HOUSE OF ASSEMBLY

Wednesday 27 February 2008

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

PREVENTION OF CRUELTY TO ANIMALS ACT

The Hon. G.M. GUNN (Stuart) (11:01): I move:

That the regulations made under the Prevention of Cruelty to Animals Act 1985 entitled Electrical Devices, made on 23 August 2007 and laid on the table of this house on 11 September 2007, be disallowed.

Members interjecting:

The Hon. G.M. GUNN: Mr Speaker, it takes me a lot of effort to get on my feet.

Members interjecting:

The Hon. G.M. GUNN: This good-hearted bantering (I suppose that is what it is) is somewhat unusual in my case.

The Hon. M.J. Atkinson: Surprise the villain, Gunny.

The Hon. G.M. GUNN: I will, and we will use an electric device on you.

Mr Williams: I bet there was one in the caucus meeting yesterday.

The Hon. G.M. GUNN: Well, I think there might have been. I understand, Mr Speaker, that you would like me to come back to the matter before the house. This involves a number of regulations which this government foolishly and unwisely put before the parliament with the sole purpose of making life difficult for those people who are conducting rodeos—volunteers, good hardworking people, running these community events, raising money for the Flying Doctor Service and providing entertainment for thousands.

We have this government and its band of bureaucrats who sit behind it filling ministers' heads with absolute nonsense without a scrap of evidence to say that what these people are doing is wrong. The only people who should be able to give directions are veterinary surgeons, not this band of agitators of which the government seems to be taking more notice—

The Hon. M.J. Atkinson: It wouldn't be the police, would it?

The Hon. G.M. GUNN: The honourable Attorney-General—not only do they distinguish themselves with their foolishness on this, they now want to give us another free kick in the goal square, because they want to enforce people to carry their driver's licence. Well, we will make an issue of it—make no mistake. The Attorney-General and his little slippery mate have created a situation in Port Augusta. He will need more than that to be successful. Getting back to this regulation, I point out that, fortunately, the other place in its wisdom disallowed a number of regulations, which was a very good thing. We have the Marrabel Rodeo coming up very soon, and those people are the victims of outrageous behaviour by the RSPCA and others. These sorts of regulations have been put in place to try to make their lives more difficult.

It is hard enough to get people to be the authorised officers and to be involved in the running of these things. If they were unpopular, you would not get thousands of people to come along to these events. I would like to know from those who sit behind the Attorney-General why it is necessary to have all these regulations when the largest rodeo in the world, the Calgary Stampede, does not have to put up with any of these sorts of nonsensical regulations. They have 1.2 million people attending that event, including the Prime Minister of Canada and the Premier of Alberta. They come from the United States and all around the world to attend it. They have no permits or licences; they do not have to make reports, and it is a great event. I would recommend it to anyone, and I am looking forward to attending it in the future.

I have met with the people who run the event over there, and they have told me that they would not put up with this sort of nonsense. I thought that was a refreshing point of view. They would not put up with it. Not only do they have the Calgary Stampede: they have other rodeos right across the United States and Canada. The next thing they will be targeting is gymkhanas and country race meetings because they have horses and buck jumpers there.

Mr Goldsworthy: Goodness!

The Hon. G.M. GUNN: Goodness me! What next? I commend my motion to the house. Why do they not accept some common sense and get out of the way of this? Why is it—

Mr Pengilly interjecting:

The Hon. G.M. GUNN: Well, we understand there has been some fun upstairs but we will come to that later in the day. I would probably be out of order if I spoke about that—

The SPEAKER: Order!

The Hon. G.M. GUNN: I normally like to stay within the confines of standing orders. Why do the people in question want to make life as difficult as they possibly can? I would like an explanation. These people must be pretty sour; perhaps they eat lemons for breakfast! Why would they want to be engaged in this sort of activity? They must really be unhappy. Nevertheless, here we have this regulation. The electrical devices they are talking about are used to load stock animals. If you have had anything to do with loading sheep, cattle or pigs, you know they have to be given a bit of encouragement. If you have ever tried to load a mob of sheep on a hot day, you know they can be a bit grumpy.

Why do the people concerned not sit down and discuss this issue in a rational and responsible way and come to some sensible conclusions? Why was it that the minister handed out the press release before the budget estimates committee even before the people who had been affected knew anything about it? Who was the architect of this? We know who it is, but I want the minister to tell us. This is just one of a number of things being done to make life difficult. I have in my constituency the Carrieton Rodeo and rodeos at Spalding, Peterborough and Wilmington. They are night events that are well attended. In Carrieton's case, they support the Royal Flying Doctor Service and the community store. They are very reasonable, responsible and hard-working people, as are all the others involved in these events.

I think it is about time that the parliament took action to help and assist these people, rather than trying to put bureaucratic red tape and nonsense in their way and trying to make life difficult for them. These volunteers are also trying to make a living under fairly difficult conditions. I therefore recommend that this house disallows this unnecessary, unwise and quite foolish regulation in the interests of people who conduct rodeos and other activities and who are good hardworking people. We should be supporting them, not hindering them.

The Hon. R.G. KERIN (Frome) (11:10): I will speak briefly in support of the motion of the member for Stuart. I agree with virtually everything he said. The Marrabel Rodeo is in my electorate. It is a very important function for the whole area. They have had a few hard times lately. I have seen firsthand how the bureaucrats have handled some of those people and threatened legal action against people who are just good community people, including farmers in the local area who have put their shoulder to the wheel to raise money for that particular rodeo and the number of local charities that benefit.

These people know what they are doing. These people have worked with animals all their life. It is very sad when you see bureaucrats, who probably have had very little to do with animals, make out that they know much more about animal welfare than the farmers who are actually doing much of the work with the rodeos. As the member for Stuart said, if they want to improve animal welfare in any way, then they need to work with these people, not against them. At the moment, it just seems that they do work against these people and the organisations running the rodeos.

I take the opportunity to thank those volunteers. Rodeos have made a comeback over the years. There was a time when even the Crystal Brook rodeo disappeared. They are a great source of entertainment and a get-together for many country folk. They are also very important fundraisers in many of our communities. As the member said, many of those communities are really battling, particularly places such as Wilmington and other towns in the electorate of Stuart that are holding rodeos. They really do pull the community together at a difficult time. It is also one way of raising money to help many of the local charities as it brings people into the area. I congratulate those people on their efforts and certainly support the comments of the member for Stuart.

Mr PENGILLY (Finniss) (11:13): I also rise to support the Hon. Graham Gunn's motion. In fact, I have great pleasure in supporting it. What is trying to be perpetrated upon the good people of regional and country South Australia is a nonsense. As has been indicated by other members in this place, rodeos have been a part of the Australian country way of life ad infinitum and should continue in that way for many more years.

On a more localised basis, for a number of years, we have had a rodeo at Yankalilla on the southern Fleurieu. That has been put under the pump by these foolish and nonsