** (27 June 2007) (Estimates Committee A).

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change):

Premier

Minister for Economic Development

Minister for Social Inclusion

Minister for the Arts

Minister for Sustainability and Climate Change

The following response does not contain information pertaining to the Auditor-General's Department.

Surplus Employees as at 30 June 2007

Total number of surplus employees twenty eight (28)

Department	Position title	Class	Total Empl. Cost (TEC)
DPC	Admin Officer	ASO1	$26,534
DPC	Business Support Officer	ASO2	$28,800
DPC	Ass Project Officer	ASO2	$29,063
DPC	Shop Assistant	ASO2	$48,439
DPC	Project Officer	ASO3	$62,909
DPC	Community Svces Officer	ASO3	$44,241
DPC	Artist	ASO3	$33,183
DPC	Business Support Officer	ASO4	$59,567
DPC	Office Manager	ASO4	$59,026
DPC	Project Officer	ASO4	$61,752
DPC	Snr Project Officer	ASO5	$74,416
DPC	Snr Project Officer	ASO5	$73,739
DPC	Project Officer	ASO5	$65,828
DPC	Snr HR Consultant	ASO5	$74,416
DPC	Snr Business Svces Officer	ASO6	$84,278
DPC	Snr Employee Relations Advisor	ASO6	$85,391
DPC	Snr Project Officer	ASO7	$92,215
DPC	Snr Consultant	ASO8	$102,697
DPC	Principal Consultant	ASO8	$112,198
DPC	Project Manager	ASO8	$98,783
DPC	Executive Consultant—Unattached Unit	EL1	$106,936
DPC	Executive Consultant—Unattached Unit	EL2	$133,313
DPC	Executive Consultant—Unattached Unit	Ex A	$148,900
DPC	Executive Consultant—Unattached Unit	Ex B	$166,850
DPC	Policy Manager	MAS3	$100,417
DPC	Mgr, Workforce Strategy	MAS3	$104,562
DPC	Op Services Officer	OPS4	$62,319
DPC	Info & Knowledge Mgt Consultant	PSO1	$59,664
			$2,200,437

PUBLIC SERVICE EMPLOYEES

In reply to **Mr GRIFFITHS (Goyder)** (27 June 2007) (Estimates Committee A).

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): The following response does not contain information pertaining to the Aboriginal Affairs and Reconciliation Division, Department of the Premier and Cabinet, which will be reported by the Minister for Aboriginal Affairs and Reconciliation.

Information pertaining to the following areas under the Department of the Premier and Cabinet will be reported by the Honourable Michael Wright as the Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises and the Minister for Recreation, Sport and Racing:

Office for Racing,

SafeWork SA,

Office for Recreation and Sport,

State Records,

Shared Services,

Government Publishing SA,

Office of the Employee Ombudsman, and

Registry Functions for Industrial Relations Court and Commission and Workers Compensation Tribunal.

In addition, information pertaining to the Auditor-General's Department will be provided in a separate response.

Positions abolished and created

Between 30 June 2006 and 30 June 2007

POSITIONS ABOLISHED—TEC of $100,000 or more:

Department/Agency	Position Title	TEC Cost
Department of the Premier and Cabinet	Executive Director, Public Sector Policy	$ 182,108
	Director, Security and Emergency Management	$ 194,929
	Director, Public Sector Workforce Strategy	$ 176,752
	Head, Cabinet Office	$ 277,929
	Executive Director, Office of Sustainability and Climate Change	$ 274,234
	Executive Director, SA Strategic Plan Community Connection	$ 351,362

POSITIONS CREATED—TEC of $100,000 or more:

Department/Agency	Position Title	TEC Cost
Department of the Premier and Cabinet	Director, Executive Office	$ 116,169
	Director, Community Engagement	$ 134,550
	Director, Public Sector Reform	$ 141,758
	Deputy Chief Executive, Sustainability and Workforce Management	$ 274,234
	Chief Executive, Government Reform Commission	$ 326,248
	Deputy Chief Executive, Cabinet Office	$ 226,322

PUBLIC SERVICE EMPLOYEE NUMBERS

In reply to **Mr HAMILTON-SMITH (Waite—Leader of the Opposition)** (27 June 2007) (Estimates Committee A).

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): I have been advised of the following:

The government was elected in 2002 with a policy mandate for no more privatisations. This position was again endorsed by South Australians at the 2006 election. Since coming to office, my government has not only delivered on this promise by not privatising any further government organisations, but reversed a significant privatisation of the former Liberal government, the Modbury Hospital.

PUBLIC SERVICE EMPLOYEE BENEFITS

In reply to **Mr PEDERICK (Hammond)** (27 June 2007) (Estimates Committee A).

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change): The Department of Trade and Economic Development (DTED) has advised the following:

The increase which the Member for Hammond wrongly refers to as a blow-out of $4.586 million from 2005-06 Actual to 2007-08 Budget is due to vacancies within DTED at 30 June 2006 and the change in the level of approved positions.

DTED's budgeted FTEs increased from 191.8 FTEs at 30 June 2006 to 197.00 FTEs at 30 June 2007, an increase of 5.2 FTEs as a result of the following:

- Additional 3 FTEs for positions specifically to cater for indigenous trainees;

- Additional 2 FTEs transferred from the former Department for Administrative and Information Services (DAIS) to resource the Olympic Dam Taskforce offset by a reduction of 1 FTE no longer required in the team as Mr Paul Case was transferred to take up the Chief Executive role;
- Additional 3 FTEs for new Tradestart officers as a result of winning the Tradestart contract with the Commonwealth;
- Additional 3.2 FTEs for the conversion of long-term contractors to Public Sector Management Act 1995 employees;
- Offset by the anticipated reduction of 5.00 FTEs for the Industry Capability Network SA (ICNSA) due to contract term and funding expected to expire 30 June 2007.

DTED's budgeted FTEs increased from 197.0 FTEs at 30 June 2007 to 206.00 FTEs at 30 June 2008, an increase of 9.0 FTEs as a result of the following:

- Additional 4 FTEs for programs approved by Cabinet in the 2007-08 State Budget—employment linkages program, Australia-India Trade and Investment Conference, regionalisation of South Australia's Strategic Plan and the Film SA Package;
- Additional 5 FTEs for the extension of the ICNSA. (funding and FTEs approved by Cabinet);
- Additional 2 FTEs for the case management framework unit (previously FTEs were seconded to this unit and were funded by PIRSA);
- Offset by 2 FTEs for anticipated reduction in Redeployees due to placement in other agencies.

Overall there has been an increase in DTED's budgeted FTEs of 14.2 FTEs (from 191.8 FTEs at 30 June 2006 to 206.0 FTEs at 30 June 2008).

DTED has traditionally experienced difficulties in filling vacancies, with the key skills sets required by DTED including industry experience, economics and/or government policy development all in short supply. The 2005-06 Actual reflects the shortfall of suitably qualified/experienced people in the workforce. As at 30 June 2006, DTED recorded 34 vacancies. The increase of $4.586 million from 2005-06 Actual to 2007-08 Budget therefore represents the difference between the actual FTEs and DTED's budgeted FTEs at 30 June 2008.

STOLEN GENERATIONS

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:01): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: First, I want to acknowledge that we, in this parliament, meet today on the traditional lands of the Kaurna people and that we respect their spiritual relationship with their country. I am sure all of us are proud that the Aboriginal flag, the South Australian flag and the Australian flag fly side by side above us.

Today's apology by the Prime Minister and the national parliament marks a momentous occasion in the history of this nation. It heralds, we all hope, the beginning of a respectful new relationship between indigenous and non-indigenous Australians. In that spirit, I offer the warmest welcome and acknowledgment to the elders, members of the stolen generations and family members from Aboriginal communities across South Australia who join us in this parliament today.

This morning in Elder Park I sat alongside Aboriginal elders and joined with other South Australians from every possible background to watch the Prime Minister deliver his national apology to the stolen generations. In Canberra, our Minister for Aboriginal Affairs and Reconciliation, Jay Weatherill, and our newly appointed Commissioner for Aboriginal Engagement, Klynton Wanganeen, were among the thousands present to witness this landmark address.

Across the nation, I am sure there are millions of people who, like me, were proud to be Australian this morning when, at last, we were united as the people in acknowledging the injustices of the past as we move forward towards reconciliation. In South Australia, it is fair to say that we have been here before, perhaps in a smaller way. But from little things, big things grow.

Nearly 11 years ago in this place, on a day like this, our opposing parties were not opposed, even on matters of detail or wording. We were bigger than that and then we apologised wholeheartedly and unanimously. There were no dissenting or discordant voices. We said sorry for wrongs done in our time, and in years before our time, to the first custodians of this ancient land.

On that day, we made a belated effort towards healing or, at least, to try to make amends or to find sufficient words of consolation, sadness, regret and sympathy for wrongs and cruelties, as well as the honest mistakes that could now not be undone.

On that day in this parliament, there were no weasel words. We were not afraid to apologise. We were not afraid to say sorry, and I join with the Prime Minister in doing so again. Today, but now as Premier of South Australia, I, too, say sorry. These words have to be said clearly and unequivocally in this parliament, and now, today, with decency, grace, candour and feeling from the national parliament and the prime minister—words that herald a new beginning.

On 28 May 1997, this parliament was one of the first in Australia to express its deep and sincere regret to the stolen generations for the impact of past government policies on Aboriginal and Torres Strait Islander communities, and on our state and nation. The motion was passed without dissent. I still believe it was one of the best days in the history of this parliament. The Aboriginal affairs minister of the time, the Hon. Dean Brown, for whom I have a great respect, and who is here in this parliament today, recognised the need for political unity. He said:

> Reconciliation has nothing to do with party politics: it is about the future of Australia. Today, this parliament, on behalf of the people of South Australia, takes another important step along the road towards reconciliation.

Our apology that day offered a chance to members on both sides of this house to recognise the pain endured by so many Aboriginal and Torres Strait Islander families and communities. Seconding Dean Brown's motion, I spoke of mothers at settlements around Australia desperately trying to hide—and, in some cases, temporarily bury—their children in order to prevent them from being taken away.

In 1991, at Ooldea, as minister of Aboriginal affairs, I had the privilege of handing over the title of the Ooldea lands to Maralinga elders who had confronted everything, even the testing of nuclear weapons on their lands and the poison left behind. We had a ceremony in the desert and elders cooked a dinner for us at our campsite the night before. Trucks and cars arrived from all directions and Aboriginal people both young and old walked with us to a place where, for thousands of years, Aboriginal people had lived and gathered next to a precious water source. In more recent times, it had become the site of Daisy Bates' mission.

Today, there are still a few pepper trees that mark the mission site amongst the sandhills. Beneath those sandhills—land sacred to Aboriginal people—is one of the richest and oldest archaeological sites in the world. But it was also a place where so many Aboriginal children had been taken away from their parents. Towards the end of the ceremony, whilst I was still speaking, I was approached by an elderly Aboriginal woman weeping and in considerable distress. Her son told me that she had been taken away from her mother at Ooldea and, in later life, had spent years trying to trace and meet her family and the mother she never knew. I was told that she eventually met her mother before she died. She was so proud and so moved on that day that she had finally returned to her birthplace, finally come back to the place from which she had been taken. Her mother's little girl had finally come home, and she had done so on the very day, at the very moment, that Ooldea had once again been recognised as Aboriginal land.

I have attended land rights ceremonies where Aboriginal women have poignantly sung about the babies being taken away. They were singing about their own experiences, and each time their song was followed by prolonged, painful silence. It is a grief that has not healed. Others in this chamber on that day tried to imagine the suffering in order to empathise with those whose lives were torn apart. The then member for Napier, Annette Hurley, stated:

> As a mother I know how I would feel if my child were taken away from me, and I never knew what happened to that child all through its life.

All who spoke acknowledged that the practices undertaken in the past have had an ongoing impact within the Aboriginal community. The premier of the time, John Olsen, noted the following:

> The decisions which led to this sad episode have caused a scar on the face of the nation.

The ceremonies that I have attended, the grieving that I have witnessed, seem to embody that scar, that stain on our soul to which the Prime Minister referred earlier today.

Back in 1997, we agreed to learn from these past mistakes. The apology to the stolen generations was symbolic but it was also sincere. Here in South Australia, we took our first step down the road to reconciliation. Today's apology in our federal parliament represents another critically important milestone in that journey.

Some people, of course, have dismissed symbolic acts just as they dismissed land rights. They say that they prefer practical remedies. But you cannot have one without the other. Beyond these words there is a long, hard road to travel. Many here will not see its end. But today is at least a beginning. In the spirit of South Australia's apology more than a decade ago, I look forward to working with the opposition and all members of this parliament towards the day when the first Australians are no longer the last Australians in health, education, employment, life expectancy, and opportunity.

Today the Prime Minister also spoke of practical outcomes. Past experience has shown us that practical outcomes cannot be reached without a respectful partnership and an acknowledgement of past injustices. Since coming to office in 2002, the government has used the apology delivered in this house in 1997 as a platform to pursue recognition, justice and healing for Aboriginal people. In 2004, I was proud to honour a pledge that I had made more than a decade before to return a large area of land, the Mamungari Conservation Park, to the ownership of the Maralinga Tjarutja and Pila Nguru Aboriginal people. It was the biggest hand back of land in 20 years.

More recently, we have worked with the Anangu Pitjantjatjara Yunkunytjatjara people in our state's North-West to try to solve problems such as petrol sniffing. We are acting in partnership with Aboriginal people to try to find solutions to the most difficult problems. There is now a new school, swimming pools, a power station, a rehabilitation centre, bush tucker programs, arts centres, as well as police back on the lands.

But there is much, much more to be done. We welcome the pledge of a new era of cooperation from the Prime Minister—cooperation with the states and territories, cooperation with the opposition and, most importantly, an equal partnership with indigenous Australians based on trust. Today's apology can now allow that to happen with a cleaner slate and a new resolve. We owe it to the children.

The Hon. P.F. CONLON: I move:

That standing orders be so far suspended as to enable the Leader of the Opposition to make a statement forthwith.

The SPEAKER: I have counted the house and, as there is an absolute majority of the whole number of members of the house, I accept the motion. Is it seconded?

An honourable member: Yes, sir.

Motion carried.

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:15): Today marks another step in our journey, as a state and as a people, towards reconciliation. It is an Australian journey; it is also a South Australian journey. Eleven years ago, for the first time in parliamentary history, a leader of government, the South Australian Premier, said he was sorry. Today I reaffirm the words of former Liberal premier Dean Brown and then minister for Aboriginal affairs, who invited then opposition leader Mike Rann to second the motion in a true spirit of bipartisanship. That spirit is alive and even stronger today.

The state Liberals pay tribute to the struggles of many thousands of Aboriginal and Torres Strait Islander people affected by forcible removal. We acknowledge their hardships. We share their pain. Today we remember those who have been able to come home. We lament the children who could never come home. In April 1997, Australians were confronted with the stories of thousands of people whose lives had been affected by the official policies of separation of children from their families, of mothers from their children. The Bringing Them Home report changed the debate from one of policy to one about real people, real tragedies and real trauma.

I speak today to reaffirm and recognise that leadership by this parliament on 28 May 1997, when former premier Dean Brown and then minister for Aboriginal affairs moved the following:

That the South Australian parliament expresses its deep and sincere regret at the forced separation of some Aboriginal children from their families and homes which occurred prior to 1964, apologises to these Aboriginal people for these past actions and reaffirms its support for reconciliation between all Australians.

That motion was supported by all MPs. Today, together, our spirit remains strong and united. This issue has been difficult for our nation as a whole to embrace. The 11-year journey that began with Premier Brown's apology reached its high point today when our federal leaders shook hands across the floor of parliament and said sorry on behalf of the entire nation.

I ask members today to also consider the future. It is imperative that we do not see today as a conclusion to our journey, but rather as the beginning of a greater journey—a great journey for a reconciled nation of many cultures.

As we step forward, I ask that we remember those from the indigenous community who could not join us, who could not be with us today. In the many decades of separation, children taken from their home often never returned. Many children became adults who struggled with identity and belonging. Many of those have passed and their stories may never be told. To understand our future let us also understand the losses incurred in our past. We cannot revoke or reinvent the past—it happened. We remember those who could never return to their home.

Before coming to this place I had the privilege of serving our nation in the defence forces alongside indigenous Australians, and that took me to remote communities. I ran into one of the soldiers with whom I served this morning at Elder Park, an Aboriginal soldier. These were men and women who had the courage to serve our nation. In many cases, their spirit rests on foreign soil well away from their traditional homes. In some ways, the nation has often failed to serve them. We will always remember them.

Today, like 28 May 1997, is a significant day in our state's history. This parliament's apology reflected the impact of the Bringing Them Home Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.

The report showed the reality of policies of past governments, including South Australian governments. Many children were forcibly removed from their families by Australian authorities until as late as 1969, or even slightly later. Many people affected by the tragedy of the stolen generations are still alive, and live with its effects. Many are here today.

All on this side of the chamber, and, I am sure, in the entire house, welcome them. We thank them. We accept their invitation to join in reconciliation. Apologising to the stolen generation provided our state parliament with the opportunity to recognise the wrongs within policies of past governments and to make a commitment to reconciliation.

As others have said before and today, we have a long way to go together. Health and education must be on the very top of our agenda going forward. The apology in federal parliament today supported by the federal Liberal opposition marks the beginning. Here in South Australia we need to do more to help our Aboriginal and indigenous communities. We need to provide the means by which future generations can understand the history of indigenous culture. The South Australian Liberals have been active in their support for reconciliation from the outset and will continue to be.

When European culture arrived in 1788, they found a happy people who lived comfortably with the land they so loved. Over time, we have had to confront many problems. Let us help solve the health, social and other issues before us. Let us educate the young children, because the new generations must be stronger, healthier and happier. The new generations should reflect the new Australia: a nation that in 2008 has learnt much from the last 220 years; a nation that sets a new standard for coming centuries.

Today is a day to think of our children. From this day Aboriginal children here in South Australia should be able to grow without disadvantage. From this day non-Aboriginal children, from wherever they may trace their origins, should be able to grow without shame.

I congratulate the parliament of 1997 and its agenda-setting policy and apology. I reaffirm on behalf of all on this side of the chamber—and join with the Premier—that motion of the day. The state Liberals reaffirm the deep and sincere regret at the forced separation of some Aboriginal children from their homes and families. We apologise to these people for past actions. We reaffirm our support for reconciliation between all South Australians and all Australians. Today, as the member for Waite, I say sorry. Today, as leader of the state Liberals, I say sorry. And today, as the Leader of the Opposition, I say sorry. Let today, 13 February 2008, be remembered as a day for us to look around and learn, a day when we understand that we are all Australians, a day when we understand the importance of saying sorry and of accepting an apology and a day when we become a better Australia and a better South Australia. Thank you.

Honourable members: Hear, hear!

SCHOOL CLOSURES

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (14:25): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. LOMAX-SMITH: On 26 September 2006, the Premier and I announced the Education Works initiative, which was the single biggest reform of school infrastructure in more than 30 years. This initiative included the building of six new schools through a public private partnership in addition to voluntary restructuring programs up to a value of about $82 million. Across Australia members would know that families have fewer children and this is increasingly affecting school enrolment numbers in some South Australian schools. This in turn limits the curriculum choices for young people, with ageing school buildings and a significant longstanding backlog of maintenance—despite this state government's massive investment to improve school facilities—also affecting the quality of some of our education infrastructure.

Under our Education Works initiative, schools have been invited to look at facilities and services in their area and think creatively about how they might operate in the future. We have had an overwhelming response to this initiative, which shows that parents, teachers and local communities want the best for South Australian children. In order to ensure that excellent public education continues to be delivered in South Australia, we must introduce some bold reform. However, this reform is much better and has a much better chance of success if local communities can make local decisions.

Under this initiative school communities have had an opportunity to express interest, and of course schools will only close or amalgamate with the support of the majority of the school community after a long process of consultation. Significant consultation on this initiative has taken place across the state, and this will continue, as we want to work collaboratively with school communities. I wish to inform the house that the Chief Executive of the Department for Education and Children's Services has received requests from the governing councils of Broadmeadows Primary School, Rosedale Primary School and Browns Well District Area School for their schools to be closed, and from Spence and Heysen Primary Schools, as well as Aldinga Junior Primary and Primary Schools for their schools to be merged.

The governing councils have advised that their school communities have voted to close their schools in accordance with section 14A of the Education Act 1972. I have agreed to these requests. Dwindling enrolments mean that there are limited opportunities for students, and it is this that has prompted school communities to think about the future educational opportunities for children. I understand and realise that coming to a decision to close a school is a very difficult one, but parents are to be applauded for putting the best interests of their children and future children to the foremost.

I am advised that the students from Broadmeadows Primary School have already transferred to Elizabeth North Primary School, and this school will now cater for about 450 children. Also, $1.9 million is being provided to Elizabeth North Primary School for a new early learning centre and new classrooms. The students from Rosedale Primary School have transferred to Sandy Creek or to Tanunda Primary Schools, and a new school bus will be provided to transport these students to these schools. The students from Browns Wells District Area School have transferred to either Loxton Primary School or to the high school. The campuses of Heysen and Spence Primary Schools from the start of the 2008 year have formed a new school to be called Thiele Primary School in honour of the late Colin Thiele and continuing a tradition at those schools of honouring a very significant South Australian.

Aldinga Primary and Junior Primary Schools also merged from the start of 2008, and we await facilities briefs that are being prepared at both these schools to consider improvements to the new school facilities. I would like to thank the school communities for their positive and collaborative approach in this initiative, and I am pleased that it is being followed up with investment from the state government.

CHAMBER, PHOTOGRAPHY

The SPEAKER: I advise members that I have authorised one photographer to take photographs from the Speaker's gallery and the northern gallery of the chamber during question time today for use in the parliament's education programs and on the Parliament House website.

PUBLIC WORKS COMMITTEE

Ms CICCARELLO (Norwood) (14:31): I bring up the 286th report of the committee on the Elizabeth Park Neighbourhood Renewal project.

Report received and ordered to be published.

Ms CICCARELLO: I bring up the 287th report of the committee on the Playford North Urban Renewal project.

Report received and ordered to be published.

Ms CICCARELLO: I bring up the 288th report of the committee on the Ifould Apartments.

Report received and ordered to be published.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens) (14:32): I bring up the 12th report of the committee.

Report received.

QUESTION TIME

WATER SECURITY

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:32): My question is to the Premier. If the Premier feels action must be taken on our water security at the highest level, why has he not taken charge of the portfolio personally and, in particular, why has he refused to personally chair the Water Security Council, instead, giving the job to a minister who has publicly stated a water council is not needed?

In a press conference on 30 August 2007, the Minister for Water Security dismissed the Liberal's policy of establishing a water council and said:

> We already have a senior level water advisory group reporting directly through myself to cabinet and the Premier. It's called the Water Advisory Group and is established to support the Water Security Task Force which is the chief executives of all the departments that have an involvement in the management of water.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (14:33): I thank the Leader of the Opposition for his question. I point out very clearly to the Leader of the Opposition that the Water Security Council has been formed by joining the Water Advisory Group and the Water Security Task Force together to deal with the water security issues and the drought issues that we are facing concurrently. We have been operating since October 2006, with the Water Security Task Force made up of all the chief executives of the departments who are dealing with the contingency planning for drought. We also have a technical group supporting that, as well as an advisory group of independent people from around the nation, including Don Blackmore, who is a highly regarded voice of authority regarding River Murray and Murray-Darling issues. He sits on an advisory group.

We have now determined that, since the establishment of the Water Security Office, we will bring those two organisations together. We are calling it the Water Security Council and are appointing an independent commissioner, who will actually head the Water Security Office. The Water Security Office will deal with a whole range of policy matters regarding water security for the future. The Water Security Task Force has proven to be a highly successful model to manage the drought issues—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —and to deal with the waters and the myriad issues with which we have had to deal not only at a state level but also at a national level regarding water security. With the establishment of the Office of Water Security, the Water Security Council and a Commissioner for Water we are seeing a high level focus on the issues going forward to build on

the strength that we have developed and the mechanisms we have put in place to deal with drought contingency. I believe that we are going to see a significant focus on water nationally over the next few years. We need to be well positioned in South Australia to lead that debate. We are, and this water security council is going to help us build on that.

STATE ECONOMY

Ms THOMPSON (Reynell) (14:35): My question is to the Premier. Will the Premier outline for the house information about the recent performance of the South Australian economy?

Members interjecting:

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:35): If you want to talk about comparisons on the economy I am more than happy to do so. Okay? Because we know what your vision is. It is to get rid of the Stobie poles, and we know the price—$34.3 billion.

Members interjecting:

The Hon. M.D. RANN: Oh, apparently it is now 'over time'. It is up until 2020, or something, but, of course, that is about $2 billion a year. But, never mind, we are not sure what they are going to do to close the hospitals—

Members interjecting:

The Hon. M.D. RANN: Privatisation will be back big time. Anyway, yesterday I spoke on Mitsubishi and all that we are doing to ensure that the workers affected by the closure who want jobs will get them. The strong economic performance of South Australia gives us solid reason to believe that this can be achieved and that Mitsubishi workers and their families can enjoy a secure future.

Since this government came to office, less than six years ago, almost 85,000 additional jobs have been created—85,000 more jobs. That means that total employment has been growing under this government at 2 per cent a year. But what was the record—I know that people want some comparison. Politics is about compare and contrast. What was the record of those opposite when the Leader of the Opposition sat around the cabinet table? He was there. He was one of the champions of privatisation.

The Hon. M.J. Atkinson: The guilty.

The Hon. M.D. RANN: One of the guilty party. In their eight long years of privatisation and budget deficit, jobs growth was less than half that, at an average of 0.9 per cent per year. Since March 2002—and this is a very important figure—full-time jobs have grown by 63,200, meaning that full-time jobs have provided about three-quarters of the total growth in jobs.

Members interjecting:

The Hon. M.D. RANN: No, they are not interested in full-time jobs, because they are about casualisation of the workforce. Full-time jobs under this government have grown at 2.2 per cent a year, on average. But what was the record of those opposite? Was it half the rate? No. Was it a quarter of the rate at which full-time jobs have been growing under this government? No, it was not. Was it a tenth? No. Under the previous government full-time jobs grew by an annual average of only 0.1 per cent. Not 2.2, but 0.1 per cent; that is, full-time jobs growth—

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: Oh, I see. I know he wants to avoid the final crunch number. Full-time jobs growth under this government has been more than 20 times the rate under the previous Liberal government. The unemployment rate has fallen from its March 2002 level of 6.9 per cent to 5 per cent today, a fall made all the more remarkable by the fact that so many more people are actively seeking work. The participation rate—and I will explain that to members opposite at a later date—which measures the proportion of people actively seeking work, has risen from 60.6 per cent in March 2002 to 63.2 per cent in December 2007. Under the Liberals, it fell from 61.5 per cent in December 1993 to 60.5 per cent in February 2002. In December 2007, we had a new record high in the number of South Australians in jobs—namely, 775,300—the ninth consecutive monthly rise.

Aspects of our performance such as exports have been affected by the drought. As Access Economics has commented, no state has suffered more than SA from the current drought. But the signs for a strong future are met with continuing high levels of business confidence and with those

businesses putting their money where their mouth is. Now nearly $45 billion of major projects is in the pipeline, and private new capital investment has achieved all-time highs. For the year to September 2007, private new capital expenditure was $4.9 billion—the highest level since records began.

Investment spending in the mining industry grew by 70 per cent in the year to September 2007—I repeat: 70 per cent growth in one year—because we are the party of mining. I know that people refer to me as 'Pig Iron Bob' or 'Yellowcake Rann', but I do not care. We went out there to get mining exploration going. The SA Centre for Economic Studies is expecting mining investment to increase by a staggering 217 per cent this year.

The good news is not confined to mining or defence but the investment surge in these sectors is simply remarkable. Today we are enjoying strong economic conditions and we are building on those opportunities to create an even stronger future because that is the difference: for you, your only policy was privatisation, and we stopped that in its tracks on day one.

Members interjecting:

The SPEAKER: Order! I call the Leader of the Opposition.

WATER SECURITY

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:42): Mr Speaker, I am just pulling myself together after that privatisation bit. He is privatising the world, sir—hospitals, schools, prisons.

The SPEAKER: Order!

Mr HAMILTON-SMITH: My question is to the Premier. Now that the Premier has adopted the 2007 Liberal policy for a Premier's Water Council (a very good policy) but, of course, without the Premier on it, will he be picking up the other recommendations in our excellent policy, in particular the need to fast track desalination plants and pick up the pace on stormwater and waste water projects?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:43): I am delighted to answer that question because we remember what was said before the last election. You were part of the team—and, yes, you were a bit disloyal because you were right behind Rob Kerin and then you were right behind Iain Evans. He puts great store in loyalty; we know all about that. He knows how to take orders.

Mr HAMILTON-SMITH: Point of order, Mr Speaker.

Members interjecting:

The SPEAKER: Order! The Premier will take his seat.

Mr HAMILTON-SMITH: I think you know the point of order. The Premier is just wandering off up the hill on a gallop of his own there, sir.

The SPEAKER: That is not a point of order.

The Hon. M.D. RANN: We remember what their policy was. If they had got elected at the last election, their policy—their central promise on water—was to work towards developing a policy, I think, by 2009. They didn't have a policy in 2005, so they went to the election with jowl-shaking profundity and said, 'If we are elected, we make this fundamental promise to you: we will develop a water policy'—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: 'We will do so by 2009.' That was the grand vision. 'We haven't got a plan but we will develop one and we promise.' My pledge to this parliament today is this: we will build a desalination plant and we will build one whether or not it rains every day for the next four years as an insurance policy for the future. So, instead of waiting until next year, for some bizarre reason, to develop a policy, we are getting on with it.

LYELL McEWIN HOSPITAL

Mr O'BRIEN (Napier) (14:44): My question is to the Minister for Health. What is the state government doing to establish the Lyell McEwin Hospital as the key health and medical facility of Adelaide's north?

Members interjecting:

The SPEAKER: Order! The Minister for Health.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:45): I thank the member for Napier for his question and acknowledge his strong advocacy for the Lyell McEwin Hospital. Incidentally, the Lyell McEwin Hospital was named after a former Liberal health minister, but it was not properly supported by the former government.

As most South Australians would know, this government is currently reforming our health system, and we are doing it to improve service delivery. It is something that we have to do. Our plan is to make the experience and outcomes for patients even better than they are now, and an integral part of that is modernisation of our hospital system.

Last year, the government announced it would build a brand new hospital for South Australia, the $1.7 billion Marjorie Jackson-Nelson hospital, to replace the ageing Royal Adelaide Hospital as well as elements of the Queen Elizabeth Hospital. This will result in South Australians getting a brand new hospital—more cost effective than rebuilding the RAH—with no inconvenience to patients, staff and hospital visitors. Also, the state government is expanding the Flinders Medical Centre at a cost of $153 million. Lyell McEwin Hospital, the hospital of Adelaide's northern suburbs, is also, I am pleased to say, undergoing a makeover.

Last year, when the government launched South Australia's Health Care Plan, we pledged an extra $202 million to the Lyell McEwin, on top of the $134 million that has been transforming the hospital in recent years. This $336 million project, as it is now, will provide the people of the north with a state-of-the-art modern hospital for the first time. Under the plan, Lyell McEwin will be expanded to offer more services to the local community, allowing people to have their treatment closer to home.

Lyell McEwin will provide a wide range of major complex medical, surgical, diagnostic and support services for adults and surgical and medical services for children, as well as expanded maternity services for women. Expanded services offered by the Lyell McEwin Hospital will include: cardiac services, including conventional cardiology; urology; ophthalmology; orthopaedics; cancer services, including radiation therapy; neurology; and, of course, general medicine.

Lyell McEwin's maternity services have also been expanded, with an additional $5 million being injected into the services every year. Lyell McEwin will take on an expanded role as the centre for birthing in the northern suburbs, with the closure of Modbury Hospital's birthing unit a couple of weeks ago. Less than 25 per cent of women who could have had their babies at Modbury Hospital chose to do so in 2005-06, with many opting to go to the Lyell McEwin.

Modbury is now being remodelled to build up on services most needed by its local community, with a range of extra elective surgery in areas including orthopaedics, stroke services and an aged care assessment unit, important in our ageing community.

Lyell McEwin's maternity services have been booming in recent years, with 2,251 births last year—that is 157 extra babies on the previous year—and that service will continue to grow. The birthing facilities at Lyell McEwin are being expanded to include: 26 extra midwives; eight additional doctors, including one extra senior obstetrics specialist and a senior paediatrician for critically ill newborns—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Repetition is useful sometimes. As a former teacher, I understand the need to repeat messages for slower members of a class. There will be up to five extra allied health staff, including social workers, pharmacists and a sonographer; three extra beds in the obstetrics unit; four additional special care nursery cots and room for another four cots; and a new antenatal assessment unit with eight additional beds.

I would invite members of this house—if they have not been out there for some time—to visit the Lyell McEwin Hospital. I am sure that they will be impressed. I wish to thank the obstetrics staff at Modbury Hospital who have done a fantastic job over the years bringing new life into the world. Many of these staff have moved across to the Lyell McEwin to continue offering their special skills to the families of the northern suburbs.

MOUNT BOLD RESERVOIR

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:49): Will the Premier rule out a backflip by his government on plans for an expansion of Mount Bold reservoir? In the 2007-08 budget, the government announced a doubling of the Mount Bold catchment at a cost of $850 million. But, yesterday the Premier advised the house, in his statement, that 'Mount Bold reservoir is one possible site, and we are investigating others.' Which others?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (14:50): There is absolutely no backflip here. The government has announced several times over the last six months that we are investigating a range of sites in the Mount Lofty Ranges to double our catchment capacity. Mount Bold is one of those, and Mount Bold is where we have actually put money in the budget to do studies on the geotechnical feasibility—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —of the project, and also the environmental feasibility of the project. We are undertaking that work. There is a significant amount of money allocated to that particular project. However, we are not going to stop there. We are going to look at all options to make sure that we get the best solution for South Australia to double the capacity in the Adelaide Hills. There is no backflip. The work is still continuing as identified in the May budget.

MOUNT BOLD RESERVOIR

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:51): I have a supplementary question. Do I take it from the minister's reply to that question that she will definitely proceed with Mount Bold in addition to other catchments, or that the government may consider not proceeding with Mount Bold and expand other catchments instead?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (14:52): I think that I will use the method used by the Minister for Health—repetition: it is important here. The government is actually continuing its investigations into Mount Bold, and they include geotechnical investigations, and we are undertaking a feasibility study. We announced that we are undertaking that work. Yes, we did! We actually announced last year that we are undertaking work into the feasibility of Mount Bold. We did! And we have also subsequently announced time and again in all of our statements—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: It is amazing that the opposition has only just woken up and said, 'Oh, goodness! Is that what they meant?' Perhaps opposition members should read the information coming out from the government and they might get an understanding about what is going on. We need to double the capacity in the Mount Lofty Ranges.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: We need to double the capacity in the Mount Lofty Ranges. I will say it again for you: we need to double the capacity in the Mount Lofty Ranges. That is what we need to do. I think you have got it.

The Hon. P.F. CONLON: On a point of order, I cannot hear what the minister is saying. They would be better educated if they listened.

The SPEAKER: Yes, I am having difficulty hearing what the minister is saying myself. Members of my left will come to order. The Minister for Water Security.

The Hon. K.A. MAYWALD: One of the projects that we may proceed with to achieve that is the Mount Bold reservoir expansion and we are now investigating the geotechnical and environmental aspects. Money was put in the budget last year.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: This is no new news.

The SPEAKER: Order! I have already called members on my left to order. If they do not like what the minister is saying, they have plenty of opportunity to respond and ask further questions. They need to do so in an orderly manner.

The Hon. K.A. MAYWALD: There is absolutely is no new news in this; it is just that the opposition is catching up with the government.

HOON DRIVING LAWS

Mr KOUTSANTONIS (West Torrens) (14:53): Can the Attorney-General inform the house how the hoon driving laws in the Criminal Law (Clamping, Impounding, and Forfeiture of Vehicles) Act , which came into effect in December, are making a difference on our roads?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:54): I thank member for West Torrens for this interesting question. I am pleased to advise the house that, in mid-January this year, the Acting Commissioner of Police provided figures showing that these laws are being used to keep hoons and drink drivers off our roads. As at 17 January 2008, the Acting Deputy Commissioner of Police reported that, since the new legislation came into force on 16 December 2007, 96 vehicles had been impounded or wheel clamped.

Ms Chapman: This is South Australia's major crime.

The Hon. M.J. ATKINSON: The member for Bragg interjects and says, 'Oh, this is South Australia's major crime.' Obviously, the member for Bragg does not take this kind of offending seriously. It took the election of a Rann government to do something about hoon driving.

When examining the figures, we can break these down into impounding and clamping in the city and country areas. In the city nine vehicles were clamped and 44 were impounded; in the country 14 vehicles were clamped and 29 vehicles were impounded. If we consider these statistics on a daily average this means police were clamping or impounding at least three vehicles per day over about 30 days. So, the Labor Party is actually doing something about hoon driving. I think that many of you who are diligent in your electorate rounds wish not to be associated in any way in the member for Bragg's minimisation of this kind of offending.

A total of 73 vehicles were impounded, and I am advised that a total of 44 of these impoundings were related to misuse of a motor vehicle, that is, hoon driving offences. Further, eight of the 23 clampings were associated with such offences. The remaining 44 impoundings and clampings were for drink driving offences.

Anti-hoon laws have been high on this government's law and order agenda, and I make no apology to the member for Bragg for that. In the first round of anti-hoon legislation we gave police the authority to impound vehicles for 48 hours. These laws related to vehicles that were suspected of being used for hoon driving. The Premier reported, in July 2005, that from 2 May 2005 until the end of June 2005, 61 cars had been impounded under these legislative reforms.

A comparison of these figures we have today—that is, 96 vehicles impounded or clamped over one month and 61 cars impounded in almost two months—shows that these laws are making a difference. Let us add the figures from mid-December through to mid-January this year to the almost 2,000 hoon cars that were impounded and 2,500 hoon drivers who had been prosecuted under the reforms implemented in 2005 to see that this government is getting tougher on hoon drivers.

I can recall that the then member for Mawson was a supporter of what we were doing, together with the then premier, now the member for Frome, and that they were on television in the 2002 election calling for these reforms which the member for Bragg now minimises.

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: No wrong claims here, no wrong claims at all. Where is Robert Brokenshire these days, and what is Robert Brokenshire up to?

The SPEAKER: Point of order. The member for Finniss.

Mr PENGILLY: Relevance. I believe that the Attorney-General is debating the issue, rather than answering the question.

Members interjecting:

The SPEAKER: Order! I ask members on my left not to interject on the Attorney-General, and I ask the Attorney-General not to respond to interjections.

The Hon. M.J. ATKINSON: Certainly, sir. But more than that, we are giving the police authority to deal with these reckless and inconsiderate drivers who disregard the safety of other road users. In 2006, the Rann government pledged to allow police to wheel clamp motor vehicles. This enables immediate action; it embarrasses the hoon and identifies them to their neighbours and passers-by. Importantly, it also ensures police resources need not be spent towing cars to police yards and the police yards need not be filled with impounded vehicles, something I would have thought the Leader of the Opposition would support.

We also promised to extend the periods vehicles could be impounded or clamped. In 2007, these pledges became law. We introduced immediate home clamping by police and impounding of a vehicle for up to seven days each. That period can then be extended by the courts for up to 90 days on application of the police. To stop an offender who has more than one vehicle, perhaps a hotted-up V8 just for show in the driveway, the police can home clamp any of their vehicles.

MURRAY RIVER IRRIGATORS

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (15:00): What science did the government rely upon when it changed allocations for irrigators from 16 per cent in August 2007 to 22 per cent on 1 December 2007 and then just three weeks later on 22 December to 32 per cent? These changes to allocation levels have caused extreme financial hardship and emotional stress to Riverland irrigators with the price of a megalitre of water fluctuating (because of these changes) from $1,200 a megalitre down to $180 a megalitre as a result of being tied to the government's U-turns on policy.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:01): This is a very important question because there is a lot of skulduggery out there in trying to confuse how the water sharing arrangements have been determined.

What happens for South Australia is that the Murray-Darling Basin Commission releases information on the available resource and the water sharing rules that have been agreed upon at a national level and signed off by the former prime minister, John Howard, and the minister for water security at the time, Malcolm Turnbull. The jurisdictions involved New South Wales, Victoria and South Australia through our premiers and water ministers.

Those water sharing arrangements were agreed upon for the commencement of the water year on 1 July 2007. How that works is that the commission actually assesses the available resource, and the science that this is based upon is how much rain falls in the catchment and how much of it results in inflows into the system. The Murray-Darling Basin Commission undertakes that assessment.

Mr Hamilton-Smith interjecting:

The Hon. K.A. MAYWALD: Well, the leader might say there was not that much rain in December. He isn't an authority and I wonder on what basis he is actually making that statement. He has no basis for it. Can he tell me how much rain actually fell in December? Does he know how much inflows have resulted into the catchment? I can tell you what happened.

What happened in those months was that the Murray-Darling Basin Commission provided advice to all the jurisdictions about how much water had flowed into the system and how much was likely to flow into the system before the end of the month. What happened then was we actually

based our allocation decisions on allocating every drop. Every single drop that the Murray-Darling Basin Commission had allocated to South Australia for consumptive use was allocated to irrigators. Every drop of it.

What happened in the middle of November was the Murray-Darling Basin Commission put out an assessment which said that we think by the end of November we will have about 162 gigalitres to apply to South Australia for consumptive use. That resulted in 30 gigalitres for carryover water and about 24 gigalitres for allocation. They put a rider on it, however, and they said, 'We have to do some work. We think we might have to double-check the figures in the Hume Dam. There have been some queries on exactly how much water is in there. We are going to double-check that, but we think that our best guess is 162.'

So we thought, 'We will be a bit conservative on this,' because we thought that if it does come down below that we do not want to give false hope to our irrigators. We said to our irrigators that, instead of saying 24 per cent, it was likely that we could provide at least 22 per cent from the start of December as a consequence of the outlook for November.

On 29 November we received further advice from the Murray-Darling Basin Commission. That arrived in the department late on the Thursday. The department actually assessed the numbers to ensure they were correct on the Friday. We had a meeting on the Monday, and we announced on the Tuesday that the Murray-Darling Basin Commission had reassessed the situation and, with the rainfall that had fallen in that period of time, we now had 206 gigalitres available to us. Now, 206 gigalitres equals 30 gigalitres of carryover and 32 per cent.

I have received advice from all the irrigation communities that are consulted as a consequence of this—and we have the Riverland Horticulture Forum, the River Murray Advisory Committee, the Lower Lakes Drought Steering Committee, the independent advisers and the community liaison managers above Lock 1 (Neil Andrew when he was in the role and Dean Brown below Lock 1)—all of whom advised us without qualification that we must allocate water as soon as it becomes available to us—all of it; allocate it. The leader is obviously not interested in the answer.

All those irrigation groups advised that if you get water made available to South Australia for consumptive purposes you must make it available, so we did. That is why the allocations went from 16 per cent to at least 22 per cent to 32 per cent. You cannot stuff up the science that comes out of the Murray-Darling Basin Commission, that is, figures that are signed off by the Prime Minister, by Malcolm Turnbull and all the jurisdictions. Those figures come out of the Murray-Darling Basin Commission, and we act upon them immediately. That is what the irrigation community has demanded of us and that is what we are doing.

TOURISM EVENTS

Ms CICCARELLO (Norwood) (15:06): My question is directed to the Minister for Tourism. Will the major events taking place in South Australia in the next few months generate economic benefits to our state?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (15:06): I know that the member for Norwood is a great supporter of festivals, events and the tourism sector generally, and I thank her for her question. I know that her interest relates to the fact that those events are not only good for the community and are community building but also that they provide jobs and economic benefit to the state. We have had an incredibly busy January with international cricket, tennis and our very first Pro Tour outside of Europe. South Australians and visitors have come to South Australia and enjoyed much of what we have to offer, but in fact the fun is not over. We are gearing up for a stellar line-up of events that will take us forward into the next two or three months.

In March alone we can look forward to the Clipsal 500, the Adelaide Fringe, the Adelaide Bank Festival of Arts, WOMADelaide and the Australian Beach Volleyball Championships (back-to-back with our first SWATCH FIVB Beach Volleyball World Tour), which will be an amazing event for South Australia. I encourage all South Australians to get down to Glenelg. It will be an amazing activity. I know that I can expect the Premier to be there cheering on the top athletes. In addition, there is the Adelaide Cup and the Oakbank Easter Racing Carnival. These events, of course, support local businesses, in not just the hotel sector but restaurants, cafes and a whole range of small businesses that benefit from the activity in the state and around the regions.

The government again is committed to continuing to balance our calendar of events to help the hotel sector have a year-round activity program. In April we can look forward to another extraordinary event. I encourage all members to go to the International Rugby 7s even if they are

unused to rugby because, of course, it is not a prominent state sport. The rugby 7s are extraordinarily exciting because they are fast and furious. It is two days of excitement. The event is one that we all welcomed to South Australia because it attracted around 3,500 interstate and international visitors, and we expect this year's ticket sales for the second event to be even stronger.

Another event that fits into our cycling program is, of course, the BMX activity. Members may not realise that BMX super cross and BMX championships are often the proving grounds for elite cyclists who go on to the Tour Down Under and other Pro Tour events—

The Hon. M.D. Rann: Like Cadel Evans.

The Hon. J.D. LOMAX-SMITH: Like Cadel Evans. Many of those cyclists prove themselves in BMX activities. It is extraordinarily exciting. It looks very dangerous, and I encourage members to go and watch it because it is a fun sport. I think it is one of those feeder sports that we want to support because it actually helps cycling in Australia. It is a matter of encouraging elite cyclists into the sport and it continues our focus on cycling not just for health and fitness but the support we get through national parks and the trails, as well as the international media coverage through our elite events, such as the Pro Tour Down Under.

On the horizon we have the Adelaide Cabaret Festival, the Police Tattoo, our wonderful beloved Royal Adelaide Show and Classic Adelaide, as well as the Christmas Pageant. I would say that those events meld in with a whole range of convention activities to bring a year-round series of activities mainly to Adelaide. It is important that we recognise regional South Australia and that is why around $600,000 a year goes into some 88 regional events and festivals; because we know that it is good to pull tourism and dollars out of the city and into regional areas. Of course, for those towns which enjoy events such as Jazz in the Monster Mine, or the recent Taste the Limestone Coast Festival, as well as the West Coast Country Music Festival, the Coober Pedy Opal Festival, or the Pinnaroo Spud Fest—whatever they are—those events generate local community enthusiasm.

It is important that we recognise that the government has been highly strategic in targeting a calendar of events and ensuring that those dollars are spread generously around the state and not just held in Adelaide, which would be too easy for us to do.

WATER SECURITY

Mr WILLIAMS (MacKillop) (15:10): My question is to the Premier. What is the budget for the new Office of Water Security and how many people will be employed in the office?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:10): We will be seconding people from different departments to work in the Office of Water Security. We will also be employing some extra policy people to assist with the much needed policy work to deal with the issues of the National Water Initiative, Waterproofing Adelaide, Waterproofing South Australia and the national plan negotiations at the federal level. I will bring back to the house the exact details of the budget requirements.

SA WATER

Mr WILLIAMS (MacKillop) (15:11): My question is again to the Premier. How much water could have been bought for South Australian irrigators from the $45 million used by SA Water to fit out its new head office building in Victoria Square? The opposition is informed that the $45 million cost to fit out the new SA Water headquarters is similar to the amount of dollars expended by South Australian irrigators to buy water to save their permanent plantings.

Members interjecting:

The SPEAKER: Order! The Minister for Water Security.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:11): Thank you, sir. The opposition is confusing two completely separate issues. We need to deal with the drought contingency measures and support for irrigation communities through this very difficult time. We have been working hard over the past 12 months to obtain federal recognition of the fact that irrigation drought is different from the dryland drought for which the exceptional circumstances packages were originally established.

We were unable to obtain support for that from the previous government. There are significant issues in relation to the purchase of water by governments, and up until January last year—and this is really interesting—the federal government refused to support the purchase of water out of the marketplace for the environment.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: For 10 years, I have been championing the cause in South Australia as a National Party leader and also for the past three years as Minister for the River Murray that we need to purchase water out of the system.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: We have not been able to get—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —your commonwealth colleagues—

Members interjecting:

The SPEAKER: Order! I have called for order. The Minister for Water Security.

The Hon. K.A. MAYWALD: We have not been able to get your commonwealth colleagues to support that. The federal government had not supported the—

Members interjecting:

The SPEAKER: Order! I have called for order. Goodness me, how many times do I need to do it?

An honourable member: Nine.

The SPEAKER: The member is very close to be being named. The Minister for Water Security.

The Hon. K.A. MAYWALD: I can say that, as a consequence of a decision in January last year, the purchase of water on the market has been accepted by other jurisdictions for the purpose of environmental water. The purchase of water by governments for other purposes is certainly not on the agenda. Governments have ensured that a strong market is operating. That market is operating. South Australia negotiated for the expansion of that market with bilateral agreements with New South Wales and also Victoria last year and late in the previous year. These have been huge steps forward in getting a very effective market operating. We have been working hard with our irrigation communities to obtain the recognition federally that we need to expand our drought support to deal with the specific issues of irrigation drought.

WATER INFRASTRUCTURE

Mr WILLIAMS (MacKillop) (15:15): Once again I direct my question to the Premier, although it seems that we have relinquished our sovereignty—

The SPEAKER: Order! Get on with your question.

Mr WILLIAMS: Well, sir, I am just wondering about our sovereignty, because apparently it is—

The SPEAKER: Get on with the question or I will sit you down and call on the next one.

Mr WILLIAMS: Thank you, sir. Mr Premier, how much water could have been bought from upstream, or infrastructure built to stop leakages, or stormwater and wastewater projects developed, from the $1.6 billion extracted from SA Water over the six budgets of your current Labor government? The opposition believes that $1.6 billion would buy up to 19 years of Adelaide's water consumption, or the equivalent thereof, or could also build 1½ desalination plants, or could provide funding to upgrade the Christies Beach and Aldinga wastewater treatment plants ten times over.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:15): Can I just remind the member for MacKillop to compare the capital expenditure

by SA Water and by this government under this government with what happened under your government, when you even cut the funds for stormwater management, which we had to reinstate. But apparently you are going to use it much more wisely—$34 billion to underground Stobie poles, a couple of billion dollars a year—

Mr Hamilton-Smith interjecting:

The Hon. M.D. RANN: And a stadium—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Maybe it could double as a reservoir. Maybe that is part of the plan.

Members interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition.

HOSPITAL CHIEF EXECUTIVES

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:17): My question is to the Minister for Health. Has the government received notice of resignations from any other chief executive officers of metropolitan hospitals? The chief executive officer of the Flinders hospital has announced that he is not renewing his contract. A general manager of the RAH resigned two weeks ago. Channel 7's *Today Tonight* program has published their claim—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: —that the management of these hospitals has become impossible—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: —and their opposition to the Marjorie Jackson-Nelson hospital. Yesterday I asked the minister when he was going to release the Paxton Partners report into the efficiency of public hospitals in South Australia, including the Royal Adelaide Hospital, the Flinders Medical Centre and the Queen Elizabeth Hospital, and to date it has not been produced.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:18): The deputy leader is a class act. She comes in here full of froth and bubble, trying to create ferment in relation to a whole range of issues which have very simple explanations.

Mr Williams interjecting:

The Hon. J.D. HILL: Go on, tell me how I am struggling. We have an excellent health system in this state.

Ms Chapman interjecting:

The Hon. J.D. HILL: You asked a question; are you waiting for an answer or are you just going to talk over me? Your choice.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The general manager of the Royal Adelaide Hospital has taken a job I understand at Adelaide University which is a promotional kind of position, which I was told about a few days ago. She took that position, I think—

Ms Chapman interjecting:

The SPEAKER: Order! I warn the deputy leader.

The Hon. J.D. HILL: The deputy leader is making statements which she cannot demonstrate to be true. She is making things up, which she does all the time. She is a dishonest member of this place. She makes statements—

The SPEAKER: Order!

The Hon. J.D. HILL: —which she knows are inaccurate.

Members interjecting:

The SPEAKER: Order! The Minister for Health must not make personal reflections upon another member.

The Hon. J.D. HILL: I withdraw it, Mr Speaker, and I apologise. The facts are that the GM of the Royal Adelaide Hospital resigned, which is in within her rights, and she has another job. The GM of Flinders Medical Centre has chosen not to renew his contract. He has been there for six years. He has done an excellent job, as has the GM of the Royal Adelaide Hospital. Their resignations in no way reflect on their performances nor on the relationship which they have with the government. It is a warm relationship and I wish them both the very best in their future endeavours. I understand the GM of the Flinders Medical Centre will be setting up a business as a private consultant, particularly into some of the reforms, and he will be working in the area of reform of hospital processes—an area in which he has had great success. Obviously, we will have to go through the process of replacing them.

People resign from various organisations. There have been a number of cases over the years, but it does not mean that anything is not working well. In fact, to the contrary, the system is working very well. The Paxton report, which the member asked me about yesterday, which I said I would respond to, will be considered in due course by government, but the goal of that report is to make sure our health system works as efficiently as it can. I am amazed that the opposition would try to play politics with this because one of the things that I know the deputy leader has said, as has the leader, is that we already put enough money into health, the trouble is we do not spend it very wisely. We believe we do need to spend that money wisely and we are getting advice about how we can spend it more wisely.

Yet, I know what will happen. We will make changes based on the recommendations that Paxton makes and on every single one of those things that we implement, which may have a little bit of pain with them, the deputy leader—let me make this prediction—will make politics of it and say that the government is letting people down and misusing the resources and doing things the wrong way. Our goal, as the government, is to make sure our health system is run as well as it possibly can. That is not an easy thing to do. It requires effort and some pain on occasions by people who work in the system, but unfortunately that is the reality that we have to deal with. It is not as the Deputy Leader of the Opposition would put it. You make all sorts of grand promises and do nothing.

Ms Chapman interjecting:

The SPEAKER: Order!

WELLINGTON WEIR

Mr PEDERICK (Hammond) (15:22): Can the Minister for Water Security confirm that tenders have been called for the supply of 500,000 tonnes of granular rock for the construction of a weir at Wellington?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:22): No, I cannot confirm that. I will see whether any tenders have been called. It may be just to get prices as part of the investigation into the temporary weir. No decision has been made on the building of a temporary weir at this point and no decision will be made until June at least, and those states still stand today.

SA WATER

Mr GRIFFITHS (Goyder) (15:23): My question is to the Treasurer. How much additional money will be raised between now and 2011 from the increased SA Water charges announced in December 2006 and December 2007?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:23): The government has announced a price increase for water which is designed to cover the cost of the implementation of a desalination plant and further water storage in the Adelaide Hills, and that price path is designed to enable us to cover the costs of the infrastructure, to my understanding, as we are required under the National Water Initiative and the corporatised model of SA Water. The development of those two projects will not be a burden on the general government budget sector but it will be borne by

the community in general through water charges. As we said at the time, that increased revenue will be used to pay for that infrastructure and not for dividends back to government.

I will take the question on notice and have a closer look at it as to whether or not we can estimate prudently the numbers because one of the things you have to recall is that we currently have severe water restrictions. One would hope that those restrictions can be lifted at some point, if we have a break in the drought, and that will be a significant variable in how much water is consumed. It would be very difficult to estimate beyond a 12-month period as to what we would expect the revenue to be. Having said that, we have estimates in the forward estimates of our budgets, but the water is the most unpredictable of all our revenue sources, I would think, given the climatic conditions we face.

BROADBAND SERVICES

The Hon. L. STEVENS (Little Para) (15:25): My question is to the Minister for Science and Information Economy. What further progress has been made to improve access to broadband internet services in regional South Australia?

Members interjecting:

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling) (15:25): The intellectual giant! As members would recall—at least those who were listening—last year, I informed the house about the government's efforts to ensure that regional South Australians—that is the area outside of Adelaide, Michael—

The Hon. J.M. Rankine: Would it include Andamooka?

The Hon. P. CAICA: I know where Andamooka is, and I believe it would include Andamooka. I informed the house about the government's efforts to ensure that South Australians have access to fast and affordable broadband. As I mentioned at the time, the former federal government decided at that time to prematurely end the Broadband Connect subsidy, which put projects in our regional areas—in particular Yorke Peninsula, the Coorong and the Barossa and Light region—in a great deal of doubt.

Members will no doubt be pleased to learn that, through the Adelaide-based internet service provider Internode, customers are now being connected to its broadband service in Yorke Peninsula, which I am informed is the first region-wide deployment of this scale in Australia using the approved WiMAX standard.

WiMAX currently provides wireless broadband over distances of up to 30 kilometres from a base station and at speeds comparable with typical metropolitan ADSL services. I would like to again sincerely thank the member for Goyder for his support of the government's efforts on this issue. I can inform the house that he is a man with whom anyone on this side of the house can do business. He is a good operator. Residents of the Yorke Peninsula will now receive virtual blanket coverage of wireless broadband, subject to topographic and other wireless transmission issues.

Internode's new WiMAX network augments its pre-existing wireless broadband network on Yorke Peninsula. Customer connections have also been proceeding in the Coorong and the Barossa and Light region since late last year on the non-WiMAX wireless broadband networks installed in those regions by Internode and Amcom respectively.

Internode has also installed three WiMAX base stations in the Coorong region, in addition to its existing Coorong-based wireless broadband network. This equipment is currently being commissioned and tested, and customer connections are expected to begin shortly. These Coorong base stations will enable higher speed wireless broadband services to be delivered over a significant part of the Coorong council area.

The government's strategy of working closely with local communities through local government and regional development boards to develop whole-of-region broadband solutions has delivered substantial results. We will continue to adopt this strategy in ongoing negotiations with the OPEL consortium and we will work with local groups in regions not covered by OPEL to achieve the widest possible terrestrial broadband penetration.

The government has invested over $3 million in facilitating new broadband infrastructure, and this amount has leveraged additional funds through federal and local governments, as well as the private sector. I think that if there is anything to learn and reinforce from this particular process

it is that it is a tremendous result which demonstrates the effectiveness of what has been genuine collaboration in achieving the best outcomes for South Australians in the regions.

SA WATER

Mr WILLIAMS (MacKillop) (15:28): My question is again to the Premier. Why does your government oppose amendments to the Waterworks Act to establish a visible, accountable, hypothecated fund to hold SA Water rate surcharges so that taxpayers can see that the proceeds from rate increases will be used specifically to pay for new water infrastructure as promised?

The Hon. K.A. Maywald: It's a hypothetical. It doesn't exist.

The SPEAKER: If I can ask the member for MacKillop to bring up the question and I will check it. I will call on the next question from the opposition.

Mr WILLIAMS: Mr Speaker, I will rephrase the question if you have a concern with it.

The SPEAKER: It is disorderly to ask a minister a question regarding something that has already been decided by the house. If that is what the question does—

Mr WILLIAMS: I do not think that this matter has been decided.

The SPEAKER: I will just check—or is currently before the house.

Mr WILLIAMS: It is not before the house, sir.

The SPEAKER: The question is orderly. My apologies to the member for MacKillop. The Minister for Water Security.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:31): As a government corporation, SA Water is required to provide an annual report to the house. Provided in that annual report is a detailed set of financial statements in which it states quite clearly where money from SA Water is going. There is no need for an amendment to the Water Resources Act to ensure that the money we are collecting in the pricing structure, which we announced last December, will be moving into SA Water to fund the projects that we announced. We have a $2.5 billion investment, and that is a really good thing.

WATER INFRASTRUCTURE

Mr GRIFFITHS (Goyder) (15:32): My question is to the Treasurer. Is the public-private partnership model the preferred method of financing the proposed Port Stanvac desalination plant and the now Mount Lofty Ranges works for water storage, and, if so, what financial arrangements is the government considering to construct this infrastructure?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:32): We have already made it clear that we are now evaluating and going through the process to work out whether SA Water undertakes it as a PPP or as a build-own-operate project. Those decisions, as I understand it, have not yet been taken. We have had the work—

Mr Griffiths interjecting:

The Hon. K.O. FOLEY: A preferred option? I have to say that, at times, I have a reasonably high opinion of my abilities, but one of them is not to decide what is the best financing model for a desalination plant. I think it would be risky if the state took my preferred option—if I had one—as the one with which we should run. Like all these things, I take advice and financial analysis from experts, and have a good piece of work done to advise government as to the best—

Mr Williams: In the meantime, you jack up water rates.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am happy to give the member for MacKillop a briefing about where the money is going and why water rates are now increasing to ensure that we have the money available to finance this particular project.

Mr Williams: It's a PPP.

The Hon. K.O. FOLEY: Well, it depends on what the project is. That is why I think that it is important that the member for MacKillop is briefed on this. A PPP is not a cost-less exercise. A PPP will be on SA Water's balance sheet.

Mr Williams interjecting:

The Hon. K.O. FOLEY: Yes; humph! Hello?

Mr Williams: And it will paid for over the next seven years.

The Hon. K.O. FOLEY: Yes, exactly.

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Mr Speaker, the member for MacKillop is embarrassing himself. The debt goes on to SA Water's balance sheet. I am happy to extend the offer for Treasury officers to sit down with the member for MacKillop and explain to him—be it a PPP or a build-own-operate process—why water increases must occur now. I am happy to have him briefed on that. As smart as he thinks he is, I put my money on the fact that Treasury officers are a bit smarter than the member for MacKillop and, indeed, what I may be. Okay? We do—

Mr Goldsworthy interjecting:

The Hon. K.O. FOLEY: Oh, don't reflect on a member? Give me a break! Given the scale and complexities of these projects, we are taking advice of the highest quality available to make sure that we get as much of this absolutely correct as possible. These are big and complex projects. The Leader of the Opposition would say, 'Fast track these things. Just build it. Just borrow and build.' Or is he really saying that? You read that he says we should be paying for it out of general revenue or something. This Leader of the Opposition would bankrupt the state if we ever allowed his vision, or *The Advertiser's* vision, to become reality.

Members interjecting:

The SPEAKER: Order! The Deputy Premier is now debating the question. Again, I say to members on my left, if they have a point of order to rise in their places, not to yell it out at me. We are not at a cricket match.

GRIEVANCE DEBATE

STOLEN GENERATIONS

Dr McFETRIDGE (Morphett) (15:36): I rise on what is a momentous day in the history of Australia. I am a proud South Australian Liberal and I want to recognise the fact that on 28 May 1997 it was the Hon. Dean Brown, then minister for Aboriginal affairs, who referred in this house to the past injustices to Aboriginal people and so moved recognition of that fact and an apology to the Aboriginal people for those past injustices. During his speech on that momentous day back in 1997, the Hon. Dean Brown referred to a report that had just been released. That report was the 'History of the Laws, Policies and Practices in South Australia which led to the removal of many Aboriginal children: A Contribution to Reconciliation'.

At the back of that report there is a very good summation of the situation we found ourselves in before 1997 in South Australia and also before 2008 in Australia. That summary states:

> When societies or cultures collide it is often the children who suffer most. For Aboriginal children the British colonisation of South Australia was no exception. During the first 120 or so years of European settlement successive governments either permitted or actively pursued policies of removing Aboriginal children from their parents and communities. The implementation of these policies represents one of the most shameful episodes in the treatment of Aboriginal people by white Australians.
>
> Although frequently motivated by good intentions, the removal of Aboriginal children was to embitter relations between the two peoples and cause enormous pain and suffering to the children and their parents. The damage caused to individuals and families persists today.
>
> The past cannot be changed but some of the wounds can be healed. The process of reconciliation must start with a candid recognition of what took place.

The document recently put out by Reconciliation Australia, of which I am proud to be on the South Australian board, has a number of questions that are often asked about saying sorry, and there are eight questions. I recommend people go to the website where the questions and answers will be given. The main question is: why should we apologise when many Aboriginal people are actually better off today? Why should we say sorry? Why is the word 'sorry' important as part of the apology? The document states:

> The word 'sorry' holds special meaning in Aboriginal and Torres Strait Islander [communities]. In many Aboriginal communities, 'sorry' is an adapted English word used to describe the rituals surrounding death (Sorry Business). 'Sorry', in these contexts, is also often used to express empathy or sympathy rather than responsibility.
>
> During the 2007 election campaign, then opposition leader Kevin Rudd also recognised the significance of the word 'sorry'.

I was very pleased to be in Elder Park this morning to hear Kevin Rudd speak and to talk to the people present in Elder Park and recognise the fact that they were going to move on. They are going to accept the apology and they are going to move on. One of the South Australians I saw on the telecast this morning, a proud South Australian Aboriginal woman, Lowitja O'Donoghue—and I know she has given some full and frank advice to this government. Speaking on the SA Link-up program, which helps members of the stolen generation find their families, she said:

> There are few Aboriginal and Torres Strait Islander people whose lives have not been touched by misguided and barbaric policies which saw children taken away from their families and communities, ostensibly 'for their own good'.

I stand here as the shadow minister for Aboriginal affairs and say sorry to the Aboriginal people of South Australia for past injustices, for the disgraceful policies that, no matter how you look at them, were very poorly thought out and by today's standards are an absolute travesty of every human right possible.

I just hope that, today, having apologised on a national basis and having, nearly 11 years ago, apologised on a state basis, we can move forward as a bipartisan parliament here in South Australia and help all the indigenous members of the South Australian community move forward as well, because they certainly do need our help and our support. This parliament must recognise that, and today is a day when we should be recognising that and moving forward.

STOLEN GENERATIONS

Ms BREUER (Giles) (15:41): I stand here today as a very proud member of the ALP following the magnificent speech this morning by Kevin Rudd and the apology which we have awaited for so long: the Sorry. I am very proud that I was able to help Kevin Rudd get to victory today. I have to say that sometimes I am not so sure that I feel proud about being a member of the ALP, but today I certainly, certainly do. We certainly showed today what the ALP is about.

I was very proud today to see so many Aboriginal faces in Parliament House here. I was very pleased to host a group of people from Oak Valley community which is part of my electorate: Mr Windlass, Jeffrey Queama, Hilda Moodoo, Mima Smart, Annette Lawrie Dodd and Chris Dodd. I will mention later a bit more about Oak Valley.

I thought the words of the Prime Minister were wonderful. There was real meaning in those words, and with many others I did shed a tear during his speech. I remember the pain of a dear friend of mine in Quorn, Clara Coulthard Johnston. I remember standing in a creek bed at Pukatja, Ernabella, listening to her story and her showing me exactly where she was taken away from her mother's arms. I remember the pain of those mothers, and I cannot imagine the pain of having one of my children dragged from my arms and taken away.

It has been a very significant day and I think today we can move on. We have had some real healing today, I believe, and the hole in many hearts have been filled. It is a day of great reconciliation. It has taken us 220 years but I think today we have started that reconciliation process fully.

I was pleased to hear our Premier speak. He talked of respectful relationships. He mentioned that we cannot have practical outcomes without respectful partnerships with Aboriginal communities and Aboriginal people. We need to have an equal partnership with indigenous Australians and that has to be based on trust.

On a number of occasions the Premier mentioned Oak Valley and the Maralinga area. I have to say that I have grave concerns about what is happening in those communities. I do not believe that we are showing the respect and trust that is required in those communities. The Oak Valley community is a community in turmoil. There has been a series of administration decisions by the white administrators in that community which have been supported by the state government.

I believe we are taking away these people's rights. White administrators and white lawyers, I believe, have been one of the main problems in Aboriginal communities in South Australia. I have a saying: 'Missionaries, mercenaries or misfits' and that tends to be those who go out to those isolated communities. I have been in many of those communities and they seem to govern either with baseball bats or a bible in the top drawer, or a pack of tofu and lentils and a bong.

That is not the way to govern those communities. It is not the way to work with those communities. Today, I urge the government, I urge the Premier, I urge the Minister for Aboriginal Affairs, and I urge the department to listen with respect to what the people are saying in the Oak Valley area. We do not need a situation such as that which resulted in the AP lands where we had much angst, much anger. We put people offside.

I believe we can resolve the situation in Oak Valley if we sit down and listen to these people. You do not sit down and listen to them for an hour—that is not the way you work with Aboriginal communities. You sit there for a couple of days. If they are saying 'Uwa, uwa' they are saying 'Yes, yes.' They are not saying, 'Yes, we agree with you'; they are saying, 'Yes, we understand what you're saying.'

There are language and cultural barriers, but we can do this. What I am asking—almost begging—today is to let us look at the situation that is happening in that community and let us try to right that situation. I urge the Premier, the minister and Ms Jos Mazel to listen to what these people are saying. I spent many hours with them today and listened to what they are saying. I have met with them on numerous occasions in the past few months. They are feeling wronged. They have major concerns about what is happening in their communities. In fact, one of the major problems is that nothing is happening in their communities. They have very few programs. They have asked and begged for programs, such as an art gallery for women and programs for children, and they are not happening. A lot of this is because of the angst they have had with the administration.

I ask today—I beg today—in the spirit of healing: let us sit down and look at this situation again for the sake of the children.

FLEURIEU PENINSULA WATER SUPPLY

Mr PENGILLY (Finniss) (15:45): Probably the most pressing issue in Australia today, and more particularly in South Australia, is the issue of water for the future. I wish to talk about water for the future on the Fleurieu Peninsula (that rapidly developing area) and ascertain how the government in its infinite wisdom plans to accommodate the enormous growth in that area; how it plans to accommodate the provision of business and enterprise; and what are its plans for the future in that area. Much of the Fleurieu Peninsula is in the high rainfall area of the state. Generally speaking, it has an assured rainfall; and, except for the odd year, in the state's worst years the Fleurieu still gets a reasonable rainfall.

It is an area where more people are choosing to live. The area includes Victor Harbor, Goolwa, Middleton, Port Elliot and, on the other side of the Fleurieu, Yankalilla and Normanville, where the population is increasing rapidly. Indeed, around the Wirrina area they are now talking about trying to accommodate a population of 5,000 to 6,000 people. However, none of it will happen without water. The Myponga dam is currently catering for sections of the Fleurieu Peninsula, but it will not cater for a population which it has been suggested will be around 50,000 in a decade or two. It just will not happen.

The communities of Cape Jervis, Rapid Bay and Second Valley and along that western Fleurieu coast do have the capacity to absorb many more people but currently they cannot do it. The Yankalilla council is at its wit's end trying to work out how to make provision for water down there. The new owners of Wirrina, which has had a very chequered history to say the least, are keen to make sure that Wirrina is a success story, and the biggest issue for them at the moment is the provision of water. The whole future of the Fleurieu Peninsula and its prospects for increased population, farming enterprises, business activities and whatever else all revolve around the adequate provision of water which we do not have at the moment.

I would like the parliament to take my comments on board. More to the point, I would like the government of the day to commission a strategic plan to tell us how it intends to accommodate the future of the Fleurieu Peninsula, how it does hope to achieve more growth down there and how it can assist local government and those regional communities for the future of the area. The situation is critical. Climate change would appear to be with us. There are no two ways about that in some quarters, although some of us who have been around the traps for a long time are pretty used to runs of dry years and runs of wet years. I for one look forward in the very near future to an end to the dry years. I would like to be walking around in water for several months every year, and the sooner that happens the better. It is absolutely imperative for the future of the whole Fleurieu and those growing areas that some heavy, substantial planning is done for the provision of water.

We see all this money disappearing into Treasury from taxes to SA Water—$300 million—none of which is going into the provision of infrastructure for water for the rest of South Australia,

quite apart from the desalination plant. We cannot keep on saying that we cannot afford it. We have to accommodate for the future. We need to get on with it. It is simply not good enough to put it all on the backburner and do nothing. Look at the enormous projects that were undertaken in the Playford era such as pipelines, dams, electricity and everything else that was put in place. I implore the government to put in place a long-term plan and a strategy position for water to assist the residents and businesses of the Fleurieu Peninsula in its capacity to grow. I look forward to an announcement from the government along that line. I seriously encourage it to do so: it is too important. As I said, you cannot continue to put everything on the backburner.

STOLEN GENERATIONS

Ms BEDFORD (Florey) (15:51): I want to acknowledge that we meet here on the traditional lands of the Kaurna people on this very special day, a day when the first Australians are truly acknowledged and honoured. It was wonderful to see the gallery full today—and with so many Aboriginal people—when the Premier spoke. Earlier today, like many hundreds of Adelaideians, I watched the Prime Minister deliver his speech via the large screens in Elder Park. In the crowd that had gathered, I felt the same feeling I had when probably the same crowd walked across the bridge. I feel hope and I feel excited about the sort of Australian society that is before us. There were many similar crowds all over Australia, although none more marvellous than the crowd gathered in Canberra on the area around the Tent Embassy and the great boulevard leading from Old Parliament House to the area in front of new Parliament House; and in the Gallery and the Great Hall people gathered to share the special feeling today has generated.

Today's 'sorry' has given us the chance to talk together about hurt. The recognition of past hurts is a powerful moment for anyone in the journey each of us makes in our lifetime. We all have an understanding of how hurt can happen. We have all felt hurt, carried it and, no doubt, each of us has inflicted hurt on others. What matters though, whatever side of hurt we are on, is finding the time to put things right, to tell and to listen to each other's feelings, and then how we act when the moment comes to make things right. We must decide that hurt and the sadness it brings to all parties has no place in our lives and we must work actively to eliminate it. Just as we must work to eliminate bullying—another negative action so prominent in everyday life, an act that inflicts similar misery and also destroys spirit.

Saying sorry is not a token gesture. The amount of feeling that has been generated about today's apology is testament to that. We are not only saying something to Aboriginal people, we are acknowledging what has been done to them and undertaking to prevent such things in the future and to make amends. It is about healing ourselves as well and recognising the humanity we have in common. It is another step on the long journey of reconciliation. Former premier Lynn Arnold (soon to retire from his role at World Vision) recently spoke about the common wheel of which we are all spokes—needing each other to progress, united in our endeavour to move forward. That notion stands against the notion of commonwealth which commodifies human life.

A democratic society aims to recognise the worth of each and every person and is governed by the rule of law which was created in the hope that everyone is treated equally, has access to opportunity and the means to participation. We do not all start from the same spot and we each have different potential. However, we should have the same regard for each other and respect the different talents and strengths that we possess. 'Human rights' is a term we all know. Most of us in Australia define that term as access to education and health services and a good job that pays the bills. In other countries it means access to the more basic things of life, things we all take for granted such as food, water, power and shelter. Sadly, all these are things that many Aboriginal people all over Australia still need.

It is important to listen to what people want and how they want to live their lives and to give them a voice in their own future. In this place I speak for my constituents, namely, the residents of Florey in the north-eastern suburbs of Adelaide. I acknowledge the work of the Florey Reconciliation Task Force: Shirley Peisley, Vi Deushler, Sharlene Iuliano and her mum, Joan Lamont. With their work and that of Tabitha Lean and Simon Peisley, we were able to form a group that generated momentum in our community. Many other great Aboriginal people have shared their wisdom. People such as Uncle Lewis O'Brian, Lowitja O'Donoghue, Muriel Van der Byl, Val Power, Doris Kartinyeri, Peter Buckskin, Auntie Josie, Tim and others of the Agius family. It took a long time to gain their trust and to learn their stories and insights and the struggle of their parents, grandparents and ancestors. They have a special affinity with the land. They understand the land because they are from it. The land needs an apology, too, they say. The spirit of the land needs nurture as well. I cannot speak for Aboriginal people. Perhaps one day soon I hope there will be an Aboriginal member in this house.

But I can today speak for my friend Katrina Power, who has asked me to put a few things on record. She says that Aboriginal people have waited 220 years for this apology, and it is accepted, with their future hopes and dreams that all Aboriginal Australians will enjoy the same quality of life as everyone else in this country. She has said that this is a new beginning, and thanks Kevin Rudd for his goodwill and intestinal fortitude to bring the stolen generation issue to the fore.

Katrina said that Aboriginal people's pain has been diagnosed, acknowledged and respected, and that it takes two people to speak the truth—one to listen and the other to hear. Aboriginal people have a Dreaming, and today is a new dream that has come their way. She says that they are inspired, their hopes for reconciliation are reignited, and that together she hopes we can make one track, working together, to fulfil our hopes of standing and walking forward to create a new future together. Now we all have new hopes for the Australia that we all want to be in, let the healing begin.

EASLING, MR T.

Mr HANNA (Mitchell) (15:56): I refer to the case of Thomas Easling. He was a foster carer. He was accused of child abuse. He was acquitted. My first reaction on hearing details about this case in the *Independent Weekly* was to set up a parliamentary committee of inquiry. After all, there were serious allegations made about the nature of the investigations. I want to say in general terms that bungled investigations of child abuse have an effect not only on the accused but also on the accuser.

Many years ago I was acting as a criminal defence lawyer and observed some cases where even sworn police officers bungled investigations into child abuse by contaminating the mind and thus the evidence of young people alleging sexual abuse, the result being that prosecutions would not proceed at all. My point is that having a thorough but fair and sensitive investigation of child abuse allegations does the right thing by not only the accused but also the accuser.

I have since been informed that Mr Easling is suing the government, or at least one of its agencies and thus it would not be appropriate for me to comment on the matter further. But there is another reason why I am not going to pursue a parliamentary inquiry into the matters raised by his case. The Hon. Ann Bressington, in another place, has informed me of the Families SA inquiry which specifically covers investigations of claims of abuse, and I direct interested people to that inquiry, which is ongoing.

I have another topic to raise today. It was a great day for Australia when Kevin Rudd, Mike Rann in our parliament, and Martin Hamilton-Smith in our parliament, made an apology to Aboriginal people. The South Australian parliament had done this before in 1997. The apology is in relation to what were called the stolen generation.

When considering why it happened I think the history is important. It is commonly said that the European arrival on the shores of Australia was an invasion. Some spaces on the continent were shared, but when there became a conflict between those who were new arrivals and those who were already here it was the ones with guns who ended up determining the outcome. I made a point when coming into this place of studying the early Aboriginal and colonist rivalries and cooperations in the first decades after 1836. I found there were three driving forces.

There was a philanthropic sentiment, which emanated from London and which was largely practised on the Adelaide Plains themselves. However, as one proceeded further away from Adelaide there was a large degree of lawlessness, particularly practised in outlying areas on the Eyre Peninsula and along the Murray. Thirdly, there was a dogma of Christian evangelism, which sought to regulate the customs, beliefs and way of life of Aboriginal people. 'We know best' was the policy. The stolen generation phenomenon is the legacy of that philosophy that we know best and that a less sophisticated way of life is not good enough. It led to kidnapping of young people being put to work and, very often, at great risk of sexual assault. I have no doubt that, generally speaking, the laws, the people who made the laws, the officials and the foster parents acted with the best of intentions, even if they were patronising.

Of course, there were many kind and caring foster parents; still, there was a widespread incomprehension of what it means to tear someone from their roots, their parents and their identity. We now recognise how culturally one-sided those views were. If anyone out there is in any doubt about the rightness of the apology, the question is: how would you feel if you were taken from your parents at five or 10 years old? I join with Premier Rann and Mr Hamilton-Smith in expressing sorrow at the practices that resulted in the stolen generation.

MITSUBISHI MOTORS

Mr BIGNELL (Mawson) (16:09): Last week we had the sad news that Mitsubishi management in Japan decided to close Mitsubishi's Tonsley Park plant. The closure will mean about 1,000 loyal, hard-working South Australians will lose their jobs. I congratulate the state and federal governments for the way they quickly joined forces to make available up to $85 million to provide further infrastructure and create more job opportunities in the south.

The Minister for the Southern Suburbs has been appointed to head up the Southern Suburbs Coordination Group, and I have been pleased with the level of consultation I, as a southern suburbs member, have had with the Minister for the Southern Suburbs and the Premier's office, and the minister has asked me to be involved with him on that group.

I am very proud to drive a Mitsubishi 380 and, after clocking up more than 55,000 kilometres in less than two years, I have to say it is a wonderful car. Before the 380, I drove a Mitsubishi Verada which was also a very well made local car. The south of Adelaide has always been very proud of, first, the Chryslers and, then, the Mitsubishis. Driving around the south, you certainly see a lot more Mitsubishis than in other states and even in other parts of South Australia. So many people in the south have a connection with Mitsubishi and Chrysler. When doorknocking, you cannot go too far without knocking on the door of someone who once worked at the Lonsdale or Tonsley Park factories or they are related to someone who worked there or they work for a company that supplied Mitsubishi.

Last year I drove into the Hackham football ground to watch a Hawks match and, as I pulled up next to the boundary fence, a woman approached the car. She leaned in through the window and touched the dashboard and said, 'What do you think of the dash? It is pretty flash. I installed that.' She could have been Michelangelo, Leonardo or Dali. She was so proud of her job and the work that went into it and she took great delight in making a locally built car for local drivers.

Some people in the south are absolute Mitsubishi fans, like my dad who, when he died of cancer in 2001, had accumulated three Magnas. He loved those cars so much that he never wanted to trade them in. As a stock agent living in Woodcroft, he used his original Magna to drive out in the paddocks, his second one for a mixture of on-road and off-road endeavours, and his newest one was pretty much reserved for going to church and to visit friends. He fought cancer three months before his death which gave him time to get things in order. One of his requests was that we line up the three Magnas so that we could have a special family photograph taken with them. Then he gave us specific instructions. He did not want anyone having his first Magna, the one that he had launched his business with, so it was to be taken to the wreckers. The second one was allowed to be sold and the newest—which I admit was the cleanest one, because when you are a stock agent they tend to smell after a while—was to be left for Mum.

Deaths in the family are terribly hard on families, and our southern family is in mourning for the loss of Mitsubishi, even though death always seemed to be hanging above us. We are a resilient lot in the south and we will adapt, just as we have had to in earlier times when Mitsubishi shed jobs at Lonsdale and Tonsley Park. A lot of great new businesses have been set up in the southern suburbs and they are generating hundreds of jobs. Some companies have adapted to manufacture high-tech products, others have completely changed what they were producing to take advantage of changes in South Australia, like the current mining boom. We have also attracted many new businesses to the south and we will continue to do so.

Unemployment in the south is around the state average which, as we all know, is at a record low. Business owners I speak with in places like Hackham, McLaren Vale and Lonsdale are positive about the future. They are employing more workers and taking on apprentices, which is fantastic news not only for our part of the state but for the whole state. With the help of the state and federal governments we will overcome the closure of Mitsubishi, but we will never forget the great cars and the wonderful people who proudly worked so hard to build them.

MEMBER'S REMARKS

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:05): I seek leave to make a personal explanation.

Leave granted.

The Hon. M.J. ATKINSON: During debate on the serious and organised crime bill I took what I think was a bogus point of order on the Leader of the Opposition and I interpreted him as

saying that the victim of the shooting at Paskeville was a former bikie. Reference to the *Hansard* rushed proofs shows that no such implication could be taken, and I withdraw and apologise to the Leader of the Opposition.

STATUTE LAW REVISION BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:07): Obtained leave and introduced a bill for an act to make minor amendments of a statute law revision nature to various acts. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:07): I move:

That this bill be now read a second time.

The bill makes minor technical amendments to various acts after the enactment of the Statutes Amendment (Domestic Partners) Act 2006, the South Australian Cooperative and Community Housing Act 2007 and the Local Government Act 1999. The amendments either correct minor drafting errors or are consequential on legislation passed later than the domestic partners reform. The bill amends seven acts, and I seek leave to have the balance of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

First, it amends the Criminal Assets Confiscation Act 2005 to correct references in the definitions of 'proceeds' and 'instruments' of crime. The reference to the De Facto Relationships Act 1996 needs correction because that Act has been renamed the Domestic Partners Property Act 1996.

Second, it amends the Dental Practice Act 2001 consequentially upon the amendments recently made by the Pharmacy Practice Act 2007. The Pharmacy Practice Act, by Schedule 1, amends the Dental Practice Act to insert required definitions into section 69, governing Part 7, which is, relevantly, concerned with various protections against corruption. The new law deletes obsolete definitions from section 3. The Schedule, however, does not delete the former definition of 'spouse', and it should. The definition is not needed because the term is defined in section 69, as amended, being the only place where it is used.

Third, it amends the Domestic Partners Property Act itself to make minor consequential changes that were overlooked when that Act was amended. In some places, the expression 'de facto' partner still remains where the reference should be to a 'domestic' partner.

Fourth, it amends the Fire and Emergency Services Act 2005 to include a reference to a 'domestic partner' in the definition of a 'relative'. This is relevant to the definition of an 'associate' for the purposes of conflicts of interest for members of the board of the Fire and Emergency Services Commission. That is, if a board member would have a conflict of interest because of the involvement of his spouse in a matter coming before the Board, the same will apply in the case of involvement of a domestic partner. The same will be true for members of the Bushfire Prevention Advisory Committee.

Fifth, it amends the Local Government Act, in two ways. The first amendment is to section 182A, dealing with postponement of council rates for seniors. Postponement is only available if the land is owned entirely by the ratepayer or by the ratepayer together with a spouse. That should also include a domestic partner. Second, there is an amendment to Schedule 1A, about stormwater management. Section 20(4) was inserted in error as the Authority is not caught by section 33 of the Public Corporations Act.

Sixth, it amends the Passenger Transport Act 1994 to remove definitions of the terms 'relative' and 'spouse'. It has been noticed that the Act does not otherwise use those terms.

Finally, the Bill amends the South Australian Cooperative and Community Housing Act to correct references to the 'Authority' to refer, as appropriate, either to the Minister or the South Australian Housing Trust. This follows from the amendments last year that removed references to 'the Authority' from the Act.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Amendment of Acts specified in Schedule 1

This clause provides that the Acts specified in Schedule 1 are amended in the manner indicated in that Schedule. Subclause (2) is a device for avoiding conflict between the amendments to an Act that may intervene between the passage of this measure and the bringing into operation of the Schedule.

Schedule 1—Amendments

The Schedule specifies the Acts and proposed amendments to those Acts.

Debate adjourned on motion of Mrs Redmond.

STATUTES AMENDMENT (REAL PROPERTY) BILL

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:09): Obtained leave and introduced a bill for an act to amend the Bills of Sale Act 1886, the Community Titles Act 1996, the Real Property Act 1886, the Stock Mortgages and Wool Liens Act 1924 and the Strata Titles Act 1988. Read a first time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:09): I move:

That this bill be now read a second time.

Successive registrars-general have recommended practical amendments to the Real Property Act 1886, the Community Titles Act 1996 and the Strata Titles Act 1988, the Bills of Sale Act 1886 and the Stock Mortgages and Wool Liens Act 1924.

The process of drafting a comprehensive bill to deal with these problems started under the previous government and has continued since then, with consultation between Parliamentary Counsel, the Attorney-General's Department and the Lands Titles Registration Office. Indeed, registrars-general have come and gone during that deliberation.

The proposed amendments are mostly minor and technical in nature. Nevertheless, recognising that the amendments would be of interest to land law specialists, the government released a consultation draft of the bill in July, 2003 for public comment. Some changes to the bill have been made as a result of this consultation. Some other matters have been added to the bill since the consultation period ended on the advice of the Lands Titles Registration Office.

There are many amendments, more than 80 in all, dealing with a wide range of technical matters. The amendments will improve the administration and efficiency of South Australia's land management system. I seek leave to have the balance of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Definition of 'allotment'

The word 'allotment' is used in two different contexts in the Real Property Act. For purposes of land division and amalgamation under Part 19AB, 'allotment' is defined (except for the purposes of s223LB) so as to exclude community or development lots or common property within the meaning of the Community Titles Act, or a unit or common property within the meaning of the Strata Titles Act. That is because the division and amalgamation of parcels of land under the Community Titles Act or Strata Titles Act is subject to the specific provisions of those Acts in addition to the general land division provisions in Part 19AB. In other contexts within the Real Property Act, for example sections 51E, 90B, and 90C, a broader meaning of the word 'allotment' is intended. However, there is no definition of the word as it applies to any Part other than 19AB.

The Bill therefore amends section 3 of the Real Property Act to insert a broad definition of 'allotment' that will apply to sections 51E, 90B, and 90C.

Replacement of term 'licensed land broker'

Several provisions in the Real Property Act still refer to a 'licensed land broker'. This term ceased to be used when the Land Agents, Brokers and Valuers Act 1973 was replaced by the Land Agents Act 1994 and the Conveyancers Act 1994. 'Licensed land brokers' are now referred to as 'registered conveyancers'.

The Bill amends the Real Property Act to replace references to 'licensed land brokers' with 'registered conveyancers'.

Registration of dealings in the order intended

Often instruments affecting the same interest in land are lodged in the incorrect order where it is clear on the face of the documents what order they were intended to be lodged. For example, a series of documents may be lodged with a transfer of land being presented before an existing mortgage is discharged.

Section 56 of the Real Property Act directs that the Registrar General must register the documents in the order that they are presented. Given this requirement, it is necessary to withdraw the document that is out of registrable order temporarily and then re lodge that document in its correct order. This process incurs an administration fee and is time consuming for both the Registrar General and the parties. The process can be further complicated where other documents are lodged over the same certificate of title after the series requiring temporary withdrawal.

To address this the Bill amends section 56 to authorise the Registrar General to register a series of documents affecting the same land in an order that gives effect to the intention of the parties. Where the intention of the parties appears to the Registrar General to be in conflict, the order of registration will remain the order in which

the dealings were lodged for registration. The proposed amendment is based upon similar provisions in the New South Wales' Real Property Act.

Permitting the Registrar-General to issue a new certificate of title

The automation of the land titles register means that it is easier and more effective for the Registrar General to issue a new certificate of title when amendments or corrections need to be made, rather than making alterations on the face of existing certificates of title.

In recognition of this the Bill inserts a new Section 78A into the Real Property Act, authorising the Registrar General to issue a new certificate of title whenever he is required by legislation to amend or update an existing certificate of title.

Expanding the list of 'short form' easements

Section 89A of the Real Property Act provides that, where an instrument refers to a short form easement set out in the Sixth Schedule, the instrument will, unless the contrary intention appears, be taken to incorporate the corresponding long form of that easement as set out in the Sixth Schedule. There are nine short form easements incorporated in the Sixth Schedule. Given the benefits of using short form easements rather than transcribing the long form of an easement in all instruments, the Bill adds these additional short form easements to the Sixth Schedule:

- an easement for the transmission of telecommunication signals by underground cable. This easement is similar in terms to the existing easement for the transmission of television signals by underground cable;
- an easement for the transmission of telecommunication signals by overhead cable. This easement would deal with telecommunication signals that are transmitted by overhead cable;
- an easement for support. Such an easement would arise where a party requires the support of a structure on the servient land. Examples would include a right to support from a retaining wall;
- an easement to park a vehicle. There are cases where it is necessary for the grantee of an easement to park and leave a vehicle or moor a boat or vessel on the right of way. Therefore, there is a need to provide that the grantee will enjoy a free and unrestricted right of way over a defined portion of the servient land and have the right to park and leave a vehicle. The right to park may be in a designated portion of the right of way or over the entire right of way;
- a right of way on foot. There are occasions where a right of way is granted but limited to pedestrian access. It is envisaged that this short form easement could be used in such cases.

'Right of Way' heading to Schedule 5

Section 89 of the Real Property Act provides that the words 'a free and unrestricted right of way' in any instrument will be deemed to imply the words set out in Schedule 5. Schedule 5 provides:

A full and free right and liberty to and for the proprietor or proprietors for the time being taking or deriving title under or through this instrument, so long as he or they shall remain such proprietors, and to and for his and their tenants, servants, agents, workmen, and visitors, to pass and repass for all purposes, and either with or without horses or other animals, cart, or other carriages.

At times confusion arises because Schedule 5 is headed simply 'Right of Way', and some conveyancers and solicitors are under the erroneous belief that the words 'right of way' in an instrument will be deemed to imply Schedule 5 words. To avoid any ambiguity the Bill amends the heading to Schedule 5 so that it refers to 'A free and unrestricted right of way'.

Land 'registered' under this Act

Section 90B of the Real Property Act refers to 'land registered under this Act' and 'land not registered under this Act'. This wording is inconsistent with that used throughout the remainder of the Act. The Bill amends section 90B to make it consistent with the remainder of the Act in describing land as 'under the provisions of this Act'.

Extension of a mortgage or encumbrance to an easement created appurtenant to the encumbered land

When an easement is granted appurtenant to land that is subject to an existing mortgage or encumbrance, a collateral mortgage or encumbrance must be lodged for the mortgagee or encumbrancee to be able to transfer that appurtenant easement when exercising a power of sale. Without lodging a collateral mortgage or encumbrance, the new certificate of title will only observe that the mortgage or encumbrance is over the land, and not over the appurtenant easement. The need to prepare and register a collateral mortgage or encumbrance would be avoided if the existing mortgage or encumbrance over the dominant land automatically extended to cover a subsequently created easement. This would be consistent with the current procedures for the creation of easements by a plan of division or community division.

The Bill amends the Real Property Act to insert a new section 90F, and make a consequential amendment to section 90A, to provide that if, when an easement is granted over servient land, the dominant land or any part of it is subject to a mortgage or encumbrance, the easement is also subject to the mortgage or encumbrance if the instrument granting the easement provides that it is subject to the mortgage or encumbrance and the mortgagee or encumbrancee has endorsed his consent to that on the instrument.

Creation of an easement by reservation to the grantor

The common law does not permit an easement to be created by reservation on the transfer of land. Instead, the purchaser must consent to a re grant of the easement to the vendor. This has the same end effect as a reservation but requires the execution of extra documentation.

This common law rule has been abrogated in New South Wales, Victoria, Queensland and Tasmania, however, it continues to apply in South Australia even though permitting reservation of an easement would not adversely affect a transferee because the transferee must endorse the transfer document that would refer to the reservation.

To bring the law in South Australia into line with these other jurisdictions, the Bill amends the Real Property Act to insert a new section 96AA to allow the creation of an easement by reservation.

Registering or recording the vesting of an estate or interest by operation of law without the necessity of a formal application

Section 115A of the Real Property Act provides that, on receiving an appropriate application, the Registrar General may register an estate or interest that has vested by operation of law.

This vesting by operation of law could be streamlined if the Registrar General could update the register of his own motion rather than only on application.

In light of this, the Bill repeals section 115A of the Real Property Act and replaces it with a new provision that will allow the Registrar General to update the register by his own motion where a vesting by operation of law has come to his attention.

This amended provision will not enable the Registrar General to deprive any person of his or her interest in land. It permits the Registrar General to update the Register to reflect something that an Act has already done. The Registrar General is of the opinion that the wording of this amendment would require him to make a notation on the title referring to the statute under which the transfer or vesting occurred. He has advised that the notation would appear either on the certificate of title itself or on the Historic Search for that title.

New section 115A is also drafted so as apply where the person acquiring an estate or interest in land by operation of law is other than the Crown in right of the State or the Commonwealth.

Discharge or extinguishment of proprietary interests as a consequence of consent to a grant of easement

When an easement is granted over land that is subject to a registered mortgage or encumbrance, it is general practice to discharge the mortgage or encumbrance over the portion of land forming the easement. The partial discharge occurs to avoid extinguishment of the easement in accordance with section 136 of the Real Property Act where a power of sale is exercised over the servient land. The Bill accommodates this general practice by inserting a new provision, section 144, which provides that, if a mortgagee or encumbrancee consents, an existing mortgage or encumbrance will be partially discharged to the extent of the new easement.

Inclusion of the words 'with no survivorship' in a mortgage, encumbrance or lease

Section 162 of the Real Property Act prohibits the inclusion of trust details on Real Property Act instruments. Section 163 provides a partial exception to this prohibition by requiring the words 'with no survivorship' to be used on a transfer where the interest received will be held by trustees.

For many years the Registrar General has also allowed the words 'with no survivorship' to be used on mortgage, encumbrance and lease instruments. It is not clear whether this practice is authorised by the Real Property Act even though section 164 clearly permits the registered proprietor of an interest to apply for the inclusion of those words on an instrument.

The Bill amends sections 163 and 164 to make it clear that the words 'with no survivorship' may be included on a mortgage, encumbrance or lease instrument.

Requirement to provide an 'office copy' of specified documents

Section 176 of the Real Property Act deals with an executor, administrator or Public Trustee being registered as proprietor of property forming the deceased's estate, and section 184 deals with a person being registered as the proprietor of land by dint of a court order. In both sections there is reference to a person providing an 'office copy' of the probate, letters of administration or order (as the case may be). In current practice, there is no relevance to the use of the word 'office' in this section.

The Bill therefore amends section 176 and 184 so that the requirement is to provide a 'copy' (as distinct from an 'office copy') of the probate, letters of administration or order (as the case may be).

Where two or more executors or administrators, all to concur in every instrument relating to the estate or interest of the deceased proprietor

Section 179 of the Real Property Act provides that, where probate or letters of administration are granted to two or more persons, all of them must concur in every instrument relating to the 'real estate' of the deceased registered proprietor. The reference to 'real estate' dates back to the time when there was a distinction between the transfer of real property and the transfer of personalty (mortgages and encumbrances) or chattels real (leases).

There is no justification for approaching the administration of a subsidiary estate or interest in land any differently from administration of a freehold estate in land. The Bill therefore amends section 179 to replace the words 'real estate' with 'land'.

Meaning of 'contiguity' for the purpose of division and amalgamation under the Real Property Act

The Real Property Act contemplates the division and amalgamation of part allotments that are contiguous with whole allotments. For the purposes of the division and amalgamation provisions of the Act, an allotment will be considered contiguous with another allotment if they abut one another or are separated only by a street, road, thoroughfare, travelling stock route, a reserve or other similar open space dedicated for public purposes. However, this extended definition of contiguity applies only to whole allotments. Any part allotment must physically abut another allotment or part allotment to be considered contiguous with that allotment or part allotment. Owing to the limitation in the definition of contiguity, a part allotment would not be considered contiguous with another part or whole allotment if they were separated by a street, road, thoroughfare, travelling stock route, a reserve or other similar open space dedicated for public purposes.

This appears to be contrary to Parliament's intention that the position of a road, thoroughfare, reserve or similar area should not be relevant when determining whether land parcels are contiguous. The Bill therefore amends sections 223LA(3) and (4) of the Act to make clear that part allotments should also be considered to be contiguous with other part or whole allotments notwithstanding that they may be separated by a street, road, thoroughfare, travelling stock route, reserve or other similar open space.

Restrictions on division involving more than one part allotment

Section 223LB(2) of the Real Property Act imposes a restriction on the granting, selling, transfer etc., of an estate or interest (except a right-of-way or other easement) over a land parcel unless certain criteria are met. Amongst other things, conveyance is allowed if the land parcel constitutes 'an allotment or allotments and a part allotment that is contiguous with that allotment or with one or more of those allotments'.

This provision was inserted in the Act to ensure that a person could not deal in isolation with a part allotment or part allotments of land. Essentially, one or more part allotments may only be dealt with if they are contiguous with one or more full allotments of land. By dint of the wording of the provision, a person would only be able, in a single transaction, to deal with one part allotment that is contiguous with one or more allotments. A person would not be able to deal, in a single transaction, with more than one part allotment, despite all parts being contiguous with each other, and at least one part being contiguous with one or more allotments. Such an intention would have to be carried out through a successive series of transactions. There is no justification for this. The Bill therefore amends section 223LB to enable a person, in one transaction, to deal with a number of part allotments that are in some respect contiguous with one or more allotments.

Vesting by deposit of plan

Section 223LE of the Real Property Act provides that on the deposit of a plan of division, an estate or interest will vest, as specified in the plan, in a person to the extent it is not already vested. Subsection (3)(a) limits section 223LE by providing that an estate in fee simple can vest in a person only if that person was the proprietor of an estate or interest in some part, or the whole, of the land before division.

The limitation in subsection (3)(a) was inserted to prevent persons being vested with an estate in fee simple in the land on deposit of the plan when that person was not the holder of the estate in fee simple of the land before division. However, the wording of the provision could mean that a person who is simply the owner of an encumbrance (such as a lease or easement) over the undivided land could be vested with an estate in fee simple in the land. This was never intended. The Strata Titles Act and the Community Titles Act both restrict the vesting of an estate in fee simple for any of the created units or lots to a person who possessed an estate in fee simple over the land before division. The Bill therefore amends section 223LE(3)(a) to provide that the deposit of the plan of division will serve to vest an estate in fee simple, in allotments created by the division, only in a person who was the registered proprietor of an estate in fee simple in the land before division.

Certification of documents

Section 273(1) of the Real Property Act requires that all applications to bring land under the Act and all instruments that purport to deal with land to be certified as correct, except those exempt by regulation.

Certification of instruments is extremely important as it is not feasible for the Registrar General to be in a position to know, or be able to ascertain definitively, the genuineness or correctness of every instrument that is lodged for registration and which can affect interests in the land in question. Certification pursuant to section 273 is intended to provide some assurance to the Registrar-General that a particular instrument is registrable. Matters being certified include matters as to the instrument's creation and execution, the details underlying the transaction, and the identity of the persons executing the instrument as parties to the transaction.

In practice, certification is usually provided by the registered conveyancer or legal practitioner acting for the benefiting party.

However, to do so, that party's conveyancer or legal practitioner must rely upon the other party's solicitor or conveyancer having carried out the appropriate checks as to the identity of their client, and that the documents effect a dealing in the manner required, as they have no personal knowledge as to the correctness of other party's identity or the information the other party has included in the documentation.

Certification is therefore premised in many cases upon the certifier being able to rely upon information provided by the other party's (transferor's) solicitor or conveyancer.

The Crown Solicitor has advised that section 273 requires the person certifying an instrument to have actual personal knowledge as to the matters being certified (being matters as to the instrument's creation and execution, the details underlying the transaction, and the identity of the persons executing the instrument as parties to the transaction). Although a solicitor or conveyancer will have personal knowledge of all of these matters insofar

as they relate to those parts of the documents the solicitor or conveyancer prepared for his client, he will not (or is unlikely to) have personal knowledge of the relevant matters relating to the other party.

Given the Crown Solicitor's advice, the Registrar General would prefer that certification be given by or on behalf of each side of a land transaction, that is, dual certification.

However, the Crown Solicitor has also advised that dual certification is arguably not permitted under section 273 as this provision is expressed in the singular; it speaks of an instrument being endorsed with 'a' certificate. As such, the Registrar General cannot lawfully demand that any instrument bear more than on certification and cannot lawfully refuse to register an otherwise registrable instrument that bears only one certification.

Although it would be possible for the Registrar General to make dual certification a matter of non mandatory policy and practice, this is not advised as a person must certify as to the correctness of the whole instrument, making the value of a second certification negligible at best, and such a policy could be problematic as dual certification may confuse issues of liability and potentially interfere with the operation of the sanction in section 232 of the Real Property Act against false and misleading certification.

As dual certification cannot be accommodated administratively, the Registrar General has recommended that section 273 be amended so as to allow for dual certification of instruments in appropriate circumstances.

In accordance with the Registrar General's recommendation, the Bill amends section 273 by deleting subsection 273(1) and replacing it with two new subsections.

New subsection (1)(a) provides that applications to bring land under the provisions of the Act must continue to be certified by or on behalf of the applicant. New subsection (1)(b) provides:

- in the case of instruments of a prescribed class, for certification by or on behalf of each party (dual certification); or
- in the case of instruments that are not of a prescribed class, for certification by or on behalf of the party claiming under or in respect of the instrument.

New subsection (1a) provides that a certificate under subsection (1) may be signed by solicitor or conveyancer.

Repeal of obsolete provisions

Part 19AB, Division 4A of the Real Property Act was enacted in 1992 to deal with the amalgamation of allotments in exchange for division of land. The legislation was directed at the owners of land in the Mount Lofty Ranges Water Protection Area, and formed part of the then Government's Mount Lofty Ranges Management Plan.

Division 4A is now obsolete because the 'transfer of title' scheme, that the provisions supported, was abandoned in 1994.

As there is no intention to reactivate this scheme, the Bill repeals Division 4A of Part 19AB.

The Bill also repeals section 200 as this provision refers to the jurisdiction of the local courts and the Local Courts Act 1926.

Duplicate instruments

A number of provisions in the Real Property Act, Community Titles Act and Strata Titles Act require the production of, or notation by the Registrar General on, duplicate instruments. The production of duplicate instruments is time consuming and labour intensive. It provides little, if any, benefit to the public.

The Bill removes all legislative obligations for persons to produce, or for the Registrar General to place notations on, duplicate instruments.

Reducing the appurtenance of an easement

Generally, all persons with an estate or interest in either dominant or servient land must consent before an easement or its appurtenance is varied. There is an exception to this rule whereby the proprietor of dominant land may unilaterally vary the appurtenance of an easement through the transfer or conveyance of a portion of the dominant land without the easement being appurtenant. Consent is not required from persons with an interest in the servient land because the burden over the servient land is only being reduced.

However, the exception operates only where there is the transfer or conveyance of the portion of the dominant land. The exception does not apply where the reduction is effected by the deposit of a plan of land division. Currently, a developer needs the consent of the person with an interest in the servient land or needs a waiver from the Registrar General. There is no rationale for this distinction. The Bill therefore amends the relevant provisions of the Real Property Act, Community Titles Act and Strata Titles Act to allow an easement to be extinguished in respect of part of the dominant land by the deposit of a plan of division without the consent of those with an interest in the servient land or a waiver from the Registrar General.

Lodgement of a Memorandum of standard terms and conditions for encumbrances, bills of sale, stock mortgage or wool lien

Section 129A of the Real Property Act allows a person to deposit 'standard terms and conditions' for mortgage documents with the Registrar General. Subsequent mortgage instruments may refer to the deposited standard terms and conditions and those terms and conditions would then become part of the arrangement as if they were set out verbatim in the document. The mortgagee must have provided the mortgagor with a copy of the

deposited standard terms and conditions. The advantage of this practice is that the original and duplicate mortgage instruments will be considerably shorter. A similar provision, section 119A, provides the same with respect to leases.

Industry participants have recommended amendments to the Real Property Act to allow the depositing of standard terms and conditions for encumbrances. Although it is unlikely that such provisions will be used extensively, the Government accepts that the capacity to deposit standard terms and conditions for encumbrances will be beneficial for some. The Bill therefore amends section 129A to insert a provision to allow a person to deposit standard terms and conditions for an encumbrance.

The same principle can be applied to bills of sale, stock mortgages and wool liens. As such the Bill amends the Bills of Sale Act to insert a new section 11A to allow a person to deposit standard terms and conditions of a bill of sale. Consequential amendments are also made to the Stock Mortgages and Wool Liens Act to insert a new section 18A that provides that section 11A of the Bills of Sale Act applies equally to stock mortgages and wool liens.

Varying or extinguishing 'statutory encumbrances' on deposit of a plan of division, or a plan of community or strata division

A number of provisions in the Real Property Act, Community Titles Act and Strata Titles Act provide for the creation, variation or extinguishment of estates or interests in land (with varying conditions and exceptions to the rule) on deposit of a plan of division. These provisions effectively remove the need for additional documentation to create, vary, or extinguish an estate or interest by providing that it automatically occurs as specified in the plan. Other provisions require applicants to satisfy the Registrar General that persons affected consent to the plan.

Statutory encumbrances, however, are not estates or interests in land. Examples of statutory encumbrances include aboriginal heritage agreements, agreements relating to the management, preservation or conservation of land and heritage agreements created under various statutes. This means that the creation, variation or extinguishment of statutory encumbrances cannot occur simultaneously with the deposit of the plan. Additional documentation must be completed and noted against the title, and this takes time and money.

To address this, the Bill amends the Real Property Act, Community Titles Act and Strata Titles Act so that a statutory encumbrance can be varied or extinguished as specified in a plan of division. The creation of statutory encumbrances will continue to require full documentation.

It is important to acknowledge that there are other parties who, according to the relevant legislation, must be involved in the process of varying or terminating a statutory encumbrance. For example, under the Heritage Places Act 1993, the Minister must first seek and consider the advice of the Authority established under the Act before agreeing with the landowner to vary or terminate an agreement made under that Act.

Therefore, the amended provisions require the holder of the statutory encumbrance to endorse the application and to certify that the consultative process in the Act under which a statutory encumbrance is varied or terminated has been satisfied.

The Bill amends the Real Property Act, Community Titles Act and Strata Titles Act in slightly different ways, although the principle is the same. In each case, both 'statutory encumbrance' and 'holder' are defined. Each Act is to have a new section to specifying what must be included in an application if it is to be successful in varying or extinguishing a statutory encumbrance. Finally, each Act will require an applicant to provide a certificate from the holder of the statutory encumbrance, certifying consent to the deposit of the plan of division. There is, however, a minor difference between the Strata Titles Act and the Community Titles Act in that, under the Community Titles Act, a statutory encumbrance is already included in the definition of an encumbrance, and holders of registered encumbrances are already required to consent to deposit or amendment of community plans.

Requirement to lodge a certificate under section 51 of the Development Act

Section 223LD of the Real Property Act provides for an application for the division of land to be made by registered proprietor of land. Section 12 of the Strata Titles Act provides for an application for the amendment of a deposited strata plan to be made by the strata corporation.

Section 14 of the Community Titles Act provides for the registered proprietor of an estate in fee simple in land comprising an allotment or allotments, or comprising a primary lot or a secondary lot, for the division of the land by a plan of community division. Sections 52 and 58 of the Community Titles Act provide, respectively, for applications:

- by the community corporation, for the amendment of a deposited community plan; and
- by the registered proprietor of an estate in fee simple in a development lot, for the division of the development lot in pursuance of the development contract and for the consequential amendment of the community plan.

In each case the application is made to the Registrar General and must be accompanied by a certificate from the Development Assessment Commission under section 51 of the Development Act 1993.

With the introduction of Electronic Development Application Lodgement and Assessment and the proposed introduction of Electronic Plan Lodgement it is proposed that an application no longer be accompanied by the section 51 certificate. Rather, the Commission will issue the section 51 certificate in electronic form and store it on its system. The Lands Titles Registration Office will then access the Commission's systems to view or down load a hard copy of the approval.

The Registrar-General has therefore recommended that the requirement that an application under section 223LD of the Real Property Act, section 12 of the Strata Titles Act and sections 14, 52 and 58 of the Community

Titles Act provisions be accompanied by a section 51 certificate be replaced with a requirement the Registrar General be satisfied that:

- the Commission has given a certificate under section 51; and
- the certificate is in force in relation to the development proposed.

Amendments implementing the Registrar General's recommendations are included in the Bill.

Community Plan conforming to requirements of Community Titles Act

Section 22 of the Community Titles Act provides that when the Registrar General receives an application for division of land by a community plan and the plan complies with 'the requirements of the Act' then the Registrar General must deposit the plan in the Lands Titles Registration Office. This means that, to enable them to be filed, the Registrar General must be satisfied with the physical form of the plan and that the scheme description, the by laws and the development contract include all content that is mandatory under the Act.

The Community Titles Act does not envisage the Registrar General giving a legal opinion as to the validity or effect of all provisions in these documents when they are lodged. It would be neither appropriate nor practical for the Registrar General to do so.

Nevertheless it is undesirable for scheme descriptions, by-laws or development contracts to be filed if they are inconsistent with the Act.

The Bill therefore amends sections 30, 31, 34, 39, 47 and 50 of the Community Titles Act to require the person who prepared the scheme description, by laws and development contract to certify that they have been correctly prepared in accordance with the Act. In the case of amendment to a scheme description, variation of by laws or variation or termination of a development contract, an officer of the corporation may provide the certification. This is consistent with the obligations imposed by section 273 of the Real Property Act on persons making applications under that Act. The form of the certification is to be as prescribed by regulation.

Consequential amendments to section 232 of the Real Property Act make it an offence to falsely or negligently certify such correctness.

The amendment is a discretionary one and still allows the Registrar General to examine any matter or thing that has been certified, whether that be the proposed new certificates to deal with the by-laws, scheme description and development contract, the surveyor's certificate or the valuer's certificate.

Avoiding the need for a development contract

The Community Titles Act permits both staged developments and the imposition of future obligations on purchasers. Both are regulated by requiring a developer to lodge a scheme description and development contract. The scheme description and other documents are lodged first with the relevant planning authority along with the plan of land division. If the relevant authority approves the scheme description and plan the documents are lodged with the Registrar-General along with an application for land division. If all legal requirements have been satisfied, the Registrar General then deposits the plan upon which the community corporation is established. The developer and purchaser are then bound to fulfil their obligations under the scheme description and development contracts.

In recent years some large developers have failed to lodge development contracts, relying upon statements in their scheme description that future development is 'expected', 'envisaged' or equivocal words to that effect. This creates a risk that off the plan purchasers might be misled as to the obligation of the developer to actually carry out the proposed development.

To address this, and provide greater protection to off-the-plan purchasers, the Bills amend sections 13 and 14(4) of the Community Titles Act to require the lodgement of a development contract where the scheme description indicates that further development 'is to' occur or 'is likely to' occur.

Registered leases

Section 23(7) of the Community Titles Act provides that where land to be divided by a community plan is subject to a registered encumbrance (not being a statutory encumbrance or an easement), the encumbrance will not be registered on the certificate for the common property and the encumbrance will be taken to be discharged to that extent. Encumbrances include leases and mortgages.

Under this provision, common property cannot be leased at the time of the deposit of the plan, because the community corporation that would own the common property would not exist until after the deposit of the plan. However, it is possible, with the lessee's agreement, to specify that the land subject to the lease is to be, at least initially, a community lot over which a lease can subsist. Then, after the deposit of the plan, the plan can be amended, with the land designated as common property, and leased from the community corporation. This is an expensive and costly method of achieving an outcome that all parties desired from the outset.

The Bill amends section 23 so that an existing lease can exist over common property created by the deposit of a plan of community division, where this is provided for in the plan. Potential purchasers who will become members of the corporation on deposit of the plan should be made aware of the lease by being given or by requesting a copy of the scheme description if one is required, or by their conveyancer's search of the register, or both.

Amendment of community plan where common property unaffected

Section 52 of the Community Titles Act provides for the amendment of a deposited community plan on the application of a community corporation.

Subsection 52(2)(a) requires an application for amendment to have the unanimous approval of the corporation. This protection is necessary to prevent a majority changing lot entitlements or disposing of common property against the wishes of (or to unfairly prejudice) a minority.

However, where two or more owners wish to alter their boundaries in a manner that would not affect any other owners or the common property this requirement for unanimous approval is unnecessary. Particularly for minor amendments of the community plan, the need to obtain a unanimous resolution is inhibitive.

Therefore, the Bill amends section 52 so that an application to amend a community plan may be lodged under section 52(1) by any two or more contiguous lot owners without the need for any corporation consent provided that the proposed amendment:

- does not affect common property;
- does not alter the total number of community lots in the community parcel;
- does not affect the aggregate of the lot entitlements of the amended lots;
- does not alter the boundary of the community parcel;
- is not contrary to a scheme description, by laws, or development contract;
- in the case of a secondary plan, is not contrary to the scheme description or by laws of the primary scheme;
- in the case of a tertiary plan, is not contrary to the scheme description or by laws of the primary or secondary scheme.

Permitting the Registrar-General to prescribe scales for survey plans

Under these provisions of the Community Titles Act:

- section 14(4), that deals with applications for a community plan;
- section 52(4)(f)(ii), that deals with amendment of deposited plans;
- section 58(3)(e), that deals with the division of a development lot; and
- section 60(3)(f) that deals with amalgamation of plans,

the certificate of a licensed surveyor must be correctly prepared in accordance with the Act 'to a scale prescribed by regulation'.

The Registrar-General publishes a Manual of Survey Practice Volume 1 (Plan Preparation Guidelines). This Manual sets out standards to be observed by professional surveyors to ensure that their work meets the Registrar General's requirements. The Manual is updated from time to time in accordance with the Registrar General's requirements.

The Registrar-General has recommended that scales be contained within the Manual rather than be prescribed by regulation. These requirements have been deleted from both the Strata Titles Act and Real Property (Land Division) Regulations to enable the Registrar General greater flexibility and a centralised plan requirement publication in preparation for Electronic Plan Lodgement into the Lands Titles Office.

In accordance with the Registrar General's advice, the Bill amends subsections 14(4), 52(4)(f)(ii), 58(3)(e) and 60(3)(f) of the Community Titles Act to replace references to 'scale prescribed by regulation' with 'scale determined by the Registrar General'.

Schedule of lot entitlements

Sections 14, 58, 60 and 69 of the Community Titles Act require an application for division of land, amendment of a plan, division of the development lot in pursuance of the development contract (and consequential amendment of the plan) and amalgamation of two or more plans to be accompanied by certificates from:

- a surveyor certifying that the plan or amended plan has been correctly prepared to a scale prescribed by regulation;
- and a valuer certifying that the schedule of lot entitlements included in the plan is correct.

Section 3 of the Act defines 'schedule of lot entitlement' to mean 'the schedule of lot entitlements included in a plan of community division'. A number of other provisions refer to 'a schedule of lot entitlements' being included in a plan or application.

The effect of these provisions is to make the schedule of lot entitlements part of the plan. This means that, at the time of certification of the plan by the surveyor, the schedule of lot entitlements must be included.

This is unnecessary. The surveyor, in certifying the plan, is not validating the valuer's certificate, only that the schedule of lot entitlements is with the plan.

The position is the same under the relevant provision of the Strata Titles Act.

The Registrar-General advises that the current practice is inconsistent with the schedule of lot or unit entitlements being part of the plan. Generally the schedule is completed (and certified as being correct) by the valuer

after the surveyor has certified the plan. Both the plan and the schedule are certified as correct, however, the schedule does not form part of the plan at the time it is certified by the surveyor.

The Registrar-General has recommended that the Community Titles Act and Strata Titles Act be amended to accommodate this practise.

The Bill contain amendments to sections 3, 14, 58, 60 and 69 of the Act make clear that a schedule of lot entitlements is not considered part of the plan. A similar amendment to section 5 of the Strata Titles Act is also included.

Receipts generated by a computerised trust account program

Regulation 18(2)(b) of the Strata Titles Regulations 2003 and Regulation 31(2)(b) of the Community Titles Regulations 1996 provide that receipts for an agent's trust funds can be generated by a computer program, if the program 'automatically makes a separate contemporaneous record of the receipt, so that at any time a hard copy of the receipt may be produced'. These regulations are consistent with regulations under the Legal Practitioners Act 1981, Conveyancers Act 1994, and Land Agents Act 1994 that permit computerised trust accounting. There is a question, however, over whether these regulations meet the obligation in the Strata Titles Act and Community Titles Act (sections 36G(2)(b) and 126(2) respectively) that an agent 'make and retain a copy of the receipt'.

To remove any doubt, it is appropriate that section 36G of the Strata Titles Act and section 126 of the Community Titles Act be amended to ensure that there is no conflict between the provisions of the Act and the respective Regulations. Section 36G(4) of the Strata Titles Act and section 126(4) of the Community Titles Act already provide that accounts and records 'referred to in this section' must be retained 'in a legible written form, or so as to be readily convertible into such a form, for at least five years'. Computer records are of course 'readily convertible' into 'legible written form' although it is not clear whether the description of 'accounts and records referred to in this section' also includes copies of receipts under subsection (2)(b).

The Bill therefore amends section 36G(4) of the Strata Titles Act and section 126(4) of the Community Titles Act so that 'accounts and records' includes also 'copies of receipts under subsection (2)(b)'.

Jurisdiction of the Magistrates Court

Section 100 of the Community Titles Act provides that an application may be made to the District Court to appoint an administrator to a community corporation. Under s149, an application may be made to the District Court for relief from provisions requiring a special or unanimous resolution of the corporation.

The Strata Titles Act contains comparable provisions to sections 100 and 149 at sections 37 and 46. However, under the Strata Title Act, applications are made to the Supreme Court rather than the District Court.

These provisions are separate from the more commonly used dispute settling provisions of each Act. Sections 141 and 142 of the Community Titles Act and section 41A of the Strata Titles Act permit applications to settle community title and strata title disputes to be made to the Magistrates Court and for the application to be treated as a minor civil action, with minimal formality.

This creates a problem if resolution of a dispute before the Magistrates Court requires the appointment of an administrator or relief from provisions requiring a special or unanimous resolution of the corporation. In such cases the Magistrates Court has insufficient jurisdiction to make the requisite orders. It would be necessary for the parties to commence a second action, in either the District Court (if under the Community Titles Act) or the Supreme Court (if under the Strata Titles Act) before, perhaps, returning to the Magistrates Court to finalise settlement of the dispute.

These anomalies impose an expensive and unnecessary burden on parties to litigation under the two Acts.

To address this, and to ensure matters that are commenced in the Magistrates Court can be heard in that jurisdiction in their entirety, the Bill amends sections 142, 149 of, and inserts a new 149A into, the Community Titles Act and amend sections 37, 41A, 46 of, and insert new section 48A into, the Strata Title Act. The effect of these amendments is to confer jurisdiction on the Magistrates Court so that disputes requiring either the appointment of an administrator or relief from provisions requiring a special or unanimous resolution of the corporation may be settled before the one court.

Repeal of provisions permitting new applications under the Strata Titles Act

Part 2 Division 2 of the Strata Titles Act comprises sections 7 and 8 of that Act. Section 7 provides for applications for deposit of strata plans, while section 8 provides for the depositing of strata plans by the Registrar General where an application has been made under section 7, the legislative requirements in relation to the application have been satisfied and the plan conforms to the requirements of the Act.

Section 8 was amended by the Statutes Amendment (Community Title) Act 1996 to include new subsection (1a). Subsection (1a) authorised the Governor to issue a proclamation to prevent new divisions under the Strata Titles Act after the commencement of Community Titles Act.

In November, 2001, the Governor made a proclamation under subsection (1a), the effect of which was to stop the lodgement of new strata plans under the Strata Titles Act subject to a transition period for 'proceedings' that had commenced before 1 January, 2002. From that date, applications for the deposit of new plans are to be made only under the Community Titles Act.

Under the transitional provisions, 22 new plans under the Strata Titles Act were deposited in 2002, 11 in 2003, and three in 2004. No plans have been lodged since the beginning of 2005.

The Registrar-General has therefore recommended that sections 7 and 8 and the transitional provisions be repealed. In accordance with this advice, the Bill repeals Part 2, Division 2 and the transitional provision (in clause 5 of the Schedule 2) of the Strata Titles Act.

Technically it is possible that a developer who applied for land division consent before 1 January, 2002, (thereby commencing 'proceedings') could apply to deposit a plan under the Strata Titles Act. Even if a pre-2002 land division application were to lead to an application for deposit of a strata plan, the developer would not be disadvantaged by being required to make the application under the Community Titles Act, rather than the Strata Titles Act.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Bills of Sale Act 1886

4—Insertion of section 11A

Section 129A of the Real Property Act 1886 allows a person to deposit a copy of 'standard terms and conditions' for mortgage documents. That has the effect of making original and duplicate mortgage instruments considerably shorter. This clause proposes to insert a new section 11A into the Bills of Sale Act 1886 to permit a similar procedure to apply to bills of sale. As with mortgages, the grantee must provide the grantor with a copy of any standard terms and conditions. There are similar clauses in the measure about encumbrances (clause 47) and stock mortgages and wool liens (clause 73).

Part 3—Amendment of Community Titles Act 1996

5—Amendment of section 3—Interpretation

This clause inserts a definition to clarify who will be taken to be the 'holder' of a statutory encumbrance and inserts into the existing list of statutory encumbrances in the Community Titles Act 1996 an additional 4 examples of statutory encumbrances. It also amends the definition of schedule of lot entitlements to provide that the schedule may be annexed to, rather than included in, the plan.

6—Amendment of section 13—Staged development and development contracts

Section 13 of the Community Titles Act 1996 requires developers to execute development contracts in respect of certain matters provided for in a scheme description (such as future division of the community parcel, erection of buildings or other future improvements or division or other development of a community lot). This amendment is proposed to make it clear that even if the scheme description only indicates that things are likely to happen, the requirement to execute a development contract will apply.

7—Amendment of section 14—Application

The clause removes the requirement that the application be accompanied by the certificate from the Development Assessment Commission (under section 51 of the Development Act 1993) and instead requires the Registrar General to satisfy himself or herself that the certificate has been issued and is in force in relation to the development.

In addition, the clause makes an amendment consequential to clause 6, amendments consequential to the new definition of schedule of lot entitlements and is 1 of several provisions in the measure that would allow the Registrar General to prescribe the scale for plans to be submitted to the Registrar General under the Act (instead of being prescribed by regulation).

8—Insertion of section 15A

This clause proposes to insert a new section 15A into the Community Titles Act 1996. The clause permits an application for deposit of a plan of community division to vary or terminate a statutory encumbrance, provided the application is accompanied by—

- a certificate from the holder of the statutory encumbrance, certifying that the requirements for varying or terminating the statutory encumbrance (under the other relevant Act) have been complied with; and
- any other documentary material required by the Registrar General.

This clause does not apply to the creation of a statutory encumbrance, only to its variation or termination.

9—Amendment of section 16—Consents to application

Generally, all persons with an estate or interest in either dominant or servient land must consent before an easement or its appurtenance is varied. There is an exception to this rule for a proprietor of dominant land, who may unilaterally vary the appurtenance of an easement by transferring or conveying of a portion of the dominant land without the easement being appurtenant. Consent is not required from persons with an interest in the servient land

because the burden over the servient land is only being reduced. However, currently the exception operates only where there is the 'transfer' or 'conveyance' of the portion of the dominant land. The exception does not apply where the reduction is effected by the deposit of a plan. A developer needs the consent of the person with an interest in the servient land or needs a waiver from the Registrar General. This clause proposes to amend section 16 of the Community Titles Act 1996 to allow a developer to divide the dominant land and state in the plan of division that part of the land will be without the appurtenant easement, without being required to obtain consent from the owner of the servient tenement or a waiver from the Registrar General.

10—Amendment of section 23—Vesting etc of lots etc on deposit of plan

Under section 23(7)(b) of the Community Titles Act 1996, common property cannot be leased at the time of the deposit of a community plan. To arrange a lease of land that is to be common property, it is necessary to specify that the land subject to the lease is to be, at least initially, a community lot over which a lease can subsist. Then, after the deposit of the plan, the plan can be amended, with the land designated as common property, and leased from the community corporation. This clause proposes to amend section 23 of the Community Titles Act 1996 to provide that an existing lease can exist over common property created by the deposit of a plan of community division, where this is provided for in the plan. Potential purchasers who will become members of the corporation on deposit of the plan should be made aware of the lease by being given or by requesting a copy of the scheme description, or by their conveyancer's search of the register, or both.

11—Amendment of section 30—Scheme description

Section 14 of the Community Titles Act 1996 requires an application for division of land by a community plan to be accompanied by the scheme description, by laws and any relevant development contract. Section 22 of the Act provides that when the Registrar General receives an application for division of land by a community plan, and the plan complies with 'the requirements of the Act', then the Registrar General must deposit the plan in the Land Titles Registration Office. This clause (relating to the scheme description) is 1 of a number of provisions in the measure that requires these documents to be endorsed with a certificate indicating that they have been correctly prepared in accordance with the Act. The form of the certification is to be as prescribed by regulation. Because this Act and the Real Property Act 1886 are to be read as 1 Act (see section 5 Community Titles Act 1996), the penalties applicable under that Act for false or negligent certification would apply to this certification.

12—Amendment of section 31—Amendment of scheme description

This clause requires that an amended scheme description be certified as having been correctly prepared in accordance with the Act (for consistency with section 30 as proposed to be amended by the measure).

13—Amendment of section 34—By-laws

This clause requires that by laws be certified as having been correctly prepared in accordance with the Act.

14—Amendment of section 39—Variation of by laws

This clause requires that varied by laws be certified as having been correctly prepared in accordance with the Act (for consistency with section 34 as proposed to be amended by the measure).

15—Amendment of section 47—Development contracts

This clause requires development contracts to be certified as having been correctly prepared in accordance with the Act.

16—Amendment of section 50—Variation or termination of development contract

This clause requires that a varied development contract be certified as having been correctly prepared in accordance with the Act (for consistency with section 47 as proposed to be amended by the measure).

17—Amendment of section 52—Application for amendment

The amendments proposed by subclauses (1) and (2) would allow, in certain specified circumstances, the owners of community lots affected by an amendment to apply for amendment of a deposited community plan (where currently the application must always be made by the community corporation). Subclause (3) is similar to the amendment in clause 9 of the measure (but relates to amendment of a deposited community plan, rather than the deposit of the plan). Subclause (5) allows the Registrar General to prescribe the scale for any new plan required as a result of the amendment (rather than having the scale prescribed by regulation). Subclause (4) removes the requirement that the application that affects the delineation of lots or common property, or that creates new lots, be accompanied by the certificate from the Development Assessment Commission (under section 51 of the Development Act 1993) and subclause (6) instead requires the Registrar General to satisfy himself or herself that the certificate has been issued and is in force in relation to the amendment.

18—Amendment of section 53—Status of application for amendment of plan

This clause is consequential to clause 17.

19—Insertion of section 53A

This clause proposes to insert a new section 53A into the Community Titles Act 1996. This section is similar to the proposed new section 15A (see clause 8) but applies to an application for amendment of a deposited community plan, rather than an application to deposit.

20—Amendment of section 55—Vesting etc of interests on amendment of plan

This clause is consequential to clause 17.

21—Amendment of section 58—Amendment of plan pursuant to development contract

This clause allows the Registrar General to prescribe the scale for any new plan required as a result of an amendment necessitated by a development contract (rather than having the scale prescribed by regulation). The clause also removes the requirement that the application be accompanied by the certificate from the Development Assessment Commission (under section 51 of the Development Act 1993) and instead requires the Registrar General to satisfy himself or herself that the certificate has been issued and is in force in relation to the development. The clause also contains an amendment consequential to the amendment to the definition of schedule of lot entitlements.

22—Amendment of section 60—Amalgamation of plans

This clause would allow the Registrar General to prescribe the scale for any new plan required as a result of an amalgamation (rather than having the scale prescribed by regulation).

23—Amendment of section 65—Application to the Registrar General

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 65 deals with an application to the Registrar General to cancel a deposited community plan. The proposed amendment removes the obligation on an applicant to produce duplicate instruments (if any) for the registered encumbrances (if any) over the lots and common property. It does not affect the obligation to produce the duplicate certificate of title.

24—Amendment of section 67—Application to the Court

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 67 deals with an application to the Court for an order cancelling a deposited community plan. The clause removes the obligation on an applicant to produce duplicate instruments (if any) for the registered encumbrances (if any) over the lots and common property. It does not affect the obligation to produce the duplicate certificate of title for the lots and common property.

25—Amendment of section 69—Cancellation

This clause is consequential to the amendment to the definition of schedule of lot entitlements.

26—Amendment of section 100—Administrator of community corporation's affairs

This clause would allow an application to be made to the Magistrates Court or the District Court for the appointment of an administrator of a community corporation (currently such an application can only be made to the District Court).

27—Amendment of section 126—Keeping of records

Regulation 31(2)(b) of the Community Titles Regulations 1996 provides that receipts can be generated by a computer program, if the program 'automatically makes a separate contemporaneous record of the receipt, so that at any time a hard copy of the receipt may be produced'. These regulations are consistent with regulations under the Legal Practitioners Act 1981, the Conveyancers Act 1994, and the Land Agents Act 1994 that permit computerised trust accounting. Section 126(2) of the Community Titles Act 1996 requires an agent to 'make and retain a copy of the receipt'. Section 126(4) of the Community Titles Act 1996 provides that accounts and records 'referred to in this section' must be retained 'in a legible written form, or so as to be readily convertible into such a form, for at least five years'. Computer records are of course 'readily convertible' into 'legible written form'. In order to remove any suggestion that the description of 'accounts and records referred to in this section' might not include copies of receipts under subsection (2)(b), this clause amends section 126(4) so that 'accounts and records' includes also 'copies of receipts under subsection (2)(b)'. Clause 82 makes an equivalent amendment to the Strata Titles Act 1988.

28—Amendment of section 142—Resolution of disputes

This clause is consequential to clause 31.

29—Insertion of section 145A

Clause 7 of this Bill amends section 14(4) of the Community Titles Act 1996 to require an applicant to certify that the scheme description, by laws and development contract (if any) have been correctly prepared in accordance with that Act. This clause inserts a new provision, section 145A, entitling the Registrar General to rely on such a certificate.

30—Amendment of section 149—Relief where unanimous or special resolution required

This clause would allow an application to be made to the Magistrates Court or the District Court for relief from a requirement to have a unanimous or special resolution of the community corporation (currently such an application can only be made to the District Court).

31—Insertion of section 149A

This clause inserts a new section into the principal Act providing that applications to the Magistrates Court under the Act are to be dealt with as if they were a minor civil action within the meaning of the Magistrates Court Act 1991 (subject to any prescribed modifications).

32—Insertion of section 151A

This clause inserts a new section 151A into the principal Act, consequentially to clauses 12, 14 and 16.

Part 4—Amendment of Real Property Act 1886

33—Amendment of section 3—Interpretation

The word 'allotment' is used in 2 different senses in the Real Property Act 1886. For purposes of land division and amalgamation, under Part 19AB of the Act, the word 'allotment' is generally defined (except for the purposes of section 223LB) in such a way as to exclude community or development lots or common property within the meaning of the Community Titles Act 1996, or a unit or common property within the meaning of the Strata Titles Act 1988. That is because the division and amalgamation of parcels of land under the Community Titles Act 1996 or the Strata Titles Act 1988 are subject to those 2 Acts rather than Part 19AB of the Real Property Act 1886.

In other contexts within the Real Property Act 1886, namely in sections 51E, 90B, and 90C, it is apparent that a broader meaning of the word 'allotment' is intended, but there is no definition of the word that applies to any Part other than Part 19AB. Therefore this clause amends section 3(1) of the Real Property Act 1886 to include a broad definition of 'allotment' that will apply to sections 51E, 90B, and 90C.

34—Amendment of section 19—Solicitor not to engage in private practice

Several sections of the Real Property Act 1886 contain references to a 'licensed land broker'. There was a change of terminology when the Land Agents, Brokers and Valuers Act 1973 was replaced by the Land Agents Act 1994 and the Conveyancers Act 1994. What were formerly referred to as 'licensed land brokers' are now referred to as 'registered conveyancers'. This clause updates a reference in keeping with this change.

35—Amendment of section 56—Priority of instruments

This clause does 2 things. Firstly, sub clauses (1) and (2) amend section 56 to permit the Registrar General to give effect to the intention of parties who lodge documents in the incorrect order. Where the intentions of the parties appear, to the Registrar General, to be in conflict, the order of registration will remain the order in which the dealings were lodged for registration. The proposed amendment is based upon similar provisions in the Real Property Act 1900 of NSW.

Secondly, sub clause (3) is 1 of 16 provisions in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 56(4) deals with a memorandum of the variation of an order of priority. The subclause removes the Registrar General's obligation to have the memorandum endorsed on every mortgage or encumbrance affected. It does not affect the Registrar General's obligation to have the memorandum endorsed on the certificate of title.

36—Amendment of section 58—Where 2 or more instruments presented at same time

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 58 deals with the Registrar General's obligations when presented with 2 or more instruments, executed by the same proprietor, and that purport to affect the same estate or interest, perhaps in a conflicting manner. This clause removes the Registrar General's discretion in these circumstances to register such an instrument on the basis of the presentation of any evidence other than a duplicate certificate of title.

37—Insertion of section 78A

The automation of the land titles register means that it is easier and more effective for the Registrar General to issue a new certificate of title when amendments, corrections etc are to be made, rather than making alterations on the face of existing certificates of title. This clause inserts a new section 78A into the Real Property Act 1886 authorising the Registrar General to issue a new certificate of title whenever required by legislation to amend or update an existing certificate of title.

38—Amendment of section 80H—Cancellation of instruments

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 80H requires the Registrar General, after issuing a new certificate of title, to cancel any existing certificate of title, as well as any instrument, entry or memorial in the Register Book altogether or to such extent as is necessary to give effect to the certificate issued. This clause removes the obligation on the Registrar General to endorse every instrument so cancelled, but does not affect the Registrar General's obligation to endorse each cancelled certificate of title.

39—Substitution of section 90A

This clause does 2 things. Firstly, the proposed new section 90A(1) replaces what is now section 90A but changes the words 'land registered under this Act' to the words 'land under the provisions of this Act' to ensure consistency with wording used elsewhere in the Real Property Act 1886. Secondly, the insertion of section 90A(2) is consequential to clause 41, which inserts a new section 90F. Subsection (2) provides that the provisions of section 90F apply only to 'land under the provisions of this Act' (ie. proposed new section 90F is not to apply to any old system land).

40—Amendment of section 90B—Variation and extinguishment of easements

This clause mirrors the proposed new section 90A(1) by changing the expressions 'land registered under this Act' and 'land not registered under this Act' to 'land under the provisions of this Act' and 'land not under the provisions of this Act' (respectively).

41—Insertion of section 90F

When an easement is granted appurtenant to land that is subject to an existing mortgage or encumbrance, a collateral mortgage or encumbrance must be lodged for the mortgagee or encumbrancee to be able to transfer that appurtenant easement when exercising a power of sale. Without lodging a collateral mortgage or encumbrance, the new certificate of title will only observe that the mortgage or encumbrance is over the land, and not over the appurtenant easement. This clause inserts into the Real Property Act 1886 a new section 90F, to provide that where an easement is created, any existing mortgage or encumbrance over the dominant land will be deemed to extend to cover the appurtenant easement if the mortgagee or encumbrancee has made an endorsement to this effect on the instrument creating the easement.

42—Insertion of section 96AA

The common law does not permit an easement to be created by reservation on the transfer of land. Instead, the purchaser must consent to a re grant of the easement to the vendor. This has the same end effect as a reservation but requires the execution of extra documentation. This common law rule has been abrogated in New South Wales, Victoria, Queensland and Tasmania, but still exists in South Australia. This clause inserts a new section 96AA into the Real Property Act 1886, to allow the creation of an easement by reservation.

43—Substitution of section 115A

The proposed substitution of section 115A does 2 things. Firstly, it would allow the Registrar General to update the register where a vesting by operation of law has occurred, whether or not someone has applied for that to occur. Secondly, in the proposed new section, all references to an 'acquiring authority' have been removed so that it applies to any person acquiring an estate or interest in land by operation of law.

44—Amendment of section 120—Lease may be surrendered by separate instrument

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Under section 120(1), a registered lease may be surrendered by instrument in the appropriate form, signed by the lessee and lessor. This clause proposes to substitute a new subsection (2) in that section, so that if the Registrar General is of the opinion that it is necessary or desirable to do so, the Registrar General may endorse the surrender on the duplicate certificate of title, without having to endorse copies of the lease also.

45—Amendment of section 121—Registrar General may enter surrender

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or the Registrar General to place endorsements on, duplicate instruments. Under section 121, the Registrar General may, upon application by the lessor, make an entry in the Register Book of the surrender of a lease. This clause removes any obligation for the Registrar General to make an endorsement on the lease also.

46—Amendment of section 126—Registrar General to note particulars of re entry in Register Book

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. When a lessor has lawfully re entered and taken possession of lease premises, the Registrar General shall, under section 126, note the re entry in the Register Book. This clause removes any obligation for the Registrar General also to 'cancel such lease if delivered up to him for that purpose'.

47—Amendment of section 129A—Standard terms and conditions of mortgage or encumbrance

Section 129A of the Real Property Act 1886 allows a person to deposit with the Registrar General 'standard terms and conditions' for mortgage documents. The advantage of this practice is that the original and duplicate mortgage instruments are considerably shorter. Under subsection (3), the mortgagee must have provided the mortgagor with a copy of the deposited standard terms and conditions. A similar provision (section 119A) exists with respect to leases. This clause amends section 129A to provide that encumbrances may be treated in the same way as mortgages, permitting a person to deposit standard terms and conditions of an encumbrance.

48—Amendment of section 143—Discharge of mortgages and encumbrances

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 143 provides for the discharge of mortgages and encumbrances, subject to production of the duplicate mortgage or encumbrance. This clause amends section 143 so that such production is not necessary unless the Registrar General requires it.

49—Insertion of section 144

When an easement is granted over land that is subject to a registered mortgage or encumbrance, it is general practice to discharge the mortgage or encumbrance over the portion of land forming the easement. The partial discharge occurs to avoid extinguishment of the easement in accordance with section 136 of the Real Property Act 1886 where a power of sale is exercised over the servient land. This clause aims to streamline the process by inserting a new section 144 to provide that where an easement is to be created over land subject to a mortgage or encumbrance, that mortgage or encumbrance will be partially discharged so that it is subject to the easement, provided that the mortgagee or encumbrancee consents to the grant of easement.

50—Amendment of section 145—Entry of satisfaction of annuity

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. When an annuity or other secured sum of money is discharged and no longer payable, section 145 requires the Registrar General to make an entry in the Register Book, and also on the encumbrance or other instrument of title. This clause removes the obligation on the

Registrar General to make the entry on the encumbrance or other instrument of title. It does not alter the Registrar General's obligation to make the entry in the Register Book.

51—Amendment of section 148A—Entry in Register Book where rights of mortgagee barred by Statute

This is 1 of 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. When the rights of a mortgagee to bring an action for the money secured by the mortgage are barred by the Limitation of Actions Act 1936, section 148A authorises the Registrar General to make an entry to that effect in the Register Book, on the mortgage, on the duplicate certificate or other instrument of title, and on the duplicate mortgage if produced to him. This clause amends section 148A by removing references to the mortgage, the duplicate certificate or other instrument of title and the duplicate mortgage. The clause does not affect the operation of subsection (2), which provides that the mortgage is deemed to be discharged by the Registrar General's entry in the Register Book.

52—Amendment of section 163—Insertion of the words 'with no survivorship' in instruments

Section 162 of the Real Property Act 1886 prohibits the inclusion of trust details on Real Property Act instruments. However, section 163 provides a partial exception to this prohibition by permitting the words 'no survivorship' to be used on a transfer where the interest received will be held by trustees. In practice, the words 'no survivorship' are also used on mortgage, encumbrance and lease instruments. Section 164 clearly permits the registered proprietor of an interest to apply for the inclusion of those words on an instrument. This clause of the Bill amends section 163 to make it clear that 'with no survivorship' may be included on a mortgage, encumbrance or lease instrument.

53—Amendment of section 164—Trustees may authorise insertion of those words

This clause does 2 things. Firstly, subclause (1) is consequential to clause 52. Secondly, subclauses (2) and (3) make this clause 1 of the 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 164 permits any joint proprietors or joint trustees to authorise the Registrar General to insert the words 'no survivorship' upon the original certificate, or other instrument of title, evidencing their title to such estate or interest, in the Register Book, or filed in the office of the Registrar General, and also upon the duplicate of such instrument. Subclauses (2) and (3) limit this power of authorisation to 'the original certificate' and 'in the Register Book'.

54—Amendment of section 169—Disclaimers

This clause is 1 of the 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 169 permits a person who claims to have been registered without his consent, to disclaim an estate or interest in land. If the Registrar General is satisfied that is the case, the Registrar General will make a correction 'in the Register Book and on any certificate or other instrument of title as are necessary for that purpose, and by cancelling any certificate or other instrument of title that it is necessary to cancel.' This clause provides that the correction and cancellation need only be made to the Register Book and the certificate, and not any other instrument.

55—Amendment of section 176—Application to be made in such case

This clause does 2 things. Firstly, sub clause 38(1) is another of the 16 provisions that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 176 deals with applications by executors, administrators, or the public trustee after the death of a registered proprietor. Subclause (1) provides that such persons need only present to the Registrar General the 'duplicate certificate' and not any 'other instrument of title'. Secondly, section 176 refers to 'an office copy of the probate, letters of administration, or order'. In current practice, there is no relevance to the use of the word 'office' in this section. Therefore, subclause (2) amends section 176 so that it is only necessary to provide a 'copy' (as distinct from 'office copy') of the probate, letters of administration or order (as the case may be).

56—Amendment of section 179—Where two or more executors or administrators, all must concur

Section 179 provides that where probate or letters of administration are granted to 2 or more persons, all of them must concur in every instrument relating to the real estate of the deceased registered proprietor. The reference to 'real estate' dates back to the time when there was a distinction between the transfer of real property and the transfer of personalty (mortgages and encumbrances) or chattels real (leases). This clause replaces the reference to 'real estate' with a reference to 'land'.

57—Amendment of section 184—Order of Court vesting land

This clause makes the same change as subclause (2) of clause 55. It removes the word 'office' from the phrase 'office copy' as the word has no relevance in current practice.

58—Repeal of section 200

Section 200 of the Real Property Act 1886 confers jurisdiction on 'Local Courts of full jurisdiction' to hear 'actions in respect of land under the provisions of this Act' pursuant to the Local Courts Act 1926. This appears to be a reference to the Local and District Criminal Courts Act 1926 that was repealed in 1991. In dozens of other provisions of the Real Property Act 1886, powers are granted to 'the Court'. Since the commencement of the Statutes Amendment (Attorney-General's Portfolio) Act 2002, on 3 March 2003, 'Court' has been defined in section 3 to include the District Court, at least for the purposes of section 191, Part 17 and Schedule 21 of the Real Property Act 1886. For the purposes of other sections of the Real Property Act 1886, 'Court' is the Supreme Court or 'any other court or tribunal constituted under the law of this State or the Commonwealth'. Section 200 is therefore redundant, and so this clause provides for its repeal.

59—Amendment of section 220—Powers of Registrar General

This clause is 1 of the 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. The amendment of paragraph (c) and repeal of paragraph (k) are consistent with this legislative policy.

60—Amendment of section 223LA—Interpretation

This clause does 2 things. Firstly, sub clauses (1) and (2) are part of a scheme of 3 clauses in Part 4 of the Bill (the others being clause 63 and clause 65) that together provide for a scheme of extending and extinguishing 'statutory encumbrances' on deposit of a plan of division. Subclause (1) amends section 223LA to define a 'holder' and subclause (2) amends section 223LA to define a 'statutory encumbrance'.

Second, subclauses (3), (4), (5) and (6) amend subsections 223LA(3) and (4) of the Real Property Act 1886 to make it clear that part allotments should be considered to be contiguous with other part or whole allotments notwithstanding that they may be separated by street, road, thoroughfare, travelling stock route, a reserve or other similar open space. This will permit part allotments considered contiguous under section 223LA to be divided and amalgamated under the provisions of section 223LB.

61—Amendment of section 223LB—Unlawful division of land

Section 223LB(2) enacts a restriction on the granting, selling, transfer etc of an estate or interest (except a right of way or other easement) over a land parcel unless certain criteria are met. Amongst other things, conveyance is allowed if the land parcel constitutes 'an allotment or allotments and a part allotment that is contiguous with that allotment or with one or more of those allotments'. The provision was inserted in the Act to ensure that a person could not deal in isolation with a part allotment or part allotments of land. 1 or more part allotments may be dealt with only if they are contiguous with 1 or more full allotments of land.

By virtue of the wording of the provision, a person would only be able, in a single transaction, to deal with 1 part allotment that is contiguous with 1 or more allotments. A person would not be able to deal, in a single transaction, with more than 1 part allotment, despite all parts being contiguous with each other, and at least 1 part being contiguous with 1 or more allotments. Such an intention could, however, be carried out through a successive series of transactions. The clause amends section 223LB to enable a person to deal in 1 transaction with a number of part allotments that are in some respect contiguous with 1 or more allotments.

62—Amendment of section 223LD—Application for Division

This clause amends section 223LD to remove the requirement that an application for division be accompanied by the certificate from the Development Assessment Commission (under section 51 of the Development Act 1993) and instead requires the Registrar General to satisfy himself or herself that the certificate has been issued and is in force in relation to the development.

63—Insertion of section 223LDA

This clause is 1 of 3 clauses in Part 4 of the Bill (the others being clause 60 and clause 65) that together provide for a scheme of extending and extinguishing 'statutory encumbrances' on deposit of a plan of division. The clause inserts a new section 223LDA into the Real Property Act 1886 to specify what must be included in an application if it is to be successful in varying or extinguishing a statutory encumbrance. It would permit an application for deposit of a plan of division to vary or terminate a statutory encumbrance, provided the application is accompanied by a certificate from the holder of the statutory encumbrance certifying that the requirements for varying or terminating the statutory encumbrance (under the other relevant Act) have been complied with, and any other material required by the Registrar General. This clause does not apply to the creation of a statutory encumbrance, only to its variation or termination.

64—Amendment of section 223LE—Deposit of plan of division in Lands Titles Registration Office

According to section 223LE of the Real Property Act 1886, on the deposit of a plan of division an estate or interest will vest, as specified in the plan, in a person to the extent it is not already vested. Subsection (3)(a) limits this general provision by providing that an estate in fee simple can vest in a person only if that person was the proprietor of an estate or interest in some part, or the whole, of the land before division. The limitation in subsection (3)(a) was inserted to prevent persons from avoiding stamp duties by being vested with an estate in fee simple in the land on deposit of the plan when that person was not the holder of the estate in fee simple of the land before division. However, the wording of the provision could mean that a person who is simply the owner of an encumbrance (such as a lease or easement) over the undivided land could be vested with an estate in fee simple in the land. It was never intended that the holder of a lesser estate or interest in undivided land be capable of being vested with an estate in fee simple in the divided land.

The Strata Titles Act 1988 and the Community Titles Act 1996 both restrict the vesting of an estate in fee simple for any of the created units or lots to a person who possessed an estate in fee simple over the land before division. This clause amends section 223LE(3)(a) to provide that the deposit of the plan of division will serve to vest an estate in fee simple, in allotments created by the division, only in a person who was the registered proprietor of an estate in fee simple in the land before division.

65—Amendment of section 223LH—Consent to plans of division

This clause does 2 things. Firstly, subclause (1) is part of a scheme of 3 clauses in Part 4 of the Bill (the others being clause 60 and clause 63) that together provide for a scheme of extending and extinguishing 'statutory encumbrances' on deposit of a plan of division. Subclause (1) amends section 223LH to require an applicant to

provide a certificate from the holder of the statutory encumbrance, certifying consent to the deposit of the plan of division.

Secondly, subclause (2) is complementary to clauses 9 and 17 (in Part 3) and clause 77 (in Part 6). It amends section 223LH of the Real Property Act 1886 to permit the deposit of a plan of division to extinguish an easement in respect of part of the dominant land, without the requirement to obtain consent from the owner of the servient land, provided that rights under the easement continue in respect of some other part of the dominant land.

66—Repeal of Part 19AB Division 4A

This clause provides for the repeal of Division 4A of Part 19AB of the Real Property Act 1886.

67—Amendment of section 232—Penalty for certifying incorrect documents

This clause is consequential to clause 7. Section 232 already provides a penalty for 'any person who shall falsely or negligently certify to the correctness of any application or instrument'. This clause would provide that the same penalty applies to any 'other document that is required to be certified.' This would include documents certified under clause 7, because under section 5 of the Community Titles Act 1996, that Act and the Real Property Act 1886 are to be read together as a single Act.

68—Amendment of section 273—Authority to register

This clause amends section 273 to require certification of an instrument by each party to the instrument or by a solicitor or registered conveyancer.

69—Amendment of section 274—Solicitors and conveyancers to be generally entitled to recover fees for work done under this Act

This clause replaces a reference to 'licensed land broker' with a reference to 'registered conveyancer'.

70—Amendment of section 277—Regulations

This clause replaces a reference to 'licensed land broker' with a reference to 'registered conveyancer'.

71—Substitution of heading to Schedule 5

Section 89 of the Real Property Act 1886 provides that the words 'a free and unrestricted right of way' in any instrument will be deemed to imply the words set out in Schedule 5. Confusion occasionally arises because Schedule 5 is headed 'Right of Way', and some conveyancers and solicitors are under the erroneous belief that the words 'Right of Way' in an instrument will be deemed to imply Schedule 5 words. This conclusion is not supported by section 89. Therefore this clause amends the heading of Schedule 5 to refer to 'A free and unrestricted right of way'.

72—Amendment of Schedule 6—Short forms of easements and their interpretation (section 89A)

Section 89A of the Real Property Act 1886 provides that, where an instrument refers to a short form easement set out in the sixth schedule, the instrument will, unless the contrary intention appears, be taken to incorporate the corresponding long form of that easement as set out in the sixth schedule. There are presently 9 short form easements incorporated in the sixth schedule, including an easement for water supply purposes, an easement for transmission of electricity by overhead cable, party wall rights, etc. This clause provides for a number of additional short form easements to be included in the sixth schedule as follows:

- an easement for the transmission of telecommunication signals by underground cable. This easement is similar in terms to the existing easement for the transmission of television signals by underground cable;
- an easement for the transmission of telecommunication signals by overhead cable;
- an easement for support;
- an easement to park a vehicle;
- a right of way on foot.

Part 5—Amendment of Stock Mortgages and Wool Liens Act 1924

73—Insertion of section 18A

This clause is complementary to clause 4 and clause 47. Section 129A of the Real Property Act 1886 allows a person to deposit a copy of 'standard terms and conditions' for mortgage documents. That has the effect of making original and duplicate mortgage instruments considerably shorter. As with mortgages, the grantee must provide the grantor with a copy of any standard terms and conditions. Clause 4 inserts a new section 11A into the Bills of Sale Act 1886 to permit a similar procedure to apply to bills of sale. This clause inserts a new section 18A into the Stock Mortgages and Wool Liens Act 1924, to provide that section 11A of the Bills of Sale Act 1886 equally applies to stock mortgages and wool liens.

Part 6—Amendment of Strata Titles Act 1988

74—Amendment of section 3—Interpretation

This is the first of 3 clauses in Part 6 (the others being clause 77 and clause 78) that together provide for a scheme of extending and extinguishing 'statutory encumbrances' on amendment of an existing, deposited strata plan. The scheme mirrors clauses 6, 8 and 19, that amend the Community Titles Act 1996. This clause defines the 'holder' of a statutory encumbrance, and inserts into the existing list of statutory encumbrances in section 3 an

additional 2 examples of statutory encumbrance and, for consistency with other legislation, deletes an unnecessary entry relating to the Retirement Villages Act 1987.

75—Amendment of section 5—Nature of strata plan and requirements with which it must conform

This clause removes the requirement that a strata plan 'include' a schedule of unit entitlements and replaces it with a requirement that a strata plan have such a schedule annexed to it (consistently with amendments to the Community Titles Act 1996 proposed by Part 3 of the measure).

76—Repeal of Part 2 Division 2

This clause repeals the provisions that allow new applications for deposit of a strata plan to be made under the Strata Titles Act 1988.

77—Amendment of section 12—Application for amendment

This clause does 4 things. Firstly, subclause (1) amends section 12 of the Strata Titles Act 1988, so that if units or common property are subject to a statutory encumbrance, a strata corporation applying to amend its strata plan must provide evidence to the satisfaction of the Registrar General that the holder of a statutory encumbrance consents to the amendment. Secondly, subclause (2) is complementary to clauses 9 and 17 (in Part 3) and subclause (2) of clause 65 (in Part 4). It amends section 12 of the Strata Titles Act 1988 to permit the amendment of a strata plan to extinguish an easement in respect of part of the dominant land, without being required to obtain consent from the owner of the servient tenement, provided that rights under the easement continue in respect of some other part of the dominant land.

Thirdly, section 12 is amended to remove the requirement that an application for amendment that affects the delineation of units or common property be accompanied by the certificate from the Development Assessment Commission (under section 51 of the Development Act 1993) and instead requires the Registrar General to satisfy himself or herself that the certificate has been issued and is in force in relation to the amendment.

Finally, minor amendments are made to section 12(5) and (5a) by way of clarification.

78—Insertion of section 12A

This clause inserts a new section 12A into the Strata Titles Act 1988. The clause permits an application for amendment of a deposited strata plan to vary or terminate a statutory encumbrance, provided the application is accompanied by a certificate from the holder of the statutory encumbrance, certifying that the requirements for varying or terminating the statutory encumbrance (under the other relevant Act) have been complied with, and any other documentary material required by the Registrar General. This clause does not apply to the creation of a statutory encumbrance, only to its variation or termination.

79—Amendment of section 16—Amalgamation of adjacent sites

This clause replaces a reference to a schedule of unit entitlements 'included' in a plan with a reference to such a schedule 'annexed to' the plan.

80—Amendment of section 17—Cancellation

This clause is 1 of the 16 clauses in the Bill that remove legislative obligations for persons to produce, or for the Registrar General to place endorsements on, duplicate instruments. Section 17 provides for the cancellation of a deposited strata plan. The clause removes the need for a strata corporation, lodging an instrument of cancellation, to provide to the Registrar General any duplicate instrument. It does not affect the strata corporation's obligation to provide the duplicate certificate of title for every unit and the common property, and 'any other documentary material as the Registrar General may require'.

81—Amendment of section 17A—Procedure where the whereabouts of certain persons is unknown

This clause makes a consequential amendment to section 17A to delete the reference to Division 2 (which is proposed to be deleted by clause 76).

82—Amendment of section 36G—Keeping of records

This clause amends section 36G(4) of the Strata Titles Act 1988 to remove any suggestion that the description of 'accounts and records referred to in this section' might not include copies of receipts under subsection 36G(2)(b). This amendment corresponds to the equivalent amendment to the Community Titles Act 1996, in clause 27 of the Bill.

83—Amendment of section 37—Administrator of strata corporation's affairs

This clause would allow an application to be made to the Magistrates Court or the Supreme Court for the appointment of an administrator of a community corporation (currently such an application can only be made to the Supreme Court).

84—Amendment of section 41A—Resolution of disputes etc

This clause is consequential to clause 86.

85—Amendment of section 46—Relief where unanimous resolution required

This clause would allow an application to be made to the Magistrates Court or the Supreme Court for relief from a requirement to have a unanimous resolution under the Act (currently such an application can only be made to the Supreme Court).

86—Insertion of section 48A

This clause inserts a new section into the principal Act providing that applications to the Magistrates Court under the Act are to be dealt with as if they were a minor civil action within the meaning of the Magistrates Court Act 1991 (subject to any prescribed modifications).

87—Amendment of Schedule 2—Transitional provisions

This clause deletes clause 5 of Schedule 2 (consequentially to the repeal of Part 2 Division 2).

Debate adjourned on motion of Mrs Redmond.

CRIMINAL LAW CONSOLIDATION (DOUBLE JEOPARDY) AMENDMENT BILL

Second reading.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (16:10): I move:

That this bill be now read a second time.

Double jeopardy law reform has gained recent prominence owing to public disquiet about a few controversial cases and, in particular, the High Court decision in Carroll. Carroll was convicted of the murder of Deidre Kennedy in a Queensland court in 1985, but was later acquitted on appeal on the basis that there was no evidence on which he could properly be convicted. In 2000, he was convicted of perjury based on his denial of the murder charge on oath at his initial trial, but later was acquitted of this charge by the Court of Appeal. The High Court upheld this decision, holding that trying Carroll for perjury triggered the double jeopardy rule. The Carroll decision was uncontroversial in a legal sense, being a mere rationalisation of previous authority. However, along with a handful of other cases, it has subjected the basic principles underlying the double jeopardy rule to vigorous scrutiny.

The Carroll decision prompted a call for review of the law of double jeopardy from various sources: legal, journalistic and governmental. By the end of 2003, the governments of New South Wales and Queensland had backed reform, as had the Prime Minister. Although the Standing Committee of Attorneys-General was unable to reach a consensus on the subject, the issues were the subject of very similar recommendations by the Model Criminal Code Officers Committee and a Senior Officials Working Group of the Council of Australian Governments.

The COAG working group report was placed before COAG at its meeting on 13 April 2007. COAG agreed that jurisdictions will carry out the recommendations of the Double Jeopardy Law Reform COAG Working Group on double jeopardy law reform, prosecution appeals against acquittal, and prosecution appeals against sentence, noting that the scope of reforms will vary among jurisdictions, reflecting differences in the particular structure of each jurisdiction's criminal law. Victoria and the Australian Capital Territory reserved their positions on the recommendations. In general, the proposal is that the law be reformed so that a person acquitted of an offence would not be protected by the law against double jeopardy from:

- prosecution for an administration of justice offence where that offence is connected to the original trial (such as perjury or bribery of a juror);
- retrial of the original offence or prosecution for a similar offence, whether it is fresh and compelling evidence, in cases of very serious offences, including murder, manslaughter, serious drug offences (where life imprisonment applies), and the most aggravated forms of rape and armed robbery; or
- retrial of the original offence or prosecution for a similar offence where the acquittal is tainted in cases of offences punishable by imprisonment for at least 15 years.

The bill also proposes changes in the law on appeals from acquittals and appeal on matters of sentence. The bill proposes the implementation without change of the recommendation of the COAG working group report.

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

Leave granted.

General Principles of Double Jeopardy

A general proposition of the double-jeopardy principle, often quoted, is that stated by Black J. in Green v United States 355 US 184 at 187 & 188 (1957):

The underlying idea, one that is deeply ingrained in at least the Anglo American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offence, thereby subjecting him to embarrassment, expense and ordeal and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.

The separate policies that lie behind these general propositions appear to be:

- the various interests in securing finality of decisions;
- the protection of citizens from harassment by the State;
- the promotion of efficient investigation;
- the sanctity of a jury verdict; and
- the prevention of wrongful conviction.

These interests overlap to some extent.

The principle against double-jeopardy has international recognition. Article 14(7) of the International Covenant on Civil and Political Rights says:

No one shall be liable to be tried and punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

It may be noted, however, that this command leaves a great deal to interpretation. In particular, the insertion of the word 'finally' means that the principle cannot be taken to prohibit, for example, prosecution appeals against acquittals—for to enact such a law would simply mean that the acquittal was not final. The same holds true for double-jeopardy reform—for all that does, it can be argued, is redefine 'finally'. As will be seen from the discussion below, that is precisely the course that has been espoused, officially, in the United Kingdom.

It is quite clear that the double-jeopardy principle is not absolute. For example, a person who successfully appeals against conviction will usually face a retrial for the same offence. The only real question is how far the exceptions should go.

Other Jurisdictions

Reforms allowing for a tainted acquittal exception were introduced in the United Kingdom by the Criminal Procedure and Investigations Act 1996. Reforms allowing for a 'new and compelling evidence' exception were introduced more recently by the Criminal Justice Act 2003. The new and compelling evidence exception was recommended in the Law Commission's 2001 report, Double Jeopardy and Prosecution Appeals. General support was expressed for the Commission's proposals, and further recommendations were made, by Lord Justice Auld in his 2001 report, Review of the Criminal Courts of England and Wales, which, in turn, was built on in the United Kingdom Government's 2002 White Paper, Justice for All.

On 19 September, 2006, the Premier of New South Wales, the Hon. Morris Iemma MP, introduced his government's double-jeopardy law reform proposal into the New South Wales Parliament, in the form of the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2006. The bill was passed on 17 October, 2006 and received assent on 19 October, 2006. The New South Wales Act is largely in line with the MCCOC recommendations, although it differs in some respects. The key differences are:

- while the New South Wales Act provides for fresh and compelling evidence and tainted acquittal exceptions to the rule against double-jeopardy, it does not provide for an exception to allow prosecution for an administration-of-justice offence connected to the original trial; and
- the fresh and compelling evidence exception applies to a more limited class of offences (for example, manslaughter is not included) than that recommended by MCCOC.

Double-jeopardy reforms providing for both new and compelling evidence and tainted acquittal exceptions are contained in the Criminal Procedure Bill, introduced in 2004 and currently still before the New Zealand Parliament. On 19 April, 2007, Mr Peter Wellington MP. introduced the Criminal Code (Double Jeopardy) Amendment Bill 2007 as a Private Member's Bill into the Queensland Parliament. The Bill provides two exceptions to double jeopardy principles - a fresh and compelling evidence exception, which is to apply only to a retrial for murder, and a tainted acquittal exception, which is to apply to offences attracting a maximum penalty of imprisonment of 25 years or more. Neither of the reforms will operate retrospectively. The Queensland Government supported the Bill and it passed in October 2007.

This Bill proposes three exceptions to the general rule against double-jeopardy.

Proposed Exception 1—Fresh and Compelling Evidence

This exception will allow for retrial of an acquitted person (or prosecution for a similar offence) where there appears to be fresh and compelling evidence against the acquitted person. This exception will apply to acquittals for only the most serious categories of offences, including murder, manslaughter, the trafficking or manufacture of large commercial quantities of drugs, and the most aggravated forms of rape and armed robbery. The reason for the restriction is that the public interest in not prosecuting again is strong and not lightly displaced, but where there are very serious offences involved, the public interest cries out for re-charging. The full resources of the State should not be expended again and the acquitted put at risk of conviction again by challenging the acquittal of a person for, say, theft, criminal damage or forgery offences.

- Evidence is 'fresh' if it was not adduced in the proceedings in which the person was acquitted and it could not have been adduced in those proceedings with the exercise of reasonable diligence.
- Evidence is 'compelling' if it is reliable, substantial, and highly probative of the case against the acquitted person (in the context of the issues in dispute in the original proceedings).
- Evidence is not precluded from being fresh and compelling merely because it would have been inadmissible in the earlier proceedings against an acquitted person.

Proposed Exception 2—Tainted Acquittals

This exception will allow for retrial of an acquitted person (or prosecution for a similar offence) where the acquittal is tainted. An acquittal is 'tainted' if (a) the accused person or another person has been convicted (in this jurisdiction or elsewhere) of an administration of justice offence in connection with the proceedings in which the accused person was acquitted; and (b) it is more likely than not that, but for the commission of the administration of justice offence, the accused person would have been convicted of the substantive offence. This exception will apply to acquittals for serious offences, being major indictable offences punishable by 15 years or more. Interference in a trial brings the administration of justice into disrepute and offenders must not be able to profit from it. It is therefore appropriate that this exception applies to a broader range of offences than the 'fresh and compelling evidence' exception. Administration-of-justice offences include perjury, bribing or interfering with a juror, witness or judicial officer, and perversion of (or conspiracy or attempt to pervert) the course of justice.

The tainted acquittal exception will apply whether the administration-of-justice offence was committed by the acquitted person or by another person. This is in line with the MCCOC recommendations, the New South Wales Act and United Kingdom law. This will operate as a disincentive to associates of an accused contemplating the commission of an administration of justice offence (for example, situations of organised crime or the family or friends of an accused interfering with a trial).

Proposed Exception 3—Administration-of-Justice Offences

This exception will allow for prosecution for an administration of justice offence where that offence is connected to the original trial. It will apply if there is fresh evidence of the commission of an administration-of-justice offence by an acquitted person in connection with the proceedings in which the person was acquitted. An administration-of-justice offence includes: (a) bribery of, or interference with, a juror, witness or judicial officer; and (b) perversion of (or conspiracy to pervert) the course of justice; and (c) perjury. In circumstances which would allow a prosecution for an administration-of-justice offence (where double jeopardy would otherwise have been an impediment to prosecution) or an application for retrial under these laws, the prosecution would only be able to bring one of those two proceedings. This exception will apply to acquittals for all indictable offences.

An acquitted person can in almost all circumstances already be prosecuted under current laws for an administration-of-justice offence. In some situations where the Carroll principle would apply, the acquitted person could be subject to an application for retrial of the primary offence on the fresh and compelling evidence exception, if the offence threshold was met. This threshold is intended to limit the fresh-and-compelling-evidence exception to double jeopardy to the most serious cases; it could undermine this policy to allow an administration-of-justice offence to be charged as an alternative.

There must be fresh evidence of the administration-of-justice offence. This prevents the prosecution from merely re-litigating the original trial under a different charge, as fresh evidence must have come to light since the original trial. 'Fresh' is defined in the same way as for the fresh and compelling evidence exception: this reinforces the need for diligence and care in prosecutions.

MCCOC argued and COAG agreed that it was appropriate to address directly the Carroll principle by the introduction of an administration-of-justice offence exception. Although implementation of this exception would not overturn the decision in Carroll itself (there was no fresh evidence), it would in future allow for an acquitted person to be tried for perjury in the Carroll situation.

Safeguards on Retrials

Two of the three proposed exceptions contemplate the retrial of the accused on the original charge for which he or she was acquitted. This is clearly an exceptional procedure that would only take place on rare occasions. The Bill includes a number of safeguards recommended in the various reports.

1. The retrial must commence on application by the DPP to the Court of Criminal Appeal. The court may order a retrial only if it is satisfied that in all the circumstances it is in the interests of justice for the order to be made. An order for a retrial is not in the interests of justice unless the court is satisfied that a fair retrial is likely in the circumstances. In determining whether it is in the interests of justice for an order for a retrial to be made, the court must have regard in particular to the length of time since the acquitted person allegedly committed the offence; and whether any police officer or prosecutor has failed to act with reasonable diligence or expedition in connection with the application for a retrial of the acquitted person.

2. A police officer is not to carry out or authorise a police reinvestigation of an acquitted person unless the DPP has advised that in his opinion the acquittal would not be a bar to the trial of the acquitted person in this jurisdiction for an offence, and given his written consent to the investigation. In this context, 'police reinvestigation' means any investigation of the commission of an offence by an acquitted person in connection with the possible retrial of the person for the offence, that involves any arrest, questioning or search of the acquitted person (or the issue of a warrant for the arrest of the person), or any forensic procedure carried out on the person or any search or seizure of premises or property of or occupied by the person whether with or without the consent of the acquitted person.

3. The DPP must not give consent to a police reinvestigation unless satisfied that there is, or there is likely as a result of the investigation to be, sufficient fresh evidence to warrant the conduct of the investigation, and it is in the public interest for the investigation to proceed.

4. There is an urgency exception to the requirement for DPP authorisation of police reinvestigation, to allow a police officer to take investigative action without DPP consent if the action is necessary as a matter of urgency to prevent the investigation being substantially and irrevocably prejudiced, and it is not reasonably practical to obtain DPP consent before taking the action. In addition, the DPP must be advised as soon as practicable of any investigative action taken on the basis of urgency, and the DPP's consent is required for the continuation of a reinvestigation commenced under the urgency exception.

5. The court may prohibit publication of any matter, if it appears to the court that the publication would give rise to a substantial risk of prejudice to the administration of justice in a retrial.

6. An application for a retrial is to be made not later than 28 days after the acquitted person is charged with the offence or a warrant has been issued for the person's arrest in connection with such an offence. The court may extend this period with good cause. An indictment for the retrial of a person that has been ordered by the court cannot, without the leave of the court, be presented after the end of the period of two months after the order was made. The court must not give leave unless it is satisfied that the prosecutor has acted with reasonable expedition, and there is good and sufficient cause for the retrial despite the lapse of time since the order was made.

7. For the avoidance of obvious prejudice, at the retrial of the accused person, the prosecution is not entitled to refer to the court's finding that (as the case may be) there appears to be fresh and compelling evidence against an acquitted person, or more likely than not, the accused person would have been convicted originally but for the commission of the administration-of-justice offence.

The exceptions to the rule against double-jeopardy will apply to acquittals in other jurisdictions.

The exceptions will apply retrospectively. This is an issue of high controversy. The Queensland Act has taken a different course. The approach in the Bill is based on the arguments that (a) the whole idea of the reform entails revisiting what has gone before and (b) the reform does not entail changing the law of liability - merely exposure to it. In addition, the safeguards include a requirement for the court to consider 'the length of time since the acquitted person allegedly committed the offence' in determining whether a retrial would be in the interests of justice. This safeguard strikes an appropriate balance between ensuring that retrials for past crimes can proceed (the public interest in bringing guilty parties to justice) and potential cases where an alleged crime occurred so far in the past that a fair trial would not be possible and a retrial would not be in the interests of justice.

Prosecution Appeals Against Acquittals—Current Law

The prosecution can appeal (with leave) on any ground against any acquittal on a charge of an indictable offence brought about by decision of a Judge after trial by Judge alone (s. 352(1)(ab), Criminal Law Consolidation Act).

The prosecution may also appeal against a court's decision on an issue antecedent to trial that is adverse to the prosecution, on a question of law (as of right) or on any other ground (with leave) (s. 352(1)(b), Criminal Law Consolidation Act). 'Issue antecedent to trial' is defined as a 'question (whether arising before or at trial) as to whether proceedings on an information or a count of an information should be stayed on the ground that the proceedings are an abuse of process of the court.'

A court may also reserve a question of law for consideration and determination of the Full Court. Following an acquittal, the court must, on application of the prosecution, reserve a question antecedent to the trial, or arising in the course of the trial, for consideration and determination by the Full Court – however, the Full Court's determination cannot overturn an acquittal (ss. 350, 351A Criminal Law Consolidation Act).

Prosecution Appeals Against Acquittals—The Proposal

MCCOC recommended that the right of prosecution appeal against acquittal be extended to cases in which there in an acquittal by a jury at the direction of the trial Judge. The New South Wales Crimes (Appeal and Review) Amendment (Double Jeopardy) Act 2006 has carried out the MCCOC recommendation. The New South Wales reforms are not retrospective and provide that an appeal against an acquittal must be made within 28 days after an acquittal (or after that period with the leave of the Court). In determining an appeal, the court may affirm or quash the acquittal: if the acquittal is quashed, the court may order a new trial, but cannot proceed to convict or sentence the accused person, nor direct the court conducting the new trial to do so. These elements of the New South Wales reforms are consistent with the MCCOC recommendations. I propose to mirror them here.

Prosecution Appeals Against Sentence—Current Law

The current law on Crown appeals against sentence is well settled. The operating general principle is stated in the decision of the High Court in Everett v The Queen and Phillips v The Queen (1994) 181 CLR 295 in which the joint judgment of Brennan, Deane, Dawson and Gaudron JJ referred to the:

…strong reasons why the jurisdiction to grant leave to the Attorney General to appeal against sentence should be exercised only in the rare and exceptional case. An appeal by the Crown against sentence has long been accepted in this country as cutting across the time honoured concepts of criminal administration by putting in jeopardy for the second time the freedom beyond the sentence imposed.

That principle has other effects though. A recent example of a common effect can be found in DPP v Dinsley [2007] VSCA 31. It should be emphasised that this is but an example of the operation of a principle common

to all jurisdictions in Australia. The Court in that case held that the sentence imposed by the sentencing judge in that case was inadequate. The judgment concluded:

19 In my opinion therefore, the learned sentencing judge erred in principle by failing to differentiate between the culpability associated with the aggravated burglary and theft of the credit card, which involved invasion of the room which was the victim's home, the opportunistic acts of sexual violence which the respondent committed after he got into the victim's room and the other acts of violence to which the victim was subjected. Recognition of the need to cumulate the sentences imposed for these different groups of offences would have produced a higher total effective sentence.

20 In considering whether to allow the appeal and to exercise its re-sentencing discretion, the Court is required to take account of the respondent's exposure to a form of double-jeopardy. As Kirby P explained in R v Hayes, [(1987) 29 A Crim R 452] the principle which applies in the context of Crown appeals against sentence is not a true example of double-jeopardy but is equivalent to it because

"the prisoner's liberty, pocket and reputation are put in jeopardy both before the sentencing judge and before the appellate court. In addition, the prisoner suffers the anxiety and stress caused by the situation of uncertainty arising from the delay in resolving his or her position."

21 But for that principle I would have allowed the appeal and re-sentenced the respondent to a longer term of imprisonment. In the circumstances, however, I would dismiss the appeal against sentence. (emphasis added)

It is not surprising that concerns have been raised by the Directors of Public Prosecution in several jurisdictions that sentences that have been shown and accepted by appeal courts to be below the acceptable range remain largely uncorrected, owing to increasing use of the court's discretion to refuse to intervene when determining prosecution appeals against sentence; and the court's discretion, if re-sentencing occurs, to discount the substituted sentence to something less than that which the appeal court otherwise would have imposed.

Prosecution Appeals Against Sentence—Proposed Reform

The COAG Working Party concluded that although the courts have used the term 'double jeopardy' to describe the situation that a convicted person faces as a result of a prosecution appeal against sentence, the situation is different from the double-jeopardy faced by an acquitted person who again faces trial. An acquitted person who endures a retrial faces, for the second time, the prospect of being found guilty, whereas a convicted person enduring a prosecution appeal against sentence faces the less severe prospect that their sentence may be varied.

It is intolerable that prosecution appeals against sentence fail although the court is of the opinion that the sentence is inadequate. Although there can be no question of a court's micro adjusting sentences on appeal, equally, courts of appeal should not be affirming inadequate or erroneous sentences. The Bill therefore provides that, when a court is considering a prosecution appeal against sentence, no principle of sentencing double jeopardy should be taken into consideration by the court when determining whether to exercise its discretion to impose a different sentence, or in determining what sentence to impose.

This correction will not affect underlying principles that say:

- that prosecution appeals against sentence should be rare;
- that an appeal court will only intervene where error is shown; and
- that the court has a discretion to refuse to intervene even if error is established or to substitute a discounted sentence where re-sentencing does occur.

These are major and important reforms of substance.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of Criminal Law Consolidation Act 1935

4—Amendment of section 5—Interpretation

This amendment proposes to insert a definition of Full Court into the main interpretation provision. That definition currently appears in Part 11 of the principal Act but is also required for new Part 10 and so is to become a definition for the general purposes of the principal Act.

5—Insertion of Part 10

Part 10—Limitations on rules relating to double jeopardy

Division 1—Preliminary

331—Interpretation

This new section contains definitions of words and phrases for the purposes of new Part 10. In particular, an administration of justice offence is defined to include offences such as perjury or subornation of perjury, or bribery of a judicial officer, for example. Other definitions, such as a Category A offence and relevant offence are also included.

332—Meaning of fresh and compelling evidence

New section 332 sets out, for the purposes of new Part 10, the meanings of fresh evidence and compelling evidence in relation to an offence of which a person has been acquitted.

333—Meaning of tainted acquittal

This new section sets out what makes an acquittal of an offence tainted for the purposes of new Part 10.

334—Application of Part

New section 334 provides that new Part 10 applies whether the offence of which a person is acquitted is alleged to have occurred before or after the commencement of that Part. However, the section goes on to provide that new Part 10 does not apply if a person is acquitted of the offence with which the person is charged but is convicted of a lesser offence arising out of the same set of circumstances that gave rise to the charge except in circumstances where the acquittal was tainted.

Division 2—Circumstances in which police may investigate conduct relating to offence of which person previously acquitted

335—Circumstances in which police may investigate conduct relating to offence of which person previously acquitted

This new section provides that, other than in urgent circumstances, a police officer may only carry out an investigation to which this section applies, or authorise the carrying out of such an investigation, with the written authorisation of the Director of Public Prosecutions (DPP). The DPP may only authorise such an investigation if—

- the DPP is satisfied that, as a result of the investigation, the person under investigation is, or is likely to be, charged with an offence of which the person has previously been acquitted or a related administration of justice offence, and it is in the public interest to proceed with the investigation; and
- in the DPP's opinion, the previous acquittal would not be a bar to the trial of the person for an offence that may be charged as a result of the investigation.

The sorts of investigation to which this new section applies, includes—

- the questioning, search or arrest of a person;
- the issue of a warrant for the arrest of a person;
- a forensic procedure carried out on a person;
- the search or seizure of property or premises owned or occupied by a person,

where the investigation is in respect of the person's conduct in relation to an offence of which the person has previously been acquitted or any other included offence.

Division 3—Circumstances in which trial or retrial of offence will not offend against rules of double jeopardy

336—Retrial of relevant offence of which person previously acquitted where acquittal tainted

This provision enables the DPP to apply to the Full Court for an order that a person who has been acquitted of a relevant offence (that is, a Category A offence or any other offence for which the prescribed penalty is imprisonment for at least 15 years) be retried for the relevant offence. The Full Court must not make any such order unless the Court is satisfied that the acquittal was tainted and, in the circumstances, it is likely that the new trial would be fair.

New section 336 also provides for procedural matters relating to such applications.

337—Retrial of Category A offence of which person previously acquitted where there is fresh and compelling evidence

This provision enables the DPP to apply to the Full Court for an order that a person who has been acquitted of a Category A offence be retried for the offence. The Full Court must not make any such order unless the Court is satisfied that there is fresh and compelling evidence against the person in relation to the offence and, in the circumstances, it is likely that the new trial would be fair.

New section 337 also provides for procedural matters relating to such applications.

338—Circumstances in which person may be charged with administration of justice offence relating to previous acquittal

This provision enables the DPP to apply to the Full Court for an order that a person who has been acquitted of an indictable offence be tried for an administration of justice offence that is related to the offence of which the person has been acquitted. The Full Court must not make any such order unless the Court is satisfied that there is fresh evidence against the person in relation to the offence and, in the circumstances, it is likely that the trial of the administration of justice offence would be fair.

New section 338 also provides for procedural matters relating to such applications.

Division 4—Prohibition on making certain references in retrial

339—Prohibition on making certain references in retrial

New section 339 provides that at the retrial of a person for an offence of which the person had previously been acquitted by order of the Full Court under Division 3, the prosecution must not refer to the fact that, before making the order for the retrial of the offence, the Court had to be satisfied that—

- the acquittal was tainted; or
- there is fresh and compelling evidence against the acquitted person in relation to the offence,

as the case requires.

Division 5—Court may impose more severe sentence on appeal by prosecution

340—Court may impose more severe sentence on appeal by prosecution

New section 340 provides that, despite any other rule of law, if, on an appeal against sentence brought by the prosecution, the court is satisfied that the sentence should be quashed and a more severe sentence substituted, the court may substitute a more severe sentence even if, in so doing, the court may be exposing the convicted person to a form of double jeopardy.

6—Amendment of section 348—Interpretation

This amendment is consequential on the amendment to section 5 of the principal Act (see clause 4).

7—Amendment of section 352—Right of appeal in criminal cases

Section 352 makes provision for appeals to the Full Court. The amendment to this section proposes to allow the DPP, with the permission of the Full Court, to appeal against an acquittal on any ground, not only from a trial by judge alone, but also from a trial by jury where the judge directed the jury to acquit.

8—Amendment of section 353—Determination of appeals in ordinary cases

The proposed amendments clarify the position where the Full Court orders a new trial under subsection (2a)(b).

Debate adjourned on motion of Mrs Redmond.

SERIOUS AND ORGANISED CRIME (CONTROL) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1984.)

Mrs REDMOND (Heysen) (16:17): I am the lead speaker for the opposition in relation to this bill—

The Hon. M.J. Atkinson: And knows where Andamooka is.

Mrs REDMOND: —and knows where Andamooka is, and has been there. Just as I restart my comments, which, of course, I had only very briefly started before we went to the lunch break, it occurred to me that, in a way, it is appropriate for us to be considering something called serious and organised crime today on this National Sorry Day, because what happened to the indigenous people in our state and elsewhere in the country was, in my view, serious and organised crime, and it was sanctioned by the state and federal parliaments.

Just before proceeding with the bill itself, I want to place on the record my sincere thanks to Prime Minister Kevin Rudd for his apology today and for the wise words which he spoke on behalf of all Australian people. Today I was proud to be an Australian.

In coming at this particular bill, one has to look, I think, at what is the evil we are trying to overcome. To that end, I thank, as I said in my earlier remarks, the Assistant Commissioner, Tony Harrison, and other senior members from SAPOL, who briefed us last Wednesday not just about this bill but about outlaw motorcycle gangs and organised crime generally and their approach to dealing with it in this state.

I have also been reading a book entitled *Angels of Death,* which is a book in our parliamentary library which I recommend to members of this house in terms of understanding just how difficult a problem organised outlaw motorcycle gangs and other organised crime groups is to tackle in any proper sense. I also managed last year to have what I describe as a 'secret squirrel' meeting with a former member of an outlaw motorcycle gang, who was able to give me a fair bit of information about the nature of the outlaw motorcycle gangs and their structure in South Australia.

One of the things that the Assistant Commissioner told us the other day, for example, was that, whereas in 2001 in South Australia there were six clubs comprising nine chapters, or separate little entities (within each club there are chapters) in 2001, and, in the life of this government, rather than going down that has actually increased to eight clubs with 13 chapters in 2007. For example, there are two Hell's Angels groups, including the North Crew, with 250 full-patch members. Nationally, of course, we are but a drop in the ocean. There were 173 chapters in 2001, and that has increased to 227 chapters in 2007, with an estimated 3,500 gang members.

My reading of *Angels of Death* indicated just how difficult it is. Once upon a time, on the basis of what we have learnt in movies and so on, one might have thought that you could infiltrate organisations relatively easily. But a quick reading of even the beginning of that book will indicate that these organisations are well-financed and they are extremely difficult to penetrate. It is no good simply setting yourself up in a flat, for example, and pretending that you are available to become a member.

You will spend probably at least a year even getting near becoming a prospect, and in that time they will know not just who you are but everything about you—every tax return you have ever filed, everything you have ever been involved in, everywhere you have ever lived—but they will also know, concerningly, every member of your family, where they live, what they do, what your connections are, and everything else. It is quite frightening when you then go on to read just how they mete out their own justice and operate completely according to their own view of the world. One of the interesting things that was told to me by the person with whom I had a meeting, was that, in fact, a lot of the old-time bikers really felt that there was, I suppose what you might call, honour among thieves in the way that they dealt with their internal issues or gang to gang issues, and that that no longer exists because nowadays, as we have seen in the streets of Adelaide, people in these gangs will take their fights and their guns into the streets and heaven help the innocent bystander who happens to get in their way.

So, they are pervasive problems and I think that they do require a different method of addressing to what we have had in the past because, as I said just before lunch, until now our legal system has concentrated on dealing with criminals as individuals and dealing with the events after a criminal act has occurred by proving the act has occurred and proving that the person committed that act on a criminal burden of proof; that is, beyond reasonable doubt. Of course that approach has, to some extent, allowed people who are well resourced and well able to afford excellent representation in our courts to utilise every possible stratagem to avoid conviction for a lot of things.

Further than that, it does nothing to address the problem that what we are trying to deal with is collective behaviour, not just the behaviour of an individual or the particular criminal act of an individual. We are also, hopefully, trying to deal with how we prevent certain things from happening rather than simply addressing the issue of punishment after things have happened. To that end, I have been doing some reading in relation to what approaches have been taken in other countries.

I guess the foremost area where one looks for these things is in what is called the RICO legislation in America, RICO standing for Racketeer Influenced and Corrupt Organisations. They have had this legislation in place nationally in the US since 1970. Basically it came about because racketeering—what we would normally think of as extortion and standover tactics—was considered to be proliferating and weakening the economy by undermining legitimate businesses. They wrote into their legislation, 'that it shall be liberally construed to effectuate its remedial purposes'.

Over the 38 years it has been in place, it has been used against most of the major New York organised crime families, and some in other cities such as Detroit. It has been seen to force entire organisational structures into court via civil powers and put management of racketeering-influenced organisations into public trusteeships. So, for instance, where you have a gangster-run union and so on, instead of allowing that to proliferate, the powers under the RICO legislation—and I will just refer to it as that—allowed the organisation to be put into public trusteeship and broke the economic power of the gangster-run unions.

Typically, RICO and other such legislation use an array of techniques which are not normally used in the criminal law. They commonly use telephone taps and other bugging devices. They use plea bargains, and I will talk separately about these various issues in due course. They use structured sentence guidelines and they generally go hand in hand with considerable witness protection operations. So, the aim of the legislation is to penalise persons who engage in a pattern

of racketeering, or racketeering activity, or what is sometimes referred to as the collection of unlawful debt.

There are four offences referred to in the RICO legislation, and I will just turn those up. The first one criminalises 'the investment of the proceeds of a pattern of racketeering or collection of an unlawful debt in an enterprise affecting interstate commerce'. Members should remember that, like us, this is federal legislation and so usually there has to be some federal element for them to be able to use it. The second one criminalises 'acquiring or maintaining an interest in an enterprise through a pattern of racketeering activity or collection of an unlawful debt'. So, an organised crime figure violates that if he uses extortion or arson to pressure the owners into selling out of their business, for instance.

The third one criminalises 'conducting affairs of an enterprise through a pattern of racketeering activity or collection of an unlawful debt'. This would, for instance, catch a car dealer who uses his legitimate car business to assist a ring of people who deal in stolen cars. The fourth makes it a crime to conspire to commit any of the earlier three. So, they are the basic offences that are created. What it requires is a pattern of two or more offences and it requires the people to be conducting those as part of an enterprise. An enterprise itself can be quite broadly determined but it does lead to some little problems, which I will come to later.

The fine imposed—and I thought it was interesting in reading about this legislation—is generally $250,000 or twice the amount of the loss or the gain. That struck me as an interesting way to approach a fining system because, for instance, in environmental legislation, we are often put in a difficult situation and our answer is simply to divide into personal liability and corporate liability, which seems to be a very blunt instrument. I remember that in our environmental legislation we put in place certain fines. So, if you are found guilty of an offence, for a personal liability the limit of the fine might only be $5,000 and for a company it might be $500,000.

That seems to me to be a fairly blunt instrument because there could be a very small firm for whom the penalty is just insurmountable, but, equally, there could be an individual who has more than sufficient funds and for whom the smaller level of debt is really an inadequate punishment and almost an incentive to carry on committing offences.

The approach taken in the RICO legislation has the advantage that it ties the level of fine to the level of the offence committed. I suggest that there is some merit in that approach. I would think that that may be one of the areas where, as the leader said, we may want to go further in due course. It seems to me that there is some benefit to be had in saying, 'Well, we're going to tie our financial penalties to the level of the offence.'

The imprisonment for 20 years per violation, in typical American style, as I understand the American system, allows for consecutive service of sentences, rather than being basically served at the same time. Often in our courts, you do find that people serve sentences concurrently. In our court someone might be found guilty of three charges and if they had three lots of 20 years they might only serve whatever their non-parole period is, but the sentence would be just a total of 20 years in spite of them having been found guilty and sentenced on three different items.

In the RICO legislation, because they are consecutive, people can have sentences which are so long as to be ridiculous, in one sense, but which certainly send a clear message to the community. Bearing in mind that this legislation has been in place since 1970, there was a case in 1986 called the United States v Salerno, which is referred to as the 'Commission' case. The offenders in that case ultimately received sentences of 100 years each for taking kickbacks from concrete contractors.

So, they are really sending a very strong message; but bear in mind, in prosecuting that case, there were some 200 FBI agents involved over a period of six years, something like 170-odd bugs had to be authorised by courts—the resources that were put into bringing that case alone to court were really quite extensive.

There are advantages and disadvantages to the system engaged in under the RICO legislation. What I am referring to at the moment is a document prepared in the UK which basically compared what legislation in other jurisdictions did to address organised crime with what happens in the UK. It has the advantage, of course, of giving us an overview of what approaches various jurisdictions have taken.

It is interesting to read this assessment of the advantages and disadvantages of the RICO legislation by its UK authors, Michael Levi and Alaster Smith. Under the advantages, for instance, they say that it facilitates the obtaining of electronic surveillance and wiretapping, although you still

need a court order for that. In fact, the researchers from the UK felt that it was substantially more difficult to get an intercept warrant in the US than would currently be the case in England and Wales.

Another advantage is that it allows for the charging and prosecution of sufficient members of an organisation to incapacitate the organisation, although we need to look at what they class as disadvantages in that light as well. It sidesteps some restrictive statutes of limitations, provided the offences remain within the overall 10-year period. In that regard, the RICO legislation says that the requisite number of offences must have occurred within the last 10 years.

The issues of joinder and severance of trials are eased. Just as we discussed yesterday when dealing with the rape and serious sexual offences legislation, there can often be something of an impediment in the prosecution of rapes, particularly against separate victims, if the defendant is able to sever each trial and have a separate jury and judge for each trial, thereby avoiding anyone getting to see the full picture.

The RICO legislation also generates a higher sentencing tariff than many of the individual offences alone would attract. It enables prosecutors to show the nature of the enterprise and put forward the context into which the offending occurred. So, it enables the introduction of the general weight of evidence so that people can understand the whole context. Indeed, in a range of jurisdictions that I have been looking at, it is clear that that evidence—it might be wire-taps, phone-taps and so on—from individuals has to be seen in context for a jury to fully understand just what is going on.

Some people of course habitually speak in code and never say anything even on phones that might be clearly interpreted as relating to criminal activity. Some of them are even smart enough not to use consistent code words in their discussions. Ultimately, for joint enterprises and organised crime to occur, there must be communication, and if the people who are trying to combat it are allowed to intercept, then they can overcome the problems of lack of evidence by showing that the communications taken as a whole and looked at in context do indicate an involvement by any particular person.

The authors of this article also refer to the disadvantages, the first and most obvious one of which is that it takes a lot of work to build up a case, and I mentioned that one case of the US versus Salerno, where the defendants got 100 years in sentencing, 200 FBI agents were involved over a period of six years, there were 171 court-authorised bugs and taps and long periods of time involving infiltrating and surveillance of the organisation—so, a lot of work. Then, of course, once you have all that information, you obviously need amazingly complex computer systems and so on to deal with the amount of data and information you have collected.

The second disadvantage about which they talk (and I thought it was rather a ludicrous one) was that there were performance indicator implications, that is, because they are doing these big cases there will be a smaller number and therefore the police should not be expected to meet the same key performance indicators. However, given that I am not a lover of KPIs in the first place, I think that should not even be a consideration. If we are going to put the resources into this area to make an actual difference we should not be worrying about the number of prosecutions in terms of the police having to work up their appropriate information before they can take a case to court.

The third disadvantage they mention is that it lengthens trials—and I think this is important—and the jury sometimes loses track of particular defendants and their roles, and this in turn sometimes leads to the severance of cases. So, it is all very well to charge 61 (or however many they charged the other day when they had a big sweep on some organised criminals in the US), but the fact is that the trials become so extensive and so complex that juries actually lose track of who is who, what is what and what the big picture is at the same time as remembering that each individual will have to be found guilty.

Of course, that then leads to the severance of cases which then impacts upon whether the organisation in fact is being dismantled. They also point out that it may be hard for jurors to appreciate what constitutes an 'enterprise' under the legislation, because some of the diagrams become somewhat like a bowl of spaghetti, or labyrinthine, showing the pattern of crimes—the organisation is actually operating through a pattern of criminal activity. Unsurprisingly, there are regional variations in the way the law is applied. In New York, of course, as I have said, they have attacked most of the major family crime organisations, but in some of the regional areas where judges are less used to the RICO legislation, its administration and the way it is operated, they may come to completely different conclusions.

So, regional variations can be a problem. They point out that, as one of the disadvantages, there is a risk of abuse which must be monitored. It is that issue which, I suppose, concerns me more than any other with the present proposal from the government and which we are discussing today. There is no doubt in my mind that we will need to keep a very careful eye on the potential for abuse, just as we saw in the operation of the terrorism legislation. I was concerned about the terrorism legislation when it was introduced. Indeed, the Hon. John Von Doussa was gracious enough to give me of his time to discuss the legislation because I had considerable misgivings about it. Happily my misgivings were more with the federal legislation than with what passed in this state.

When one looks at how the federal legislation was abused in the case of Dr Haneef in Queensland one cannot help but be reminded that there is a need to monitor closely the operation of any legislation which gives such unfettered powers, and particularly where, in this case, there is a prohibitive clause which seeks to exempt people such as the Attorney-General—although I know him to be an honourable man—from the review processes which would normally apply—

The Hon. M.J. Atkinson: Spoken like Mark Antony!

Mrs REDMOND: That is how I was intending it, like Mark Antony, Attorney. The review processes being gone, there is a potential for abuse, and it is of key concern in considering this legislation. Indeed, the last disadvantage to the RICO legislation about which these authors talk is human rights concerns over the potential for the legislation to be used over-zealously. I have a great faith in our police service in this state. Indeed, I remember in the last week or so some information to the effect that our police force is the most highly regarded by the public in terms of its behaviour, its lack of corruption, and so on.

However, I moved here 30 years ago from New South Wales where the police corruption was so rife that, as a teenager, I was able to observe it occurring quite openly in a number of contexts. It would be ludicrous of us to think that we would never get a bad apple in what is otherwise a very good police force in this state. Of course, one of the other problems with the legislation over there is that the RICO legislation, requiring as it does such an extensive amount of resources, rarely do they even look at chasing anything less than $250,000 in terms of the level at which they will become involved or engaged. To some extent I think that is probably a sensible approach with whatever resources there are—they are always limited. On the other hand, if we can stamp things out before they reach that level, maybe that would be better.

In the RICO legislation as well, all property that affords 'a source of influence over the enterprise' is forfeitable. That can lead to massive forfeitures of property. When you take the entire wealth of an organisation away, that can have huge inroads into its operation. A number of aspects of the RICO legislation might be applicable to our problem. In terms of South Australia, we are concentrating predominantly on outlaw motorcycle gangs, but potentially other types of organised crime exists in this state. I think that most people are not affected by organised crime or by outlaw motorcycle gangs in their day-to-day life and, indeed, for the most part, according to my discussion with the former bikie, the gangs in Adelaide actually manage what would otherwise be controlled by Mafia-type organisations, Triad-type organisations and so on.

Some organisations—and I will not delineate which ones are where—deal predominantly in drugs and prostitution and some of them deal predominantly in standovers, collection and protection. They deal with different areas of criminal activity and, furthermore, they have fairly well delineated geographical areas in which they operate. Again, I will not detail those areas, but certainly the information I have indicates exactly which different outlaw motorcycle gangs operate in which area. Indeed, I was told that, whilst you can travel through an area when you are a member of a different gang, you certainly do not ever think about setting up a business within another gang's area.

It is quite evident that we do have a problem in this state. It may be a limited problem, but when you look at what has happened around the world at various other places, it is obvious that the spread of organised crime has to be prevented to the extent that we are able and dismantled to the extent that we are able. In 1986 in New York, having had the RICO legislation which predominantly was used in New York, they passed their own Organised Crime Control Act. They did that to reflect some of the human rights concerns about the potential overreach of the federal legislation. They restricted it to persons employed by or associated with criminal enterprises—and criminal enterprises (as in the legislation before us) was defined fairly broadly. In their case, it comprised any group with a shared criminal purpose.

It still targeted both legitimate and illegitimate groups. There might be a social club that is a front for a criminal gang, a pawn shop that is a front for a fencing operation, or a car dealer that is a front for a stolen car racket. Instead of the two acts—that is, two individual criminal acts as required in the RICO legislation—this required three acts. Two out of those three had to be in the last five years and all three had to be in the last 10 years. However, when they talk about committing an act, it might be committed by the person, it might be solicited, or it might be requested. A range of activities would come within that legislation, but they must still (as in our normal criminal law) have both the act and the intention. However, according to these assessors, the tighter provisions do make it more likely that it will be targeted at an organised crime group.

In particular, the prosecutor must submit a statement—and it has got to be a personal statement; he cannot delegate that to someone else—to the court that 'he has reviewed the substance of the evidence presented to the grand jury and concurs in the judgment that the charge is consistent with the legislative findings'. It is a different approach slightly in terms of how they try to build in some protections but, as I said, the New York group introduced their legislation because of some concerns about the RICO legislation perhaps going too far in terms of the potential for human rights abuses.

They use this legislation particularly against people who are in facilitating roles, and it is often a part of the criminal organisation network that they get individuals to do certain separate minor things which (of themselves) are either not criminal or are criminal at the very minor end. That allows for any individual who is caught and charged to get off, because it is not seen as part of the bigger enterprise. I do not mean 'get off' in the sense of not necessarily being prosecuted and found guilty, but the consequences of an individual who has a peripheral or facilitating role can be quite limited compared with being caught under this Organised Crime Control Act. As I said, they targeted especially where there are facilitative roles such as providing false identification to assist documentary fraud, being a lookout for a gang activity, or mechanics who change the identification numbers on vehicles that assist a gang.

The other thing they have done, which is similar to what appears in the legislation before this house, is to quite specifically include within the ambit of the acts that can be necessary to bring a charge under this legislation acts committed outside New York. So, although it is New York legislation, they take into account criminal acts which are committed outside New York. In a similar way our legislation refers to chapters of organisations both in this state and interstate and, indeed, overseas, and to membership of organisations here and elsewhere and to criminal convictions here and elsewhere. They point out in the New York commentary that plea bargaining is an important part of the armoury which is being used against organised crime, to encourage criminals to come forward on the basis that they can get a benefit to themselves by telling the police or prosecuting authorities details of the operations of the organised criminal activity. They see it as a major positive.

Moving on to Canada, the Canadian criminal code was amended in 1997 with the idea of producing a simplified statutory conspiracy definition, and that was designed to allow the admission of evidence on a broader basis because, like us, they had quite a narrow definition—and, of course, in any court hearing criminal matters on any day you will see objections to evidence being tendered by the prosecution if the defence is able to argue that the evidence goes beyond anything relevant to the commission of the actual offence which is before the court. They made that change but, overall, they were still focused on things such as aiding and abetting crime rather than actual membership of a criminal organisation.

In 2001 they introduced forfeiture provisions, and then they came to the view (and this was still in 2001) that they needed to attempt to deal with collective behaviour, and I think that lies at the very heart of what the legislation before us is trying to do and where our thinking needs to go. It is addressing this need to deal with collective behaviour. So, by 2001 they granted specific supplementary powers such as enabling the use of wire taps in evidence and they also, at the end of 2001, introduced a new intensive federal prosecution strategy. That was their new legislation to deal with organised crime. To that end, they introduced a new definition of 'criminal organisation', and I will read from a document, which states:

The new definition of 'criminal organisation' responds to concerns expressed by police and prosecutors that the previous definition was too complex and narrow in scope. The amended definition will:

1. reduce the number of people required to constitute a criminal organisation from five to three (this brings the Canadian legislation into line with legislation in other countries);

2. no longer require prosecutors to show that members of the criminal organisation were involved in committing a series of crimes for the criminal organisation in the last five years. Instead, prosecutors will be able to focus on evidence relevant to the crimes that are on trial; and

3. broaden the scope of the offences which define a criminal organisation, currently limited to indictable offences punishable by five or more years, to all serious crimes, including prostitution and gambling.

So they introduced that amendment to the definition of 'criminal organisation'. They created three new offences with very tough sentences to target various degrees of involvement with criminal organisations. They improved the protection of people who play a role in the justice system and their families and made an offence against that section liable to 14 years' imprisonment—which, to me, does not seem enough.

After reading the book *Angels of Death* and discussing the way in which biker gangs operate with a former member, I would have to say that it crossed my mind more than once whether I was brave enough to take this on because, certainly, I know that if someone threatened a member of my family I would back off from anything in a hurry. Clearly, the people involved in these organisations have no hesitation taking that sort of action, and our whole approach to this area of how we protect our police officers, prosecutors, judges and indeed even our juries from threats of violence is a major concern. Obviously, we try to address that in this legislation, but sometimes addressing things in legislation is ineffectual. It is like restraining orders: they are only as good as the behaviour of the person who is being restrained and, ultimately, a piece of paper offers very little protection if someone has a gun and they are after you.

The Canadians also simplified the definition of 'criminal organisation', as I said. They broadened 'forfeiture' to 'take profits from criminal organisations and to seize property that was used in a crime'. They established an accountable process to protect law enforcement officers from criminal liability—that is, criminal liability when they commit what would otherwise be illegal actions when they are infiltrating organisations, and that is unspeakably dangerous for any law enforcement officer.

So, the Canadians have said that they need to set up a mechanism to protect them from prosecution. There are some limits on it but they are trying to protect those officers from prosecution. Whilst infiltrating an organisation, they may be forced into a circumstance where they have to participate in criminal activity and, from my reading, it would be almost impossible to infiltrate an organisation such as the ones we are targeting if you were not able to demonstrate your willingness to undertake criminal activity.

The Canadians also introduced mechanisms that allow them to target anyone, not just members, who knowingly becomes involved in activities that further the organisation's objectives; so, people who recruit or even people who are acting as leaders of an organisation are included here. That, I think, needs to be looked at. I know that the powers within the legislation before us allow the police, hopefully, to have some impact in addressing the recruiting that is going on, for instance, between outlaw motorcycle gangs and their 'apprenticeships' by the young gang members in street gangs and so on. But maybe we need to look at this Canadian model of making it an offence to knowingly become involved in activities that further the organisation's objectives.

They also tried to develop a system for increased coordination between investigators and prosecutors, and that seems to me to be fundamental and necessary in any system whether it is done legislatively or simply by the organisations getting their heads together. But one of the real problems is that prosecutors often will be confronted with situations where they feel that they do not have the evidence in the way that they need it. It may have been obtained in a way that might be objectionable. They may not have admissible evidence and so on. So, they made a number of interesting changes to their law to try to deal with this problem.

Just over 10 years ago, New Zealand also attempted to address the issue and they introduced the Harassment and Criminal Associations Act.

The Hon. M.J. Atkinson: 'Harassment'.

Mrs REDMOND: I prefer to say harassment, Attorney. I married an American. I am surrounded by Americans in my household. The New Zealanders debated this in 1996 and the act came into force in 1997. Basically, it was adapted from the Californian equivalent of the RICO legislation, which was called the Street Terrorism Enforcement and Prevention Act 1988, so it is clear that the Americans have been trying to address this problem for considerably longer than we have.

The then government publicly stated the following about this legislation when it was introduced:

> It would go beyond the doctrines of accessory liability and permit the prosecution of gang bosses as well as deterring others from joining for fear of incurring collective liability.

So, it does not require proof that the gang has crime as its primary or even secondary purpose, merely that crime is included in its activities. It seeks to incriminate crime facilitators, whether those be professional persons or those who offer assistance with things like accommodation and transport.

It is still uncertain in New Zealand whether the prosecution has to prove that a person intended the crime or merely knew material facts or did not care about the possible outcome and, again, I hark back to our discussion yesterday on rape and serious sexual offences with reckless indifference. Again, I suggest that in due course we need to look at some of the elements from that legislation in terms of being broad enough to capture anything that promotes or furthers organisational criminal activity and, therefore, having a lower standard of proof.

The Italians, of course, had a different set of problems to deal with. The Mafia was the problem there. In about 1982 they adapted legislation which was essentially equivalent to the United Kingdom's conspiracy legislation. So, they prohibited association between so-called delinquents for criminal purposes and that was directed at the Mafia. In particular, the Italian criminal code stated:

1. Whoever is part of a Mafia-type conspiracy consisting of three or more people is punishable with three to six years' imprisonment. Punishment may be increased by up to one-third if the defendant has previously been subjected to Mafia preventative measures.

2. Whoever promotes or manages or directs such an association is punishable with four to nine years' imprisonment.

3. Conspiracy is of a Mafia type when whoever belongs to it uses the power of intimidation which arises from association membership and uses the system of subordination and the omerta (the code of silence) that arises from this in order to commit crimes or to obtain directly or indirectly control over economic activities, over activities contracted out to the private sector by the state or to obtain unfair profit for himself or for other people.

Furthermore, if the association uses weapons, or threatens to use them, the punishment is also increased—something akin to the aggravated offences legislation that we have here. That was what they introduced in 1982 and then, in 1992—and I can remember it; it was about 15 years ago—two judges were murdered. It was fairly stunning stuff. The murder of those two judges led to some further changes in the law about the admissibility of evidence, rights about cross-examination and identification of sources of evidence; so, it enabled the prosecutors, for instance, to introduce evidence that might not otherwise be admissible in a normal criminal prosecution and also to consider, again, crimes committed elsewhere.

They also sought to put controls in place to prevent people who were known as the powerful, political and economic elites from interfering. So, they tried to distance their investigation and prosecution from not only parliamentary control but from the control of people who were very well-placed in their society. So, they could overcome the problem of interference and obstruction of investigators with that.

Interestingly—and I think this is another interesting thing that we might want to consider somewhere down the track—they specifically gave a new evidential value to statements made prior to a court hearing because of the problem of people disappearing, whether out of their own fear or, as they say, 'being disappeared', being targeted. So, what they did to partly address that was to say, 'We've got the statement now; that's going to be admissible in evidence.' I think there is some merit in perhaps looking at what they did there.

Under the Italian system, the targets must be informed that they are under investigation. They are allowed to have electronic eavesdropping and phone-tapping, and that can be carried out even if there is no reason to suppose that criminal activities are being pursued at the place that is being tapped or bugged. Again, as in an earlier discussion of other jurisdictions, they have a system known as 'pentiti' or the supergrass system. That offers favourable prison conditions to those who cooperate with the authorities. One of the other things they did in terms of evidence was to say that corroboration could simply be by two pentiti. So, they could actually prosecute on the basis of the evidence of two people coming forward who corroborated each other's evidence.

In all of these various jurisdictions—and I will come to another one in a minute—it is clear that we will never know how successful the operations are and how successful the changes are, simply because we do not know what the crime level would have been had these measures not been in place. So, it is almost impossible to measure what the outcome of any of this legislation will be. I will read again from this report. In terms of corroboration, they say:

> Corroboration rules have gradually relaxed, enabling two pentiti to corroborate each other provided there is sufficient specificity in allegations, even if there is no other substantial evidence. This could be viewed as a shift from pure due process to a crime control model to cope with what is agreed to be a serious social problem: the political, social and economic power of Italian organised crime.

So, it is certainly far reaching to introduce that sort of level of evidence admissibility. No doubt, criminal lawyers would be aghast at the idea that we might introduce that. Almost certainly, in our culture we do not have the same level of infiltration of organised crime lords into the upper echelons of our public service organisations and our society generally.

In the Netherlands, a commission of inquiry was introduced in 1995-96, and eventually some new legislation was introduced in the year 2000. The new Dutch penal code (since 2000) states:

> 1. Participation in an organisation whose object is the commission of crimes shall be punished by a term of imprisonment not exceeding six years or a fine category of 100,000 guilders.
>
> 2. Participation in the continuation of the activity of a legal entity that has been declared illegal by a final and conclusive decision of the courts, and thus dissolved, shall be punished by a term of imprisonment not exceeding one year or a third category fine of 5,000 guilders.
>
> 3. In respect of founders or managers, the terms of imprisonment may be increased by a third.

Although it no longer adds to the maximum as it did under the previous one. So, that increased the maximum sentences. Special investigative powers were given, such as phone-tapping, and so on, but it is necessary only to prove that an organisation has a purpose of crime commission. That means that an offence can occur merely in the preparatory acts. You do not actually have to prove that the crime has been committed. They are targeting just the preparatory acts, and participation in the organisation itself is punishable.

The difficulty with the legislation, of course, is that what they have to prove is a lasting and structured form of association which acts as a unit and whose immediate purpose is to commit crimes. They also introduced an interesting concept called 'constructive participation', which has been criminalised. I am used to the term 'constructive dismissal', for instance, where in reality there has been a dismissal although there might not be an actual act of dismissal in employment law. So, if, for instance, you are engaged as a casual and your employer chooses to no longer engage your services at all, that is a constructive dismissal. If you are engaged as the managing director of a company and they call you in and tell you, 'We'll still call you the managing director but from now on you're going to clean the toilets, we'll still pay you the same money but your duties will now be to clean the toilets,' that is a constructive dismissal.

Similarly, this legislation creates this concept of constructive participation. That targets the person in charge. So, if a person who is in charge and has authority fails to take measures to stop others from committing a crime, that is of itself a criminal act. These things are worth looking at—and I am sorry if I am boring everyone in the house—

An honourable member interjecting:

Mrs REDMOND: Just because they have gone to sleep. I think it is important to look at what other jurisdictions do. The judges in the Netherlands also take into account all previous convictions, although they do not necessarily take into account previous charges. No doubt, all the criminal lawyers would say, 'Well, that's a good thing,' but their view of it is that such measures clearly extend the criminal law and generate the possibility of abuse. Again, that is true: there is within any of these systems the possibility of abuse.

I will not go into the detail of the case studies cited in the remainder of this report; suffice to say that they are based on real situations, and they give a good overview of just how complex these types of organisations are in terms of tracking what is going on, proving that criminal activity is occurring, and actually managing to prosecute. I will quickly talk about the facts in the second case to which they refer, bearing in mind that the names have changed and they are written from a UK document. They note the following particular case:

> Glyn has a small business which probably fronts his criminal activity. In the past two years, he moved out of rented council accommodation into an £85,000 house he purchased for himself, and bought a £30,000 Range

Rover. Intelligence reports paint a picture of violence, intimidation and blackmail, along with drug connections through local pubs and clubs.

In this case, it might be possible to demonstrate that there was a Rico conspiracy among the lower level offenders for the offences themselves were committed as part of a pattern of racketeering. However, there would need to be some linkage between the individual and the members of the criminal enterprises either through informant or electronic testimony in order to make the case.

Otherwise, one would be left with possibly a tax case, as we ended up with Eliot Ness—the real Eliot Ness.

The Hon. M.J. Atkinson: That's Al Capone.

Mrs REDMOND: Yes; Al Capone the criminal and Eliot Ness the good guy. Another criminal investigation referred to is as follows:

Wayne is unemployed and lives in a modest house in Midtown. He drives a new Range Rover, wears a £65,000 Rolex watch, regularly holidays abroad in winter and flies friends out to join him. He has previous convictions for drug dealing but has not been arrested for some years. He exercises regularly and though he seldom drinks, he appears well acquainted with door staff, a common source of drugs, profits and extortion (though friendship with door staff is not evidence of criminality of any parties). Investigations have failed to link Wayne to any forms of criminal conduct, let alone any concrete criminal event, though observations exist showing that he received a bag full of cash from someone and immediately made a call on his mobile phone, but what was said and for what reason is not known.

These are the sorts of cases we will to try to target with this legislation. Lastly, I want to refer briefly to the Hong Kong experience. Hong Kong, of course, has a very large ICAC. They introduced their ICAC because of massive problems with their Triads. I take this following information from a chap by the name of Timothy Tong Hin-Ming, who spoke at the ICAC conference, which I attended in the latter part of last year. He informed the conference that Triad members in the 1970s were 5 per cent of the population and outnumbered the police 5:1.

Corruption throughout the public organisations was rife; for example, firemen wanted water money before they turned on the water to fight a fire. This led to public protests, and that is what led to the establishment of the ICAC in 1974. Indeed, one of its first acts was to extradite the chief inspector of police. Timothy Tong Hin-Ming said that for 13 years Hong Kong has been the world's freest economy in terms of corruption and, indeed, 96.4 per cent of respondents in a recent survey had not come across a single incidence of corruption in the past 12 months. So, their tactics in Hong Kong have obviously had a vast impact. Again, we can never know what the ultimate impact is or would have been if it had been approached differently, because we simply have no constant against which to measure these things.

In each of the areas that I have talked about it is clear that everyone has recognised the need to address the issue of people acting for a common purpose, and the need to address the problem before rather than after. I think that they are the two key elements of the way we need to approach this. For that reason, I think we need to move away from the legislative model and the criminal law model that we have used until now.

That said, however, I still have some concerns about this legislation in terms of whether it is targeted as neatly as it should be to ensure the protection of innocent people. The balance to be achieved will need to be tested. I know that the member for Mitchell, like myself, has some concerns about the sunset clause which appears in this legislation and which, of course, brings the legislation to an end 10 years after its commencement. I think that his amendment reduces that to two years. Our party room has not yet considered that particular amendment but, certainly, we would be minded to reduce it from the 10 years, which is currently the sunset clause provision.

The two elements that I think we need to concentrate on are this collective activity and trying to prevent problems before they arise. I note that in the other bill, particularly the riot and affray bill, which is not before the house this week, certainly there are provisions in that legislation, and some provisions in the serious and organised crime control legislation, which will allow the police sufficient flexibility to try to prevent problems before they actually occur. We do need to bear in mind that need to take a different approach.

One of the other things that the biker gentleman who I spoke to indicated was that, if they wanted to get rid of someone in our society, they would simply get in a hit man from overseas who would come in without a weapon, would be supplied with a weapon, would undertake the task and then go home after his two-week holiday in Australia, and that would be a very well-organised and quite straightforward process for them to achieve. That is very worrying.

Moving away from the protections that are afforded in our current legal system is something that I would always do with great hesitation. I was not a criminal practitioner in my days in practice. I did a very limited amount of criminal work, but I talked to enough criminal practitioners, and I dealt with enough criminals, to know that there is a great value in the protection that our system offers: that we have to prove someone guilty rather than their having to prove their innocence; that we have to do so beyond reasonable doubt; that the judge has to be impartial; that, if a jury is empanelled, that it be a reasonable representation of our community at large and so on; and that everything has to be based on evidence and not on hearsay.

A large number of protections built into the system have served us well for hundreds of years. So, to suggest that it is appropriate simply to throw those out, I think, would be a dangerous way to go. As with the bill introduced by the Attorney just before we resumed our debate on this bill (the bill dealing with double jeopardy), it is my view that we do need to recognise that times have changed and that maybe the answers that we had for problems of old are no longer the right answers because we no longer have the same problems.

In his brief second reading explanation of the double jeopardy legislation, the Attorney indicated that basically what he has taken on is the policy that the Liberals put out some 12 or 18 months ago. That legislation recognises that what the community seeks is a just outcome and that we do not want to allow someone who is clearly guilty of murder to get away with it because of what the community would perceive as a technicality. Similarly, my view is that the community would look at this legislation in the same way and say, 'Well, we don't want crime gangs, outlaw motorcycle gangs or any other gangs, to be controlling our communities.'

In our briefing last Wednesday, it was pointed out that one of the issues that we are trying to address in this legislation is the increasing involvement of young street gangs in criminal activity, almost as apprentices to members of outlaw motorcycle gangs. Clearly, we need to think about how we are going to address the issue of these young people and their behaviour. Some of the legislation will have the effect of addressing some of that, in my view.

I will move onto the actual details of the legislation itself. What the legislation aims to do is to disrupt the activities of outlaw motorcycle gangs and other criminal associations by authorising the Attorney-General to issue a declaration about an organisation where he is satisfied that the members of the organisation associate for the purpose of organising, planning, supporting, facilitating or engaging in serious criminal activity, and the organisation represents a risk to public safety and order. That is as I read it. I wonder why there is an 'and' there because it seems to me that either of those things, if you are going to go down this path, would be a sufficient basis for declaring an organisation.

It authorises the Magistrates Court to make orders against members of a declared organisation and others who engage in serious criminal activity. They can be prohibited from associating with other members of declared organisations or other people suspected of being engaged in serious criminal activity, and can be prevented from attending at specified premises, possessing dangerous articles or prohibited weapons.

The bill also authorises senior police officers—and that is defined as anyone of or above the rank of inspector—to issue time-limited orders against individuals or members of a group prohibiting attendance at a public event or place or being within a specified area on public safety grounds. At the briefing we had a fair bit of discussion about this provision, and particularly about the possibility, for instance, of a Cronulla riots situation or, indeed, with the Clipsal coming up, the possibility of something similar to the Cronulla riots happening at an outdoor public event like the Clipsal.

It is probably, I would expect, the view of the community at large that it is appropriate for the police—if they know about such an event—to be able to prohibit the participants in a riot from attending, rather than having to wait until something happens at the event and then trying to actually prevent it from happening.

I am reminded that some years ago the daughter of one of my friends in my Rotary club had a party at his house. It was a well-organised party in a private home. The home has a large fence around it. He was a chap of more than six feet in stature. There were invitations issued to the party. The father and a couple of other very tall Rotarians were on the gate. Notwithstanding all that, the party was gatecrashed by a gang of youths who proceeded to behave in an unbelievably bad way and even bashed his wife and threw furniture into the swimming pool and went around the district doing some further terrible things that night.

I remember being very annoyed at the time because they called the police as soon as they saw that there was going to be any strife to try to turn away these uninvited gatecrashers, and the police basically did nothing. My view was that the police should have come along and at least arrested one or two and taken them back to the Stirling police station and then come back for the next one or two and taken them back but, instead, because it was a large gang, they did nothing.

In many ways I welcome the idea that it might be possible if you know about something—in the way that people found out beforehand about the text messaging about the Cronulla riots—to avoid some of the awful things that might happen. They are time-limited orders and my recollection is that they are limited to a maximum of 72 hours in duration, although they can be extended on application, and I believe that they are probably going to be worthwhile.

The bill also reintroduces, in a modernised form, the old offence of consorting and amends the existing offences of 'threatening a public officer' and 'threatening a participant in the justice system'. That, of course, is the area I was talking about earlier where in Italy two judges were simply shot. I think they were in the street, leaving their homes, but even threatening someone who is in the justice system, I believe, does need to be a very serious offence, and I am very pleased to see that in the legislation.

The bill also amends the anti-fortification provisions of the Summary Offences Act to make it easier to obtain an order against premises used by a declared organisation. I had to laugh a little when I saw that that was in here. I remember the government bleating about how they were going to tear down the bikie fortresses, but of course there is not one fewer bikie fortress. Indeed, as I pointed out at the beginning of my comments this afternoon, there are more chapters of more outlaw motorcycle gangs now than there were when this government came into office. The Bail Act is further amended so that there is a presumption against bail being granted if a person is charged with a breach of any of those things that I have already mentioned.

The Attorney's second reading explanation stated that the legislation grants unprecedented powers to the police and the Attorney-General. He went on to attempt to offer reassurances that the legislation will not be used to 'diminish the freedom of people in the state to participate in advocacy, protest, dissent or industrial action'.

There are some protections built into this legislation. One of the questions before us, however, will be whether those protections are sufficient if we are going to go down this path, which is fraught with the risk of over-zealous or improper or abusive use of the powers which are granted.

One of the protections built into the legislation is that the Attorney-General must appoint a retired judicial officer, who might be from here, from our District or Supreme Court, or elsewhere. That retired judicial officer must conduct an annual review—which must be tabled in both houses of this parliament—into whether the powers have been used appropriately having regard to the objects of the act.

I will refer quickly to the objects of the act because they are crucial in determining the interpretation of a range of sections of this act. The bill provides:

(1) The objects of this act are:

(a) to disrupt and restrict the activities of—

(i) organisations involved in serious crime; and

(ii) the members and associates of such organisations; and

(b) to protect members of the public from violence associated with such criminal organisations.

(2) Without derogating from subsection (1), it is not the intention of the Parliament that the powers in this Act be used in a manner that would diminish the freedom of persons in this State to participate in advocacy, protest, dissent or industrial action.

That all sounds very well and perhaps goes some way to answering the objections voiced by Craig Caldicott and no doubt other criminal barristers who assert that any meeting of the BLF, sporting associations and so on might be classified as an organisation within the operation of this act and might thereby become subject to all sorts of forfeiture and control provisions which are then set out in the act. One would hope that any commonsense view would indicate that we are going to be targeting organised crime. However, I refer again to the situation of poor old Dr Haneef in Queensland—a perfectly innocent man who had an innocent phone conversation with a cousin from the UK and suddenly found his life turned upside down, inside out and his reason for being even questioned in a most inappropriate way.

There can be no guarantees with this legislation any more than there could be with the terrorism legislation that in due course it will not be subject to abuse. In saying that I do not suggest that anyone in our police force, in our prosecution, our courts or, indeed, our parliament has anything other than the best of intentions in trying to deal with this issue. However, the reality is that when you decide to pass legislation which gives such unfettered powers to certain individuals there will always be the risk of abuse. For that reason I am inclined to think that the suggestion by the member for Mitchell (which he will put in due course in committee) that we reduce the period in which this legislation operates from the 10 years sunset clause which currently appears would be a good idea.

I want to go into some detail about what this legislation then seeks to do. First, it allows for organisations to be declared. There must be a request from the Commissioner of Police. That request goes to the Attorney-General, and the Attorney-General publishes a notice in the *Government Gazette* inviting submissions, which all seems a little nice when we are dealing with outlaw motorcycle gangs. Nevertheless, the Attorney publishes a notice in both the *Government Gazette* and a generally circulating newspaper inviting submissions. The Attorney-General may have regard to (although I notice that it is a 'may') a series of things. First, he may have regard to evidence suggesting that a link exists between the organisation and serious criminal activity.

He can have regard to the criminal records of members—and this is where it gets very broad. He can have regard to evidence that members or past members have been involved directly or indirectly in serious criminal activity. I will come back to that, but I will just get through these things he can consider first. He can have regard to evidence about offending by members of overseas chapters or branches of the organisation and also submissions and other matters that the Attorney-General considers relevant. They are the things that are stated in the bill as being those matters to which the Attorney-General can have regard.

Clearly, they are extremely broad, especially when one reads then the definition of 'evidence', which can include information certified as criminal intelligence by the Commissioner of Police. There could be a situation where the Commissioner of Police has information gained via telephone and wire taps and surveillance, and there could simply be patterns of behaviour, known associations and all sorts of things which comprise actual or suspected criminal activity in this state or elsewhere, the disclosure of which could be prejudicial to criminal investigations or could be prejudicial to someone's life or safety or to keeping someone's identity confidential.

In other words, if you did happen to have someone within a criminal organisation such as an outlaw motorcycle gang, understandably it might be necessary to keep certain information from disclosure simply because the disclosure of the information would of itself tend to identify that person and place them at considerable risk. The Commissioner can therefore give the Attorney-General information (known as criminal intelligence) which the Attorney can receive but which he is under no obligation to disclose and, indeed, for obvious reasons would not be wanting to disclose. The Attorney has regard to that but that means that we are very much moving away from the idea of any sort of due process in terms of our legal system.

Going back to one of these dot points: 'evidence that members are involved directly in serious criminal activity'. I have no problem with that, but what if we are going to evidence of a past member—and it could be a past member from 30 years ago—involved indirectly in serious criminal activity? Now, presumably if it is indirect involvement—30 years ago—the person does not have a conviction for it so it is all based on the sorts of criminal intelligence about which I have just been talking. So, at its narrowest, it is no problem: evidence that members of this organisation are involved in serious criminal activity—not a problem.

However, evidence that a past member—30 years ago-—might have indirectly been involved in serious criminal activity is the other end of the same spectrum, and it does raise concerns. Also, we have evidence about offending by members of overseas chapters or branches of the organisation. So, even if it were true that the Hell's Angels here are merely a group of gentlemen who like to ride motorcycles and do the toy run and that was their only activity, theoretically they could become a declared organisation simply because members of overseas chapters of the Hell's Angels have offended in some way.

There is a real risk of abuse in the way this is all worded, particularly given that, at the end of the bill, a privative clause will try to protect the Attorney-General's decision from what is described as 'the full rigor of judicial review'. Indeed, I note that the member for Mitchell has also filed an amendment by which he seeks to ensure that there is the possibility of judicial review in each of the cases. Indeed, in his second reading contribution the Attorney-General said:

I do not hold out much hope of this preventing all judges substituting their own decisions on declared organisations for those of the elected government.

The Attorney is looking at me as though he does not remember having said that, but that was what was in his second reading.

We have this system where the Police Commissioner makes an application to the Attorney. The Attorney considers all these things, which may be extremely broad, which will not be disclosed and which will not be subject to any review by judicial process and, on the basis of that, the Attorney can make a declaration about an organisation. 'Organisation' has been defined extremely broadly. It is defined to include 'any incorporated or unincorporated group however structured'.

My recollection is that, at the briefing the other day, we asked about whether, for instance, the so-called Gang of 49 could be targeted by this legislation, but the feeling was that it was not sufficiently structured to attract this particular provision simply because the gang (so-called) is really a very fluid group. They do not have any organisational structure of people who conspire and act in concert much of the time. However, that said, the definition of organisation is broadly defined and it captures virtually any organisation that we want it to capture and try it on. The effect of an organisation being declared by the Attorney-General under this legislation is minimal, but it opens the doors for a series of other orders that can be made against members of declared organisations. The heaviest of those is control orders.

What happens is that the Police Commissioner, if satisfied that a person is a member of a declared organisation, has to seek an order by application to the Magistrates Court and the application has to be supported on the Commissioner's affidavit as to why he is satisfied that the defendant is a member of the declared organisation. That control order made by the magistrate can be issued without notice, but it has to be served on the person. It must set out the terms of the constraint—and presumably it can be as broad or as narrow as the magistrate might want. At that point we need to remind ourselves of the protections that, hopefully, will be built in for magistrates or other judicial officers dealing with this legislation.

The control order may prohibit the defendant from associating with specified persons, or with a specified class of persons; it may prohibit the defendant from possessing specified articles or a specified class of articles; and it may prohibit the defendant from entering specified premises, or a specified class of premises. It may do all those things. What it must do is prohibit the defendant from associating with persons who are members of declared organisations, and it must prohibit the defendant from possessing dangerous articles or weapons, as defined in the Summary Offences Act.

Again, it was discussed during the briefing the other day that this may push things underground, but it may also fracture these organisations in their hierarchical structure sufficiently to make them a series of smaller organisations rather than these massive, tightly controlled organisations where the person at the very top issues the directions, but does not necessarily do any of the illegal activities. Once that control order is issued there is a right of objection, which is also heard in the Magistrates Court and, in some circumstances, there can be an appeal to the Supreme Court. An appeal like that will occur as of right on a question of law, but only with the court's permission on a question of fact; and when the court hears it, the court may vary or revoke a control order.

As I said, the declaration of an organisation of itself does not have an effect, but failure to comply with a control order is an offence with a maximum penalty of five years' imprisonment. A control order could be as simple as prohibiting the defendant from associating with persons who are members of the particular organisation that has been declared. As soon as you can show that there has been a breach of that control order, then there is the offence and the maximum penalty of five years' imprisonment. It is interesting to me that all the penalties set out in this legislation refer to terms of imprisonment and not to any financial aspect of penalty.

As I understand what we were told the other day, that does not mean that a financial penalty would not be imposed, but certainly the way I read it and the way at least one criminal barrister I spoke to read it, it indicated that fines were not going to be an alternative available to any person hearing the trial of an offence against this legislation; that is, the penalty would be restricted to that of an imprisonment sentence.

The next orders that are enabled are public safety orders, and these can be made by a senior police officer who, as I said earlier, is defined as someone of or above the rank of inspector. That person must be satisfied that the presence of the person or persons at any premises, event or

area poses a serious risk to public safety and that the making of the order is appropriate in the circumstances. This is where we get into this area for consideration: what if there is going to be a 'rumble' at the Clipsal 500? This is the section that would enable someone of or above the rank of inspector to issue an order saying, 'No, you cannot come within these boundaries' and, hopefully, in order to prevent that sort of mischief from occurring. The person making the order has to have regard to the following five considerations:

(a) whether the person or members of the class of persons have previously behaved in a way that posed a serious risk to public safety or security or has (or has had) a history of engaging in serious criminal activity;

(b) whether the persons are (or have been) members of declared organisations or have been subject to control orders or have associated with such organisations or with people who have been subject to control orders;

(c) the public interest in maintaining freedom to participate in protests;

(d) whether the degree of risk involved justifies the making of the order; and

(e) the extent to which an order will mitigate risk to the public safety.

I do not have much difficulty with (a) and (b) but I think the interpretation of (c) perhaps needs further examination, as do (d) and (e).

Referring specifically to the public interest in maintaining freedom to participate in protests, I am of the Vietnam moratorium generation and I seem to remember the police becoming fairly rigorous in their attempts to disrupt what we would see currently as reasonable public protest. Indeed, since being in this place, I have seen and participated in a number of public protests. I think this is one of the clauses that Craig Caldicott was concerned about when he spoke about the nature of this legislation because this police officer (this officer above the rank of inspector) has the ability to say, 'No, in our view, there is a risk to public safety' and, presumably, public safety could mean a risk to any individual member of the public, even a member of the group participating in the protest. So, I have a real hesitation about that assessment of the public interest in maintaining freedom to participate in protests.

Referring to (d) which states 'whether the degree of risk involved justifies the making of the order', at its easiest, the degree of risk involved in a whole lot of young people going to Cronulla Beach with batons and baseball bats to confront another group of young people at that beach, clearly involves a degree of risk and that there is a genuine risk of harm. But at what point do you intervene and at what point do you say that it is only two people, for example? Perhaps one person is going to confront another person. In my view, they are very difficult assessments to make and I am sure they will be contested in due course.

These public safety orders that can be made by anyone of or above the rank of inspector may be varied or revoked by the court, and the legislation has some provisions for objection to the making of the order and appeal to the Supreme Court and, of course, failure to comply is an offence in itself and subject to a maximum penalty of five years.

The orders themselves are able to be made for up to 72 hours, and I wonder whether that is the appropriate amount of time—that is three days. I think, on balance, it is probably not a bad amount of time. My concern was whether it gives sufficient lead time to issue and serve an order, although I would assume that what could happen is that an inspector (or an officer above that rank) could make the order and, whether or not it was served on the person, could notify the police officers who are doing security patrol at a particular event of the identity of the person or persons against whom an order has been made and deal with it that way.

The next offence has been of considerable concern to a number of people. It is that of criminal association. In essence, this provides that a person commits an offence when they knowingly associate on at least six occasions in 12 months with a member of a declared organisation or a person subject to a control order. Obviously, if I live next door to a member of an outlaw motorcycle gang, it is probably in my best interests to be personable and neighbourly towards that person, as I always am to all of my neighbours in any event. But we have reassurances from the police, and I think from the Attorney during his second reading speech, that this will be properly used. But the reality is that, if a police officer was minded to get at someone, it would not be difficult to imagine circumstances in which someone could be targeted for a breach of this criminal association provision, and subject to having to at least put themselves to court to defend themselves, simply because on at least six occasions in 12 months they happen to speak to

someone who is a member of a declared organisation. It could be speaking in person, on the phone, by text message or fax or email. It does not take long if you are in any sort of communication with another person to build up a profile of contact.

[Sitting suspended from 18:00 to 19:30]

Mrs REDMOND: When we broke for dinner, I had just about got to the end of the discussion about the provisions of the bill itself and, in particular, the provisions concerned with criminal association. Just by way of a reminder, the criminal association provisions allow for an offence by a person who knowingly associates on at least six occasions in 12 months with a member of a declared organisation or a person subject to a control order. That is an offence subject to a penalty of up to five years.

The second part of the criminal association provisions creates an offence if a person who has a criminal conviction of a prescribed kind knowingly associates with another person who also has a criminal conviction of a prescribed kind on at least six occasions in 12 months. Again, it is subject to a maximum five-year penalty. In either case, the police do not need to prove that the association between those people occurred for any particular purpose or that the association would have led to the commission of an offence. As I pointed out previously, association can occur either in person, by letter, telephone, fax, email or other electronic means. So, that is quite broad when one applies those definitions to the interpretation of the provision that allows a person who has a criminal conviction of a prescribed kind knowingly associating or having six contacts of any kind over 12 months, and it does not need to be in relation to the commission of an offence and it does not even need to be for any particular purpose.

To take the example where someone spoke to me about a member of the Hell's Angels, who happens to be a member of a horse riding—

Mr Pederick: A pony club—his daughter.

Mrs REDMOND: A pony club. So, there is a risk that someone could be in association for a particular purpose well away from the idea of committing a criminal offence but could nevertheless come within this legislation.

Under this provision, a police officer can also require a person to give personal details in certain circumstances. If he suspects he has been given false information, he can require evidence to be produced. A failure to comply with that provision is also an offence, subject to a maximum penalty of five years.

A criminal barrister to whom I spoke suggested that the legislation was a sledgehammer to crack a walnut and suggested that a better approach might be to beef up the intelligence-gathering powers of the police and to target the manufacturers of drugs. The view of that particular barrister was, of course, that we should not be pursuing anyone if they have not committed a criminal offence. But from my reading in this area and in examining the sorts of things which, in my very brief overview, I can see occur in other jurisdictions, I do not think it is sufficient simply to await the commission of a criminal offence.

I want to go back for a moment to some more of the information that was provided to us during the briefing, in particular this fairly rapid and dramatic escalation in the size and number of chapters of outlaw motorcycle gangs in this state, and, of course, outlaw motorcycle gangs are the main target of the legislation, although the wording does not ever actually identify that that is who we are after.

We were told that the Finks, for instance, have expanded rapidly over the last five years. Whereas it used to take two or three years to become a prospective member, it now only takes a matter of months. The Hell's Angels are also expanding. Some, like the Rebels, are tightly controlled, but others, like the Finks, do not have such a strict structure, although they might still have a nominated spokesperson when they are making public statements, and so on.

The nature of the criminal activity in which motorcycle gangs are becoming involved is also becoming more sophisticated as time goes by. They are increasingly not just penetrating but actually taking over as owners of legitimate businesses primarily to launder money which may have been obtained illegitimately.

As was indicated in my secret squirrel discussions with the biker, there are still strong links to ethnicity. There are increasing links to the young in our street gangs, and they are increasingly recruiting from the ranks of the street gangs. Up until now they have been difficult to prosecute and,

in fact, we were told about various features that protect and insulate these gangs: the code of silence; their use of intimidation and violence; the way in which they insulate the principals; the way they infiltrate government agencies, which, of course, could include the police; but also just their reputation tends to facilitate some of their behaviour.

I mentioned at the briefing my constant annoyance, even before I became a member of this place, when, every year, there would be a motorcycle run up through a particular area of the Riverland, and every year the bikers would camp on an open ground opposite the main street leading down to the river. And, every year, the police would not take action and, every year, my instinct, being the contrary thing that I am, was to go up there and camp by the river myself the next day to see if I would be arrested. It seemed to me that, as a law-abiding citizen, I should have at least the rights of every other person in the state, including those who quite obviously and blatantly flout the law.

Up until now, of course, our police have been doing the very best that they can to address the issue of our outlaw motorcycle gangs and, indeed, set up Avatar in 2001, and that continued until last year. That targeted serious crime, violence and antisocial behaviour. Then, in October 2007, the Crime Gangs Task Force was put in place, and that has 23 members and has been reasonably successful in removing firearms, some 400 of which have been taken, as well as fairly high loads of cannabis, ecstasy, and so on—about $3 million worth.

My view is that the police in this state are genuine in their attempts to address the increasing problems of outlaw motorcycle gangs and other illegal activity-based organisations. We were advised that they had conducted international research in trying to develop this bill. They were also seeking some New Zealand coordination, and, indeed, the whole issue had been put on the COAG agenda so that they could get some national and New Zealand coordination. It is clear from what I said earlier about some of the other jurisdictions that coordination will become increasingly necessary because, clearly, the activities of these gangs do not restrict themselves to the state in which we are legislating.

The view of SAPOL is that outlawing motorcycle gangs will not achieve the desired results, and that we are best served by focusing on the association's activities as the best means of disrupting their activities. The new bill seeks to address the senior associations and the inner sanctums, and it has not been modelled, as I understand it, on any of the other jurisdictions that I have talked about or, indeed, anything else internationally. They have tried to look at what escape clause is currently used and to adapt and block them in anticipation. But, as I previously mentioned, up until now, legislation generally has been reactive in that it tries to address the problem after a crime has been committed rather than trying to deal with it in anticipation.

I will not go through the various bits of the models any more, but there are just a couple of things I want to talk about at some length. A letter arrived at my desk addressed, amongst other people, to the Premier and to Michael Atkinson, as well as the Prime Minister. I got this only when I went back to my office at the dinner break. It states:

> Due to the chronic incompetence of the State Attorney-General, the Mayor of the Charles Sturt Council and the State Premier, the lives of the children at our Islamic school are being put in severe danger every day. The Finks bikie gang and their associates and motorcycle drug runners are terrorising us by their drug dealing activities and their hoon driving opposite the park where our children play.

Interestingly, I have also heard another comment to the effect that, in some ways, people are sometimes better off with a motorcycle gang headquarters in their area because no-one dares to go there as a hoon driver; they are not going to go there and upset the motorcycle people. The letter continues:

> They hang around opposite our school dealing drugs, sending their motorbike drug couriers all over Adelaide and planning their activities, then racing up the street at top speed. Some day soon a child will be killed and all those who have done nothing will have blood on their hands.

The Hon. M.J. Atkinson: What a disgrace, reading a racist, anonymous letter into the record of *Hansard*!

Mrs REDMOND: The Attorney says that it is a racist, anonymous letter. I certainly will agree with him that it is anonymous, but I do not know where he gets the idea that it is racist. It seems to be—

Members interjecting:

The SPEAKER: Order!

Mrs Geraghty interjecting:

The SPEAKER: Order! The member for Torrens.

Mrs REDMOND: The letter goes on to state:

We have written repeatedly to the AG, Mayor and Premier telling them in the clearest terms of the dangers posed by the Finks bikie gang and their associates to the lives of our children.

It is certainly an anonymous letter.

The Hon. M.J. Atkinson: As are all the others, and Charles Sturt Council has no record of this request.

The SPEAKER: Order!

Mrs REDMOND: In the case of people who are in fear of reprisals from a bikie gang, I can well understand that someone might choose to raise the issues with authorities anonymously.

The Hon. M.J. Atkinson: Anonymously.

The SPEAKER: Order!

Mrs REDMOND: Whilst as a general rule, like other members, I am very reluctant to rely on anonymous information, it is nevertheless appropriate to raise in this chamber the sort of information that is being put to us as a concern in our community.

The Hon. M.J. Atkinson: You just wanted to read it because of the first line.

Mrs REDMOND: Absolutely. They go on later in the letter to say:

We cannot risk coming forward, but the police simply use this as an excuse to do nothing saying they can't do anything unless the community comes forward and gives evidence.

Therein is the crux of the issue that I have been trying to talk about, that there is this difficulty with the code of silence, with the nature of bikie gangs and intimidation. Whether this particular—

Mrs Geraghty interjecting:

The SPEAKER: Order!

Mrs REDMOND: —circumstance is true or whether this is simply illustrative of—

Mrs Geraghty interjecting:

The SPEAKER: Member for Torrens!

Mrs REDMOND: —the nature of the intimidation that can occur, it is an important issue in our community to ensure that—

Mrs Geraghty interjecting:

The SPEAKER: I warn the member for Torrens.

Mrs REDMOND: —people who are feeling threatened have the ability to come forward, secure in the knowledge that they will be safe. The point of this legislation, surely, is to guarantee that people can come forward with a degree of confidence, knowing that they will not be threatened, intimidated or, indeed, attacked by anyone. Whether this particular incident is true or not is not relevant to the point that I am making about this letter. I am sure that there are lots of letters, particularly anonymous letters, that are not—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order!

Mr Pederick: Chuck him out.

The SPEAKER: I do not need the assistance of the member for Hammond, thank you.

Members interjecting:

The SPEAKER: Order! The Attorney-General will come to order. I do suggest though, that the member for Heysen return to the subject of the bill.

Mrs REDMOND: Thank you, Mr Speaker. I would put it to you, sir, that this is precisely on the subject of the bill, being concerned with the control of outlaw motorcycle gangs in this state.

Mrs GERAGHTY: I rise on a point of order. I would ask that you examine the opportunities for members to stand in this house and read anonymous letters that make certain allegations without any basis.

The SPEAKER: Order! The member for Torrens will take her seat. There is no point of order. If any member takes issue with something that has been said by the member for Heysen they can do it either in the course of their speech on the bill, or the Attorney in the course of his reply, or by way of personal explanation, but I do suggest to the member for Heysen that in order to assist me in the good conduct of the debate she moves on and gets back to the subject of the bill.

Mrs REDMOND: Sir, I say again that this letter is precisely on the subject of the bill. The whole thrust of this bill is directed to—

The Hon. M.J. ATKINSON: I rise on a point of order.

The SPEAKER: Order! The Attorney can take his seat. I am not going to engage in a debate. The standing orders do provide for the chair to sit down a member if the chair is of the belief that the member speaking is engaging in tedious repetition or is not speaking to the subject of the bill. I have asked the member for Heysen to move on; she has made her point about this letter. I do not want to be overly restrictive on what the member for Heysen can say in the course of her debate, but she has made her point and I suggest very strongly that she moves on and does not engage in debate with the chair.

Mrs REDMOND: Thank you, sir. I will not engage in debate with the chair. I will simply say that 'methinks he doth protest too much' applies to the Attorney-General and the member for Torrens in their response to this information. I agree, it is an anonymous letter. I have no evidence whatsoever as to the truth of this.

Mrs GERAGHTY: I rise on a point of order, based on what the member opposite has said. It would be possible for a member to write an anonymous letter to themselves. I am certainly not suggesting the member did that.

The SPEAKER: Order! The member for Torrens will take her seat. There is no point of order. Let us just move on, please.

Mrs REDMOND: I indicate that I do not agree that it is inappropriate for me to canvass the contents of this letter as part of the debate. It is neither being repetitious nor is it away from the subject matter of this bill.

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order!

Mrs REDMOND: However, that said, in deference to yourself, sir, I will move on to another part of the debate. In addition, over the dinner break, as it happens, I had a phone call from a criminal barrister and also a message from a criminal barrister saying, 'What have they got to be afraid of with judicial review?' Of course, that is one of the areas that I feel some concern about. The Attorney-General keeps trying to beat up some sort of difference and he appears to have succeeded in terms of the news—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order!

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

A quorum having been formed:

Mrs REDMOND: I was just about to say that the Attorney-General seems to be intent on trying to create an appearance of division within the Liberal Party when there is no such division at all. Indeed, I discussed his speech with the leader before he made it this afternoon, and I was perfectly comfortable with what he had to say.

There is a difference between extending the powers so that they might be more effective in fighting the organised bikie gangs or other organised criminal associations, and narrowing the scope so that it cannot in fact capture and harm innocent people.

Prior to the terrorism legislation, I had considerable misgivings about what potentially could happen if that legislation were misused. As far as I know, our state terrorism legislation has not been misused. I have certainly not been aware of it. Clearly we have an instance of the commonwealth legislation being misused on at least one quite public occasion.

The Liberal Party position is this: we have no difficulty in supporting the thrust of this bill. We have no difficulty in even contemplating a number of possible extensions of the bill. I detailed some of those earlier when I went through the legislative approaches that have been taken under the RICO legislation in America; under the New York crime control legislation; and under the New Zealand legislation; the Canadian legislation; the Italian legislation and the Netherlands legislation.

In each of those, if members look at my comments, they will see that various aspects were worthy of consideration as to possible use in our context. Clearly many of them will not be immediately transferable into our situation, but there are things like plea bargaining as a very open option and indeed the supergrass provisions that exist under some legislation. Things such as the evidentiary provisions, particularly the evidentiary provisions which allow for the taking into evidence of statements made prior to someone's disappearance, could well be applicable in our jurisdiction in due course.

I am not suggesting that we are going to move amendments to do that at the moment, because I think we will want to await the application of this legislation and how it works in practice before we make any decisions about taking matters further. But there is absolutely no inconsistency between saying that we may need to go further in targeting our activities against outlaw motorcycle gangs or other criminal organisations and saying that, at the same time, we may need to narrow the scope of the legislation to ensure that it does not do collateral damage to the freedoms in our community that we generally enjoy in this state.

I have said previously in public statements that, in my view, it is much more likely that we will be affected in this state by the activities of criminal organisations than by terrorism. Adelaide seems to me to be a relatively quiet backwater in terms of the potential for a terrorist attack.

The Hon. P.F. Conlon: Careful with that word; not a backwater.

Mrs REDMOND: Only in terms of the potential for a terrorist attack, and I am sure that everyone in Adelaide would be happy to be a backwater in terms of a terrorist attack. In no other respect do I consider Adelaide or South Australia a backwater.

We are much more likely in this state to be affected by gang fights, bikie gangs, their illegal drug activities, their shootings—and we seem to have had under the watch of this government a dramatic increase in the number of shootings which occur in the streets, with little response from the government. I am pleased that at last it is making some response to it.

There is no inconsistency. There is no dispute between the leader and me. There is no difficulty. There is no division within our party. We merely say it may need to go further in its targeting of organised crime but it may need to be narrowed to ensure that the very people we are after are the only people we get and that we do not have the collateral damage of inadvertently damaging other people who do not deserve the force of this law.

That said, I expect that we may indeed move amendments ourselves in due course and that may be in another place. They were going to be in this house, except for the fact that this bill has been brought on so unexpectedly this week because of a government that wants to grab every media opportunity that it can.

We do recognise the need to address these issues; to address them in terms of group behaviour; to address them in terms of trying to flatten the hierarchical structure whereby people at the head of these organisations remain immune from capture and prosecution; and perhaps to change the expectations in terms of evidence and the way in which evidence is gathered and what evidence might be acceptable in a court.

In terms of addressing the issue, it will be important to learn the lessons from the other jurisdictions to which I have referred; and to recognise that we cannot apply traditional criminal law to successfully combat organisations which are well resourced, which have an enormous capacity to use the existing legal system to their benefit and which have no disincentives for engaging with these organisations.

I dispute the statements of the Attorney-General about this issue in his interviews on the television tonight. Again, the Attorney completely misinterpreted, as he often deliberately does, the nature of what was being said by this side of the house. The Attorney has a propensity in this chamber to put on the record his interpretation regardless of its—

The ACTING SPEAKER (Mr Koutsantonis): Order! There is a point of order.

The Hon. M.J. ATKINSON: I rise on a point of order, Mr Acting Speaker. The member for Heysen said that I have a propensity to misinterpret deliberately. That implies male fides, and it is against the standing orders. I ask her to withdraw.

Mrs REDMOND: Sir, you had better get a ruling on it.

The ACTING SPEAKER: I will.

Members interjecting:

The ACTING SPEAKER: Order!

Ms Chapman interjecting:

The ACTING SPEAKER: Order! The member for Bragg is warned for speaking out of her seat. If she interjects one more time I will name her and throw her out.

Members interjecting:

The ACTING SPEAKER: Order! The house will not descend into chaos. I do not uphold the point of order. I ask the member for Heysen to continue her remarks.

Mrs REDMOND: Thank you, Mr Acting Speaker; good decision.

Ms Chapman interjecting:

The ACTING SPEAKER: Order! I have warned the member for Bragg once already.

Mrs REDMOND: It is nevertheless, in spite of his interruption, the case that the Attorney-General often chooses to put on the record statements which he tries to attribute to me or members on this side of the house, and particularly put interpretations on statements which are simply not correct, and he does so as a regular occurrence in this house. I mention that and his propensity to interject constantly whenever I am on my feet in this chamber, in spite of the fact that all it does is make the speech go on for that much longer every time. They are the two hallmarks—no, actually there are three hallmarks: his pedantry and—

The Hon. M.J. ATKINSON: I rise on a point of order, Mr Acting Speaker. This ad hominem criticism is nothing to do with the bill, sir.

The ACTING SPEAKER: Order! I do uphold the point of order. The honourable member will return to her remarks regarding the bill.

Mrs REDMOND: Thank you, Mr Acting Speaker. I do accept your very wise ruling, and I agree that it was not on the bill. You will be pleased to know, Mr Speaker, that I am reaching the conclusion of my remarks, but I did want to cover this issue of what appeared on the news coverage tonight. I did not see them all but I did receive some phone calls and I did see some of them. It is clear that there is a misinterpretation of the statements by me and by the Leader of the Opposition. The Leader of the Opposition was merely saying, 'We need to consider the possibility of having to go further in the approach that we take against these outlaw motorcycle gangs.' I was saying that, given that I accept that that may well be the case, we may need to narrow the scope so that we ensure that we do not target people who do not deserve the full force of this law, because it is breaking new ground.

As I said on the news, it is draconian (even in the words of the Attorney-General's own chief of staff), and it is making vast changes to what we have accepted for hundreds of years as the basis upon which we will conduct our legal processes by giving everyone due process, the benefit of the presumption of innocence and the benefit of the criminal burden of proof so that the charges against them must be proved beyond reasonable doubt. When we start infringing upon those guaranteed rights which we have had and which have served us so well for so long, we do need to take time to consider carefully the implications.

Whilst any legislation such as this is aimed at correcting a wrong, it is nevertheless the case that we as legislators have an obligation to look not only at where the legislation is intended to address the problem but also at where might its unintended consequences find us and what harm could result from unintended consequences of well-intentioned legislation. At this stage, I will conclude my remarks and allow some other speakers to have a brief say. I am sure that other members do have some concerns about the level of control over certain issues that will be given to certain individuals within this state. I therefore conclude my remarks.

The ACTING SPEAKER: The father of the house will be heard in silence. The member for Stuart.

Mr Pederick: I doubt it!

The ACTING SPEAKER: Order! I said that he will be heard in silence; he has earned it.

The Hon. G.M. GUNN (Stuart) (20:05): Thank you, Mr Acting Speaker. It does take me some effort to get into a position to make a few comments in this house. This particular legislation has many features about it which need some explanations from the Attorney. Now, I have no difficulty in dealing with criminal elements, bikie gangs and their associates. I understand that their tentacles are spread fairly widely, and I am aware that they are engaged in some very nasty business and carrying out some horrendous crimes. My concern is that ordinary law-abiding citizens can get caught up and are subjected to some of these provisions. Well, nice person that she is, I am surprised that the member for Torrens would frown at me, because it is our role in this parliament to question the government. Once a measure leaves this parliament we lose all control over it, and we have no further involvement. Members of parliament want to—

Mrs Geraghty interjecting:

The Hon. G.M. GUNN: Well, I will give an example in a minute. Members of parliament want to be very careful, and we need to put on the record some undertakings, explanations and changes because when we pass it and the average citizen is confronted by the government, its agencies, inspectors or the police they do not have the same ability to defend themselves or stand up for their rights as we have. It is concerning to me that the average law-abiding citizen can be confronted by an officer.

I will give you an example of when I got quite a surprise. It was on Australia Day. I was going about my lawful business as a law-abiding member of this community. I had been to the Australia Day breakfast at Peterborough. I was quietly driving between Peterborough and Wilmington. As I was coming along, all the police vehicle's lights began flashing as they came up behind me. The officer in one of those dual cab vehicles said to me—I am sure that the Acting Speaker will like this—'This is a random breath test.' I said, 'That's not a problem.' He did that. Then he inquired where I was going. I said to him, 'Well, we live in a free society. I'm happy to tell you what I'm doing and where I'm going, but it's really not your concern.'

Then he wanted to know my name. I offered him my driver's licence. He did not want that. He wanted to know my name and address. He questioned whether that was my address. That was okay. Then he wanted my age. I said to him, 'What is the purpose of this? You've recorded my name.' I do not think that, in a democracy, it is the role of the police to record people's names. We are a free society. I said, 'Look, I've seen draconian police forces where they point machine guns at you.' I have seen that and I had been to Checkpoint Charlie before the wall came down. I have been on the train going through; I have seen all that. I know what it is like and I do not think much of it. He said, 'What is your occupation?' I told him that I was a farmer and member of parliament—

An honourable member interjecting:

The Hon. G.M. GUNN: No, I had not finished with him yet. I do not think that he had any right to record my name and address. He said, 'It is my right to seek the name of a person driving a motor car.' I said, 'Yes, I'm aware of that, but not to record it.' When I spoke to his chief superintendent I said that I wanted to know who has access to that information, why was it recorded and how long do they keep it? He said to me, 'I've seen your car earlier today.' I said, 'If you were observant, you would have seen it parked outside the town hall at Peterborough where I made a speech and a presentation to the mayor.' I thought to myself, 'Well, what sort of'—

Mrs Redmond interjecting:

The Hon. G.M. GUNN: I think I have got some limited ability to defend myself, and I am a retiring character, but I think it is appalling. Now we have this legislation which says you have to give your personal details. We have the objects of the bill and people have the right to go to court to object.

I put to the Attorney-General that it does not say in this legislation what steps a person has to take. Do they have to get a lawyer, or can they write to the Chief Justice themselves to have an objection heard? We are entitled to know and I want to know because, if there is no explanation, then I am happy to count members, remembering that a constituent may suddenly have one of these orders imposed upon them. Most people have no idea what their rights are, or what their entitlements are, so they have to go and get a member of the esteemed and honourable legal profession, and, as well-meaning and charitable as they are, most of them charge a fair sort of stipend. They are not—

Mrs Redmond: Charities.

The Hon. G.M. GUNN: No, some good people like Marie Shaw have done a fair bit of that in the past, and I will say something more about the attack made on her on another occasion. I want to know what sort of steps a person has to take to exercise that right to object. I would say to members that if John Smith, the ordinary citizen, who may live anywhere, is suddenly confronted by a senior police officer and has one of these orders served on him, is there an obligation on the police officer to tell him what his rights are? Is there an obligation to say, 'Well, if you want to object to this, this is the declaration form you have,' because in many cases it would be a quite frightening experience.

If they are the scoundrels, the villains and the ones who are money laundering, they will have access to lawyers, make no mistake about that. It is going to be those people who have a very limited association, who are really not crooks or criminals, who may be barred from associating with people or have all sorts of other draconian measures inflicted upon them. It is not the role of this parliament to make life as difficult for average citizens as it possibly can. It is all very well to get the headline, to get all the media hype, but we must understand the difficulties in the real world. It is like this nonsense where you have a minister talking about wanting people to permanently carry their driver's licences. What an imposition. What a lot of nonsense. What a breach of people's democratic rights that is. Let me say to the Government Whip, if she thinks that is a good thing, it will be an issue in the rural areas next week, make no mistake. I can assure her of that, because it is absolute nonsense.

Mrs Geraghty interjecting:

The ACTING SPEAKER: Order! I have a lot of respect and affection for the Government Whip, but I suggest that we get back to the bill.

The Hon. G.M. GUNN: I would be happy to get back, but I would be happy to debate that issue with the honourable member anywhere, anytime. I can give her examples, but the same thing applies in this situation, because the average person is not going to be aware of the sort of requirements that are going to be placed upon them. Because if they get served with these orders, it sets out a list of things they cannot do. It does not set out the things they can do, but things they cannot do.

I say to the Attorney-General, as Her Majesty's chief law officer, that I want to know. Clause 17 needs full explanation. It says:

> A person on whom a control order has been served may, within 14 days of service of the order or such longer period as the court may allow, lodge a notice of objection with the court.

A person has to know that they can go to court, and the person has to know how to do it.

Mrs Redmond: And which court.

The Hon. G.M. GUNN: That is right, in which court. Then it says that the grounds must be stated fully and in detail in the notice of objection. Some of these people would not have any idea how to do that. Then it says that a copy of the notice must be served by the objector on the commissioner by registered post at least seven days before the appointed time for the hearing of the notice. That is great but, if you get the notice because it was stuck on your door, that does not have to be registered. The Attorney-General can read his book, but I really want some answers to these questions. Then it goes on to say the court can vary or revoke. There is the right to appeal to the Supreme Court, but I do not know whether you can go to the Supreme Court without taking along a member of the legal profession.

The Hon. M.J. Atkinson: Of course you can.

The Hon. G.M. GUNN: And how well do you think that person would get on when they are being confronted by the Crown and its agencies who have all the legal expertise at their disposal? How do you think they are going to get on? Lots of people unfortunately do not have the ability to defend themselves. It would be quite a confronting issue. Those of us who have had a bit of practice in public do not find that such a difficult course of action to take.

The bill then states that a senior police officer may make public safety orders, and it talks about declared organisations and other particular things. It says that a public safety order may prohibit a specified person or specified classes of persons from entering specified premises, attending a specified event, entering or being within a specified area; and, if a public safety order prohibits attendance at a specified event, the order may, in specifying the event, include associated events or activities, provided that the associated activities occur on the same day as the principal

event. So obviously they are going to keep people away from large sporting events, motor car rallies and those sorts of things.

I suppose that is fine, but some of the associated people would not be aware of the sorts of restrictions. What I want to know from the Attorney-General is this: when a person is served with one of these orders, will it specify in detail where they are restricted from going, for how long, and who the associates are? We are entitled to know, because if this parliament passes this law, it is going to put draconian powers in the hands of the police, the Attorney, and others, and we have an absolute responsibility to vigorously cross-examine and check this particular matter.

I note that the member for Mitchell has a number of suggestions which I think are certainly worthy of further consideration. I think it is absolutely essential that the courts—

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: Look, I have read this very carefully, and can I say there are other things I would rather be doing tonight than being here, but I—

The Hon. M.J. Atkinson interjecting:

The Hon. G.M. GUNN: Look, if the honourable member wanted me to filibuster, I could, and I could keep you here on these clauses for hours. That is not my intention. But it is my intention—

The Hon. M.J. Atkinson: That is the game.

The Hon. G.M. GUNN: Well, I think it is rather unfortunate that those of us who have seen some pretty terrible things done to people in our time as members of this place—people who have not had the ability to defend themselves and who have been the victims of quite disgraceful bureaucratic decision making—have had to take all sorts of actions to try to help those people.

The Hon. M.J. Atkinson: Gunny, if you had read the bill you would be able to answer the questions.

The ACTING SPEAKER: Order! The father of the house will be heard in silence.

The Hon. G.M. GUNN: It is not my job—

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER: Order!

The Hon. G.M. GUNN: It is not my job to be counselled by the Attorney-General. It is his job, as the responsible minister, to respond to this debate. I have read it, and I have just finished reading the book on Roma Mitchell and I do not think she would like some of these provisions, I can tell you. I would think that if the Attorney-General had to present this bill to her when she was governor, she would have put him through the third degree. I say to you, Mr Acting Speaker, that if the Speaker of this parliament had to take a bill of this nature today to Roma Mitchell, she would have wanted answers to quite a range of questions. She had the ability to ask very difficult questions about legislation and she would have wanted to know which minister was responsible for it, I can tell you. So, the Attorney-General would have a cross-examination and it perhaps would have been interesting to be standing on the side listening. It would have been very interesting.

The Hon. M.J. Atkinson: You sound more like Trevor Griffin the older you get.

The ACTING SPEAKER: Order! The father of the house has every right to be heard in silence.

The Hon. G.M. GUNN: Let me just say in conclusion that there are a number of questions and we should not rubber stamp this legislation, because ordinary John Citizens can be affected, and most likely will be unintentionally affected, and therefore we are entitled to clear and precise answers so that if protections are available they can clearly be put on the public record. I say this because the Minister for Transport gave some clear undertakings during the passage of a bill in relation to the transport industry and I have said to some of my constituents who have had experiences, 'This is what the minister said. Take this back to the bureaucrat, because if they do not come to the party let me know and we will name them in the house as quick as a flash.' I can tell you that a couple are about to get named because they become a law unto themselves. So, I am looking forward to the Attorney's response because I think there are a lot of questions in relation to this bill. I urge the Attorney and other members to go through it and understand what the end result could be.

The Hon. M.J. Atkinson: You won't be here when I reply.

The ACTING SPEAKER: Order!

Mr PEDERICK (Hammond) (20:23): The vast majority of South Australian citizens are decent law-abiding people who observe the laws of the land and respect others as individuals with a right to freedom of action and opinion. That vast majority of South Australian citizens abhor the activities of lawless gangs who trample on the rights and freedom of others, seemingly without challenge.

We all expect our laws to be rigorous enough to demand reasonable standards of public behaviour in the community and law enforcement agencies to be able to maintain those standards. I applaud the government's intent to give police more power to deal with the criminal elements in our community, but these changes throw the weight of responsibility for identification and judgment of others onto the general public who will be in fear of losing their own freedom if they get it wrong.

In its attempt to beef up existing laws, it has the potential to further divide our communities and cause innocent, well-meaning people to be tarred with the misguided sweep of a very broad brush. There are many clubs, not necessarily motorcycle clubs, whose mission it is to reach out to others in the community who are considering changing their ways, people who perhaps fell into a life of crime and now wish to climb out of it. Are these people to be damned for their efforts and found guilty by association? Keep in mind that police will not need to prove that there was any illegal or dishonest intent in that association no matter what form it took. Half a dozen telephone accounts prove association and will suffice to issue an order.

We have condemned the old French system of justice for years—guilty until proven innocent—but at least it provided the opportunity to prove innocence. In this bill there is no recourse and no right of appeal; the mud will stick. Members of legitimate motorcycle clubs statewide have indicated to me their unhappiness and concern with this change. One senior motorcycle rider made the point that not all coloured bike riders—that is, members of identifiable bikie groups—are bad guys. Many of them, for their own reasons, seek to contribute to the honest endeavours of other groups and to assist the less fortunate in our community. Participation in events such as the annual toy run and the ANZAC Day ride offer opportunities for exchange of ideas and values.

There are members of clubs who already have a criminal record and who seek to assist others to reform their criminal ways. Are they to be denied membership and their honest endeavours lost to the community? Anonymous tip-offs, though well intended, can cause upset to the activities of law-abiding citizens. One motorcycle club member described to me the time a club run into the Adelaide Hills was challenged by the sudden appearance of the Crime Gangs Investigation Unit asking for a 'please explain'. This was in response to a call from a member of the public who had rung the police to report bikies in the streets. Police advised the ride captain to give them prior notice of a club run. As he said, it is not always possible for this to happen as many rides or destinations are spontaneous.

Motorcycle riders I have contacted express concern that these laws infringe their rights to freedom of movement and freedom of association. I believe that the judiciary is also unhappy with the apparent lack of normal legal processes to ensure fairness and accountability in the system. Yes, we need to do something about the lawlessness and harm caused to everyday life by the uncontrolled activities of gangs: no fair-minded person would disagree with that. But let us target the illegal activities and those who perform them. Let us identify the symptoms and infrastructure of their activities and look to break down their culture through sensible laws that protect the rights of the broader community, rather than deprive the community of the very liberties we seek to defend.

I wish to share the example of a friend of mine who owns a Harley-Davidson Soft Tail. He works on the oilfields in New Guinea and rides around on this Harley with a couple of friends when he comes back to Adelaide on leave. What is going to happen to him? He is a harmless person just going on a weekend ride when he is back here in Adelaide.

The legislation is on the right track but it will have to be carefully enacted to make sure that law-abiding citizens are not caught up in it, because many people could unknowingly associate with a member or members of a declared organisation.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (20:29): The Attorney-General has advised the house that this is a bill to provide for the making of a declaration and orders for the purposes of disrupting and restricting the activities of criminal organisations, their members and associates. I think we can accept that objective in itself as meritorious. I suppose the

bigger question is why we need it. What have we done, or failed to do, to date which has left us inadequate to manage the criminal activities of organisations which seem to sit above and beyond the law?

In the last six years that I have sat in this chamber, the government has presented to us many bills to increase the penalties and sanctions for illegal and inappropriate conduct that has attracted these higher penalties. Largely, the opposition has supported the government when it has said that this is important as an instrument of deterrence and a means of ensuring that the penalty is commensurate with the community expectation in respect of illegal and inappropriate conduct.

The power to tear down and remove fortresses has been presented to us as being necessary, particularly in terms of those who have the sanctuary afforded by such structures for residing, meeting, planning or carrying out illegal activity without surveillance. The government says that it has been necessary for us to support that measure so as to enable it to ensure there is a breakdown of the capacity for these organisations to carry out criminal activity. We have supported that argument.

The government has called upon us to increase the power to confiscate assets where it has been assessed that they are ill-gotten gains acquired through illegal conduct, and we have supported that. With the expansion of other police powers, we have attempted to support the government in every way to deal with what is a real and pressing danger in our community, involving the existence and expansion of organisations which have a web of protection around them. We have supported the government's attempts to stop such organisations from flourishing and, indeed, to restrict that.

I may be wrong but, bearing in mind a shooting that occurred the other day and the continuing problem of crime occurring in areas particularly involving drugs, it seems to me that, with all the extra legislative measures that we have given it, the government has not only failed to deal with this issue but failed even to arrest its expansion. Now the government has come to us saying, after taking into account certain threshold steps that an attorney-general needs to apply, 'Well, we need to have a set of laws which will enable us to introduce control orders and public safety orders over these organisations and even to introduce laws to prevent association with them.'

If the ultimate objective here is actually to have the effect of diminishing and undermining the activity of these groups, then the opposition will support that. As has been indicated by the member for Heysen, this is something that we take extremely seriously. We look forward to supporting the government where we see such measures having an effect. I am concerned that, with all the action taken by the government to date and with our support in this regard, we have reports from the government—particularly the Attorney-General in this house—of weapons confiscated; arrests made, offenders prosecuted and illegal drugs seized, yet I am still to hear about how many members of outlaw motorcycle gangs have been put behind bars. With all that armoury of legislation and with all the extension of powers that we have granted, I do not know whether it has made one scrap of difference in impeding these outlaw motorcycle gangs and organisations from going about their business.

I want to speak about what I find so offensive about their business. I, along with other members of the opposition, have been willing to support the government in trying to arrest the cultivation, distribution and selling of illicit drugs. It is totally unacceptable and offensive that, despite the web of legislation that we have to articulate our concern about this matter and to make it an offence to cultivate (albeit with some limitation), sell and make illegal drugs available, anyone would peddle illicit drugs and make money out of the considerable dysfunction, disease and death caused to young people. I find it particularly abhorrent. It concerns me that these motorcycle gangs and criminal organisations, which purport to have a significant share of this market activity—and I have no reason to doubt that—are able to continue to proliferate and carry out this activity. So, if there is a way of dealing with that, I am happy to support it.

I place on the record that, unless we deal with these organisations, which seem to have cornered the market in this respect, I think there will be a number of consequences. One is that the number of victims will increase, and these organisations will continue to penetrate and infiltrate activities in our community which are ostensibly acceptable and respectable.

We can restrict their activities in nightclubs, and we can do all these other things, but I think we need to understand that these people are living among us; their children are going to our children's schools; they are buying things at the local supermarket where we shop; and they are operating legitimate businesses. This is the insidious nature of the situation: they are not easily identified, but their work is penetrating and dangerous, and I accept that.

As for the victims, I was disturbed to hear that we have an increasing number of babies in South Australia who are born drug dependent. Last year's statistic is 90 babies born to drug addict mothers. One baby is born, then, every four days in South Australia with a drug addiction. If the mother of that baby has been using heroin, for example, the sentence imposed on that newborn baby is multiple, but one of them is that they usually have to undertake a six to eight week course of treatment involving methadone injections (this is to a newborn baby) in order to stabilise that situation and enable them to continue to function without all the traumas of withdrawal that go with a cessation of that drug being supplied in their blood system.

That is horrific enough. But consider for a moment what happens to that baby after its period of hospitalisation. Often these babies are born prematurely, so they tend to spend a little longer in hospital than most young babies. What happens to them after a period when they have been in the care of a nurse or foster carer to provide and administer the treatment? Those babies, of course, more than likely will not be placed back in the care of their natural mother—for good reason, if the mother is still an addict and is unable to manage that addiction. That baby is then sentenced to a life away from its natural mother.

Sadly, the capacity for heroin addicts to recover permanently from their addiction is not a very good statistic. But what about the other babies who are born to addicted mothers, who are unable to even understand the significance of having their baby in a safe circumstance when it is born? We see cases where babies are left abandoned in public places; we hear of cases of babies who are stillborn and abandoned; and, of course, there is the miscarriage statistic.

These are all direct consequences of what happens when we end up with drug dependent youth, which is usually the profile with which we are dealing. That is one of the tragic groups for whom we have to pick up the pieces. Many of our young people who are victims of illicit drug dependence become alienated from employment opportunities and from the positive relationships which help them have fruitful lives and livelihoods. I think that that is a shocking situation, particularly when we are living in a time of great opportunity for our young people to have secure and meaningful employment. Unfortunately for the people concerned, their lives are on the way to becoming wasted; they are deteriorating and facing an early and tragic death.

I do not think that there is any argument against taking action that helps prevent those sorts of outcomes. These are very real human, tragic statistics that come out of our failure to deal with the management and containment of addiction to illicit drugs. In that sense, I look forward to seeing any means by which that state of affairs can be reined in.

What concerns me is that, on the one hand, we have this legislation and, on the other hand, I recently heard of the government's decision to deal with the effective restriction of use of opiate-based drugs for pain relief. Here we have a situation where we are talking about the use of morphine-based drugs, which are legal but which are regulated—for good reason. We note that, if medications are potentially addictive, there must be very strict regulation of them.

Yet, here is an ironic twist, in that, while we are dealing with a bill which seeks to give the police and the Attorney-General greater power to deal with the hideous outcomes that exist for victims in our community, I cite the example of a young police officer who is dependent on a pain-relieving drug, access to which this government, through its action, has determined to reduce, thereby potentially—

The Hon. M.J. Atkinson interjecting:

Ms CHAPMAN: I will come to that.

The Hon. M.J. Atkinson: And the relevance is?

Ms CHAPMAN: We are talking about police officers.

Mrs GERAGHTY: On a point of order, as interesting as the member's contribution is, I fail to see the link with the bill with which we are dealing.

The ACTING SPEAKER: I will uphold the point of order, but give a wide scope to the member for Bragg to continue her remarks. However, I would ask her to please return to the bill.

Ms CHAPMAN: I certainly will, Mr Acting Speaker. This is a bill which offers police officers and the Attorney-General greater power, and the government is acting to deal with the issue, in connection with which I will name just one police officer who is out there every day in a patrol car with another officer apprehending criminals. He has been a victim of a substantial injury back in 1984, for which he had multiple operations. He has, with the assistance of treatment and, in

particular, a regulated but accrued medication of Kapanol to enable him to actually continue, having had it—

Mrs Geraghty interjecting:

Ms CHAPMAN: He is a police officer.

The Hon. M.J. ATKINSON: I rise on a point of order. Mr Acting Speaker, the member for Bragg is defying your ruling by continuing to talk on a topic which has no relationship whatsoever to the legislation.

The ACTING SPEAKER: I uphold the point of order, while not paying much attention to the member for Bragg's contributions, and I apologise for that, but if she could please return to the topic at hand.

An honourable member interjecting:

The ACTING SPEAKER: I am sorry, I do not mean to offend.

Ms CHAPMAN: I am happy to do that, and to identify that when we look at this sort of legislation, which is aimed at giving more police officers the power to deal with these, it is of concern to me that the government should act in a manner which will have the direct effect of actually reducing the number out there. So, they come up with this type of rush to try to appease the public for their failure to have dealt with these criminal organisations in the six years that we have been here and, in fact, they have exploded in their expansion, and they come limping in here to try to actually cover their backs as to their failure to deal with this. On the other hand, their conduct in their government management is having the effect of actually reducing the capacity of the police officers to even go out there and do their job.

I will come back to this another day, Mr Acting Speaker. I am happy to accept your ruling not to go into the detail of it today, of course, but I do say: don't be inconsistent. This is a government which continues to be inconsistent. We had the Treasurer announce, in May 2006, and I quote, 'Our health situation is in such disarray, financially, we have such a burden of a health budget, I am going to have to put that off for six months and you will get your budget down the track. In fact, I am going to get the advice from an expert from New South Wales to help us in this', and yet—

The Hon. M.J. ATKINSON: I rise on a point of order. The member for Bragg is now talking about the health budget on a serious and organised crime bill. I would ask you to bring her back to the topic.

The ACTING SPEAKER: I am attempting to do so. Deputy Leader of the Opposition, can you please return your remarks to the bill.

Ms CHAPMAN: If ever there was an effect of the government's failure to deal with organised crime and the rampant allowance, therefore, of drugs out in the community and if ever there was an effect on the health of South Australians it is that. It is incredible to me that the government should come in here, having failed to deal with organised crime, and complain about a burgeoning health budget.

Time expired.

Mr GOLDSWORTHY (Kavel) (20:49): I will make a brief contribution to the legislation before the parliament. I am pleased to speak in support of the state Liberal position in terms of supporting the bill. It is my understanding that the substance of this legislation is basically to outlaw groups of people within the community who are linked to criminal activity, and to give certain powers to the Attorney-General, whoever the Attorney-General of the day may be, the courts and the police to minimise the likelihood of these people, who are linked to organisations that are known to engage in criminal activity, from congregating. That is the substance of the legislation, and I would be interested to hear from the Attorney-General if he disagrees with my—

The Hon. M.J. Atkinson: Analysis?

Mr GOLDSWORTHY: —my analysis, albeit reasonably brief, in relation to the—

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Well, I can go on. I can use my whole 19 minutes if the Attorney-General likes, because I have reasonably detailed notes on the legislation, which cover declared organisations, control orders, public safety orders and other offences. So, I have got quite detailed

notes, if the Attorney-General wants to try to diminish my contribution. Nevertheless, we have become used to the Attorney-General's antics in the house over the past six or so years.

Mrs Redmond interjecting:

Mr GOLDSWORTHY: Indeed. The member for Heysen describes the Attorney-General's behaviour quite accurately in being puerile. I could expand on that but I am not going to waste any more time on the Attorney. I do have a question on the actual practical application of this legislation in the community. As the Deputy Leader of the Opposition pointed out, these people are actually living amongst us. During and leading up to election campaign periods, I have done a substantial amount of doorknocking in my electorate and I am pretty certain that I knocked on a couple of doors where outlaw motorcycle gang members lived. They do look a little similar in their appearance. These gentlemen had that appearance of men who associate with these organisations. The majority of them ride Harley-Davidson motorcycles. Moving around my electorate, I see men who fit this physical description riding around on Harley-Davidson motorcycles in and around that precinct of that particular town.

So, the deputy leader is quite correct in saying these people live amongst us in our communities. The point is: how will this legislation really be practically applied, because it is saying that all these orders are given by the Attorney-General, the courts, the police. But four or five Hell's Angels—or Finks or Gypsy Jokers or Rebels or whoever—might go down to the pub or to some community event dressed in normal civvy clothes. They do not have their colours on. They do not have their T-shirts on that identify the organisation that they belong to. Unless somebody rings up and says that there are a lot of Hell's Angels down here, are the police going to comb through every community event that takes place? Every community—

The Hon. M.J. Atkinson: They like to wear their colours.

Mr GOLDSWORTHY: Yes, but the practical application of this legislation, Attorney-General, is that they will not wear their colours. They will still consort. They will still meet. They will still go out socially. They just will not wear their colours.

Compared to the 1970s when I was a young man and drove around and saw members of these biker gangs, quite fearsome characters—back in those days there were Iroquois and all of those sorts of groups, I remember—how many Hell's Angels do you actually see riding around on their motorcycles with the Hell's Angels patch? Not very many these days compared to previous times. They are acutely aware that they do not want to draw attention to themselves or their activity.

What will happen is that they will go to Ed Harry's or some menswear shop and they will buy normal casual clothes. Unless the police or the law enforcement agencies go out combing through every community event, such as the Carnevale, the Greek Festival, the Schutzenfest, the Clipsal 500 where these people, I understand, like to go, how are the police going to know that there is a group of Hell's Angels or Finks or Gypsy Jokers gathering together? They will not. I just question the actual practical application of this legislation.

We support the bill. We regard it as a step in the right direction. As the leader pointed out earlier this morning, we have seen under this government the proliferation of actual criminal activity conducted by the outlaw motorcycle gangs. For the first four years of this government we heard the mantra that they trotted out on a regular basis. There were three aspects to it: health, education, law and order.

The Attorney-General actually gave a pretty good example of the expansion of the criminal activity of these gangs when he answered a question in the house yesterday—so many hundreds of kilograms of cannabis seized, so many firearms seized, so much amount of cash seized. All these seizures by police are a real indication of how these outlaw motorcycle gang activities really got out of control.

In the first four years of this Labor government, its mantra was law and order, health and education. Well, it is clearly evident that the law and order side of things failed dismally. I ask the Attorney to tell me how many of these criminals, how many of these members of these outlaw motorcycle gangs, are actually in gaol? How many of them have been sentenced? How many have been sentenced to a gaol term? I would like to know because I do not think there have been very many at all. They are charged, they are arrested. The DPP's office has a look at it, but what happens? As was rightly stated yesterday, the witnesses get scared. There is a code of secrecy. There is a code of silence within these organisations.

I do not know if any one of these members of the outlaw motorcycle gangs have gone to gaol. I would be interested for the Attorney-General to advise the house how many have gone to gaol. Then we go on to the other aspect of it. I remember the Premier, when leader of the opposition, in the campaign leading up to the 2002 election, saying—

The Hon. M.J. Atkinson: And we stopped that fortress.

Mr GOLDSWORTHY: Yes.

The Hon. M.J. Atkinson: We stopped that fortress.

Mr GOLDSWORTHY: Through the planning laws. Nothing to do with the then leader of the opposition, now the Premier, saying in the '02 election campaign, 'I am going to get the bulldozer and I am going to put it through their front wall. I am going to put it through their front wall.' How many bulldozers has the Premier got on and smashed through the front wall of these bikie fortresses? None.

I will tell the house how long it has taken. It took the government the best part of two years, ending up in the Supreme Court if my recollection is correct, to pull a bit of barbed wire down from around a house out at Cromer out the back of Birdwood where a Hell's Angel lived and conducted some of his activities.

The Hon. M.J. Atkinson: It was razor wire. His name is Eugene Osenkowski.

Mr GOLDSWORTHY: Well, whatever his name is.

The Hon. M.J. Atkinson: We went to court and we won.

Mr GOLDSWORTHY: Yes, but how long did it take you to get to that point? Years. The Premier is saying that he will get on the bulldozer.

The Hon. M.J. Atkinson: What's your point?

Mr GOLDSWORTHY: The point is that your government's rhetoric does not meet your actions, and that has been the way you have operated—

The Hon. M.J. ATKINSON: I rise on a point of order, Mr Acting Speaker.

Mr GOLDSWORTHY: —right through—

The ACTING SPEAKER: Order! There is a point of order.

Members interjecting:

The ACTING SPEAKER: Order! Come on! The Attorney-General.

The Hon. M.J. ATKINSON: The member for Kavel is constantly using the second person and addressing his remarks to me when he should be addressing them to you, Mr Acting Speaker.

The ACTING SPEAKER: Order! I uphold the point of order. Please refer all your remarks through the chair.

Mr GOLDSWORTHY: Yes, Mr Acting Speaker, I will. How pedantic can you get from the Attorney-General's point of view? Nevertheless, we will push on.

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Well, I will not use the word 'you', I will use 'your government' if that is more suitable.

The Hon. M.J. Atkinson: No, that is the same problem. It is not the Acting Speaker's government.

Mr GOLDSWORTHY: Well, Mr Acting Speaker, the government, then, if that meets your pedantic ways.

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Yes, well, we will see how you go and how correct you are in parliamentary procedures and practices. You are not the absolute icon of correct—

The Hon. M.J. Atkinson: He is doing it again.

Mr GOLDSWORTHY: No, I am not, I am referring directly to the Attorney-General and to the way he conducts himself in the house.

The ACTING SPEAKER: I understand. I do not want to interfere with your contribution, but the Attorney-General will continue on this point throughout the entire length of your deliberations. If you just ignore him and put your remarks through the chair he will be silent, and if he is not the chair will name him.

Mr GOLDSWORTHY: Thank you, Mr Acting Speaker. I continue the point that this government's rhetoric does not meet its actions. The Premier has said in election campaigns that he will put bulldozers through bikie fortresses. The Attorney-General has advised the house that this government has stopped the construction of a bikie fortress—

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Come on!

Mrs REDMOND: I rise on a point of order, Mr Acting Speaker. The Attorney-General just interjected again on the member for Kavel, and you indicated that you would name the Attorney-General if he interjected again.

The ACTING SPEAKER: Indeed, I did but, alas, I did not hear him.

Mr GOLDSWORTHY: We press on, Mr Acting Speaker.

The ACTING SPEAKER: And no-one likes a tattle tale.

Mr GOLDSWORTHY: It is my understanding that the reason that the bikie fortress was not constructed involved the planning laws. It was a development application and planning law issue that stopped that bikie fortress—no bulldozer there. The Attorney-General yesterday talked about the walls being nine metres high. Now, nine metres would probably be almost to the height of the ceiling of this chamber. I cannot imagine—

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: Mr Acting Speaker, again the Attorney is heckling and interrupting the speaker.

The ACTING SPEAKER: And again, because of the background noise in the chamber, I did not hear him. Again, I add that if I hear the Attorney interject I will act. I do not need help from anyone else, especially the member for Schubert.

Mr Venning interjecting:

The ACTING SPEAKER: Order! You are interrupting your own member's time.

Mr Venning interjecting:

Mr GOLDSWORTHY: Shut up!

The ACTING SPEAKER: Order! The honourable member will not use profanities in the house to another member.

Mr GOLDSWORTHY: I think the Attorney-General yesterday was mistaken when he said that the walls were intended to be nine metres high. In the old measurement that is nearly 30 feet. I think he meant three metres or nine feet.

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Again, the Attorney-General needs to check on the accuracy of the statements he makes in the house.

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: Yes, I am fully aware of how tilt slabs operate, Attorney. I want also to talk about a family I know who have been directly affected by associations and involvement with outlaw motorcycle gang members. It was to their absolute distress that the only daughter of this family became involved with an outlaw motorcycle gang member. Whilst it was not necessarily explicitly stated, there was a suggestion that this young lady was involved in prostitution activity—coerced into that activity by the outlaw motorcycle gang members with whom she was associated. Obviously this caused an enormous level of anxiety and distress to the parents of this lass.

I will not go into any more detail, but it took two or three years for this girl to realise that her involvement with these people was taking her nowhere and could well be the start of the end of her life. She removed herself and discontinued the association. She moved out of Adelaide suburbia, left her work and basically lay low for quite a while. After things settled down and the bikie gang

members got used to the idea that she would not be around, she was able to return to some form of a normal life and relationship with her family members. While I observed this from a distance, I was aware of the absolutely terrible and shocking times endured by her loving and caring parents.

It goes on to other criminal activity that we have seen proliferate in relation to bikie activity—the home invasions. The biggest mistake I think that this parliament has ever made is the legislation concerning the cultivation of cannabis. The bikies, the criminal people and the people who have a propensity for criminal activity in our society saw this as a really outstanding opportunity to make some quick money. They syndicated the cultivation of cannabis and, of course, the bikie outlaw motorcycle gangs seized this opportunity and got into the business of growing cannabis.

The exact details of many of these home invasions are not reported in the media, but I would bet that the majority of them are to do with drugs, particularly cannabis, and bikie gangs have a reasonably significant involvement in this activity.

The Hon. M.J. Atkinson interjecting:

Mr GOLDSWORTHY: I have almost taken up my 20 minutes, which has been peppered with nonsensical interjections from the Attorney-General, which is his norm. As I stated at the outset of my contribution, I am pleased to support the state Liberals in this legislation.

Mr VENNING (Schubert) (21:08): I did not intend to, but I will speak very briefly. I make the point that I support this legislation because, as a previous owner of a Harley-Davidson motorcycle, not all motorcyclists who own Harley-Davidsons and who wear black singlets and black helmets are bikies—

Mrs Redmond: You in a black singlet is a worry!

Mr VENNING: I wear them all the time. In fact, former premier Olsen rode on the back of my Harley-Davidson when we did the Bay to Hahndorf Toy Run when he was premier. It started to rain and he became a little anxious when it became a bit slippery. I have always owned a motorcycle. You do not have to belong to a motorcycle gang to enjoy the sport of motorcycling. I know the Minister for Agriculture, Food and Fisheries (Hon. Rory McEwen) is also a member of the Ulysses Club. I have also been a member of the Ulysses Club, which is a club of older members, with the motto 'Growing Old Disgracefully'. Most people such as I could not afford motorcycles like this when we were young, but now we have the opportunity.

I make the point that people in motorcycle clubs do not have to be in those clubs to enjoy the sport of motorcycle riding. They can dissociate. Why are they there? Are they there to enjoy motorcycling, or are they there to become involved in the criminal element that usually and often goes with them? As most members would know, and as I have seen in my many years in this place, from time to time, we do come upon the activities of these groups. It is undoubtedly how they operate and the heavy hand with which they operate is fairly frightening to the layperson. You can understand that most people do not want to cross them and want to keep away from them. They rule by intimidation. It has to be addressed and brought to heel.

I certainly support this legislation. We have to clean it up. You have to give the police the power they need to clean it up and the community needs to feel safe because, at the moment, these gangs are a law unto themselves. They feel that they are above the police and above the law and they create total mayhem. Many of them breed on that. The misery they inflict upon the community at large cannot be underestimated.

I am a previous owner of a Harley-Davidson. In fact, I took Mr Ralph Clarke—the member for Ross Smith at the time—for a ride along Hindley Street and, indeed, in the car park here. He understood that I can ride a motorcycle. In fact, I believe that, after the experience, the member could not walk away—he was seen to be doubled over. Also I can recall taking my current leader for a ride on the back of the Harley along Hindley Street to look at the sights. He was amazed at the reaction we received putting along Hindley Street. In fact, he now owns two motorcycles. For the record, certainly these were the days before he and Stravroula were married.

We have a lot of fun on motorcycles. People can have fun. They are a glorious pastime and you do not have to belong to a motorcycle gang to enjoy them. I certainly support the legislation.

Mr HANNA (Mitchell) (21:13): I am dealing with the difficult subject tonight of serious and organised crime. Many people have called the legislation with which we are now dealing 'bikie

legislation' because of the surrounding publicity. Indeed, going back to 2001, the then opposition leader, Mike Rann, came out with a public statement about how he was going to get tough on bikie gangs. In South Australian legislation they are generally known as 'outlaw motorcycle gangs'. It is important to make the point that this legislation can deal with any organisation. Although the Attorney-General has specifically referred to outlaw motorcycle gangs in his explanation and justification for the legislation, in fact any organisation can be the subject of the measures contained in this legislation.

I am told that the now Premier, Mike Rann, was particularly impressed with the extremely strong legislation in the United States, which the FBI and others used to attack organised crime in that country. I am not sure whether or not that is true. Maybe that was what ultimately inspired this legislation. It is worth mentioning that it was in 2001 that the South Australia Police set up Operation Avatar to deal with motorcycle gangs.

This is a group of officers dedicated to observing, analysing and, ultimately, limiting the operations of our bikie gangs. The gangs can be simply described in the media as criminal groups, nuisances, etc. I think the reality is a little more complex. I say that because I think there is a spectrum of criminality among the membership and associates of these groups. At the core, I agree with others that there really is serious organised crime at work.

I have had the opportunity to study organised crime in a theoretical sense to some extent and the more enduring of the bikie gangs display the traits of organised crime, not only in the type of crime but also in the close-knit, insular nature of the clan and the fact that there is a very strict hierarchy where only a few people at the top really know what is going on a lot of the time. The other characteristic of organised crime is that, after the early formative years, a deliberate veneer of respectability develops around some of the operations of the group, so you have some of our motorcycle gangs, or their members at least, owning very substantial and prestigious real estate around Adelaide—apartments and houses that I could not afford to buy. In other words, the money gained from illicit operations, whether it be drug production and dealing or prostitution, eventually ends up in non-criminal assets and activities.

The government has sought to sever the tie between bikies and nightclubs and that can only be applauded as a good thing, given the opportunities for drug dealing and perhaps violence that the nightclub scene offers to the wrong people. The government's intention then of curtailing the activities of bikie gangs to the extent that they are involved in organised crime is admirable, but I have suggested that it is a picture which is a little bit more complex. I say that because many gang members, I have no doubt, are engaging in criminal behaviour at the other end of the spectrum. They might smoke a bit of dope; they might enjoy getting into a fight; they might have a blatant disregard for the traffic laws but, if I can put it this way, there is perhaps nothing more serious than that for a lot of them. Then you also have associates who might assist with some of the drug activities or some of the prostitution activities but who cannot be considered gang members themselves.

So, I am suggesting that there is a very full spectrum of criminal behaviour which is exhibited by the groups we are talking about and, at the same time, we need to bear in mind that there are a number of motorcycle groups which, to my knowledge, are entirely free from criminal activity, at least in any sort of organised or coordinated way. We need to take special care in treating legislation which is targeting motorcycle gangs to ensure that innocent people are not caught up in it and not just other motorcycle gangs either. We need to be careful with this legislation, particularly, that entirely innocent citizens are not caught up with the net of the law being cast over what would otherwise be entirely innocent activities, leading to jail terms of up to five years, and there is a serious risk that this legislation does just that.

The experience of the Avatar section within the police force is worth making further mention of because either the work of Avatar has been successful or it has not, I would suggest. Assistant Commissioner Rankine briefed members of parliament and staff last week, indicating that over 600 arrests had been derived from the work of Avatar. Interestingly, that compares with a bikie population of about 200 hard-core members and a number of hangers on or associates. If you compare those arrest statistics in simple terms, it rather looks like Avatar has been fairly successful and then one questions the need for this legislation which goes so much further in incursion on the rights of people.

When it comes to violent activity, whether it is between gang members or by gang members against innocent members of the public, one can only take one's hat off to the government and say that any reasonable measures are welcomed. The real question in a case like this is whether the legislation goes too far, and I strongly suspect that it does.

The object of the legislation is set out in clause 4 of the bill. It is worth considering that it is not only to disrupt and restrict the activities of organisations involved in serious crime but also to protect members of the public from violence associated with such criminal organisations. It is interesting that the thrust of the legislation is not to limit the involvement of organisations in drug dealing or prostitution, and the like, in particular but, rather, the focus is on protecting members of the public from violence. As I have said, that in itself is a worthy goal but one then looks at how widely the net is cast. First, there is a procedure for gangs or other organisations to be declared to be covered under the legislation, and the Attorney-General has the say in ultimately deciding whether certain organisations should be the subject of a declaration.

With the current cast of characters in Adelaide—the government, the Attorney-General, the police force and the Police Commissioner—no-one particularly suspects that this legislation will be twisted to be used for any ulterior motive other than the objective set out in the legislation. We obviously need to be very careful that, in future times, less scrupulous public officers and elected members do not use this legislation to declare organisations which have a proper role to play in civic society to be organisations under the legislation. For example, we would not want trade unions or protest groups such as 'No War' to be declared such organisations. I am glad to see that there is a safeguard in the legislation suggesting that it should not be used against groups which have non-violent motives, whether they be to dissent, protest, etc. However, the scope is there for abuse, I would suggest.

The second important part of the legislation is the provision of control orders and public safety orders. The control orders can be directed at people who are gang members, if we are talking about bikie groups; otherwise as defined in the legislation. Those who are the subject of a control order can effectively be put under house arrest. They can be declared, effectively, to be committing a crime if they associate with certain other people. The public safety orders, again, have tremendous scope to limit the ability of individuals to participate in public events and to participate in society. For example, if there is a concert or a sporting event where the police suspect that there might be some violence, then they might be able to obtain a public safety order to do their best to ensure that an individual will not attend that event. Of course, that can be on suspicion. There need not be any hard evidence, one might say, to get the order and to create a limitation on a person's liberty to go about and see the sport they want to see or attend the rock concert they want to hear.

I am glad to see that there is court involvement, that is, judicial involvement in those things; however, there is a severe limitation on the reasons for orders being made public. One can understand, of course, that sensitive matters of criminal intelligence, just like matters of national security, need to be handled extremely discreetly. The reasons are obvious. But, at the same time, we need to ensure proper accountability; hence, I give very great weight to the principle of judicial oversight when it comes to these things.

One of the most contentious aspects of the legislation is the series of offences set out for associating with other specified people—the criminal associations part of the legislation in clause 35 the bill. This is perhaps where the greatest dangers lie. There is a series of exemptions; for example, close family members, people acting in a professional capacity, and so on, can have the requisite six or more contacts per year with a bikie gang member without falling foul of the legislation. But one can imagine a number of other people who might have an entirely innocent course of activity whereby they come into contact with bikie members. I can think of drinking mates in a pub, for example. Such people may well fall foul of the legislation and, ultimately, run the risk of imprisonment for five years. That is an extremely serious matter.

Rather than dealing with these objections about curtailment of people's rights by trying to rewrite the legislation, I will be putting forward amendments to do two things: one will be to ensure that there is judicial review in relation to every aspect of the legislation and, secondly, to shorten the sunset provision. My amendment will make the legislation expire after two years rather than after 10 years, as the government would have it.

Honestly, I think two years should be sufficient. I say that because I would expect that the police for many months, if not years, have been preparing for the implementation of this legislation. If they have not, it is either a fault of SAPOL, or it is a fault of the government in not alerting SAPOL to the government's intentions, bearing in mind, as I said, that the first warning shots were fired back in 2001 by the Premier Mike Rann, as he later became. The best way of implementing the legislation, if one for a moment adopts the motivations and expectations of the government, would be to strike swiftly at those groups and their members who become the subject of a declaration.

I understand that we cannot really have that debate about implementation here, but my point is that, if the implementation is handled correctly—and I mean by swiftly acting on the provisions once they go through the parliament—there is not a need for this legislation to hang around for 10 years. As we go through the committee clauses in detail, I will be able to revisit that point. I mention those two amendments because they are the best means I can see of ensuring that the potential undue restriction of innocent citizens does not occur.

Although I can applaud the objective of the legislation, the real question with legislation such as this is whether it goes too far, whether it trades off the liberties of innocent citizens too much against the desire to curtail the activities of violent members of society. I think there is a risk of that, and I think that, with amendment, the legislation would be much more appropriate for our society, given the degree of the problem, and given the civil liberties we enjoy at this time.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (21:33): I thank member for Mitchell for his thoughtful examination of the bill. The member for Heysen, on behalf the Liberal Party, summarised at great length the legislation in other jurisdictions.

An honourable member interjecting:

The Hon. M.J. ATKINSON: And the Opposition Whip laughs, as well he might, because we knew that providing information to the house was not the member for Heysen's purpose: detaining it was. We, of course, keep the laws of other countries under surveillance in the Attorney-General's Department, and it informs our considerations. The government may include laws from other countries that work in the second phase of our legislative response to outlaw motorcycle gangs.

The member for Bragg asks why we are introducing this legislation when measures to date have been unsuccessful. Obviously, the government disputes the member for Bragg's assertion, and I refer the house to my remarks in question time yesterday, when I listed the achievements of Operation Avatar, and I also listed the recent achievements of the new Crime Gang Task Force.

It is worth remembering that the government has increased enormously the number of police officers dedicated to policing the outlaw motorcycle gangs. This is something that Robert Brokenshire, former minister for police, called for when he was a Liberal; he has now left the Liberal Party. But, we have actually—

The Hon. G.M. Gunn interjecting:

The Hon. M.J. ATKINSON: Well, the member for Stuart says that Mr Brokenshire is an opportunist.

Mrs REDMOND: Point of order: relevance?

The SPEAKER: I ask the Attorney not to respond to interjections.

The Hon. M.J. ATKINSON: I apologise, Mr Speaker, for responding to the member for Stuart's interjections; it is just that I wanted it on the record. Mr Brokenshire called for a big increase in the number of police officers dedicated to policing outlaw motorcycle gangs, and that is just what we have done. Not only that, we are also providing civilian specialists in forensic accounting and criminal law and procedure to back up those sworn officers, and we are also increasing funding to the Office of Director of Public Prosecutions and to the Legal Services Commission, because, living as we do in a rule-of-law society, it is important that impecunious members of outlaw motorcycle gangs have a legal defence, and that will assist the court in expediting the trials.

I say, in response to the member for Kavel who asked how police will enforce the new legislation, that they will enforce it in the normal way police enforce legislation. Then there was the contribution of the member for Stuart, who asked how a person who is served with a control order or a public safety order will know their rights and their obligations. The member for Stuart would not have asked that question had he read clauses 15, 16 and 30, because they would have provided the answer. It would not be right for me to just read into *Hansard* the text of a bill in response to the member for Stuart's question. I simply refer him and the house to those clauses.

The member for Kavel also disputed that the walls of the proposed Rebels' bikie fortress on the corner of Chief Street and Second Street, Brompton, could be higher than three metres. I refer him to the planning application lodged by Mr Karim Awad with the Charles Sturt Council. That will tell him how high those concrete tilt-up walls were proposed to be.

I commend the bill to the house and I look forward to a thorough examination of all the clauses, because I am sure that the member for Mitchell will do it in good faith and another will do it to detain the house in its deliberations on the bill.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Mrs REDMOND: The definition of 'criminal intelligence' is stated there to mean information:

> ...the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information...or to endanger a person's life or physical safety.

I understand all of that and the reason for that. What I want to clarify is whether there is any other scope for criminal intelligence. That is, that appears to me, in some ways, to be too narrow a definition of 'criminal intelligence' because it seems to me that there could well be intelligence which one would classify as criminal intelligence. It may not be capable of normal proof in a court of law beyond reasonable doubt but it may, nevertheless, be information gathered by the police through surveillance, through knowledge of a whole range of things over a period of time, through knowing the context and circumstances and so on, but which would not come within that definition. What I want to clarify is whether indeed that is intentionally so narrow as to capture only a situation where basically someone is going to be in danger or there is an absolute prejudice to a person or to criminal investigations.

The Hon. M.J. ATKINSON: The answer is yes, the scope of the clause is intended and it links to other clauses about criminal intelligence in the bill, and this kind of drafting has been upheld by the High Court in the Gypsy Jokers case last week.

Mrs REDMOND: The second question I would like to ask on clause 3 relates to the definition of 'member'. Again, I understand what the clause says. It divides the organisations into two classes; that is, where an organisation is that of a body corporate and, in the second case, any other sort of organisation. I am curious about this aspect of the first part of that definition, that is, the case of an organisation that is a body corporate, because a member of that organisation only includes a director or officer of the body corporate. It occurred to me, when I was reading that clause, that it would be possible, for instance, for Hell's Angels Proprietary Limited to form, to have a corporate structure, to have, certainly, directors and officers but, equally, to have employees or others associated.

If they did form themselves into a corporate structure, then are we thereby stopping ourselves from capturing the people who are broadly caught by the non-corporate structure in clause B of that definition when, in fact, we would want to capture everybody, should they incorporate themselves into a corporate structure?

The Hon. M.J. ATKINSON: The member is not reading the clause aright. Subclause (a) deals with the particular—namely, bodies corporate; subclause (b) deals with the general, including bodies corporate, so they are caught by (b).

Mrs REDMOND: My third question on this clause is in relation to serious criminal activity, meaning the commission of serious criminal offences. I wonder whether any thought was given to adopting what was used in one of the other jurisdictions that I spoke about, whereby they actually capture the preparation for the commission of serious offences, rather than restricting it to the commission itself of serious criminal offences.

The Hon. M.J. ATKINSON: That was a good point raised by the member for Heysen. If the member goes to clause 10 she will see subclause (1) refers to the purpose of organising and planning serious criminal activity, so that is a ground for declaration.

Mr HANNA: I ask the Attorney, through you, Madam Chair, about the summary offences contemplated in the definition of 'serious criminal offences'. Are we thinking there of matters surrounding prostitution, or minor drug offences, or what sort of thing?

The Hon. M.J. ATKINSON: We are still deliberating on that, but our principal focus is the offences regarding explosives.

Mr HANNA: I also have a question about the definition of personal details. Of course, these are the details which a person must give if they fall under the legislation. I notice that it is a bit more extensive than the amount of information one would normally have to give as a motorist, for example, stopped by police. It occurs to me that some of the people who might be caught under the legislation, because they might be associates of bikie members, might themselves be the subject of witness protection programs. I wonder how onerous that would be upon such people, to provide the address where they are currently living, where they usually live and where their business address is. Has that been considered by the government?

The Hon. M.J. ATKINSON: First, the Commissioner who instigates these orders knows who is on witness protection; and, secondly, the information goes only to the police.

Clause passed.

Progress reported; committee to sit again.

SUMMARY OFFENCES (DRUG PARAPHERNALIA) AMENDMENT BILL

Received from the Legislative Council and read a first time.

At 21:52 the house adjourned until Thursday 14 February 2008 at 10:30.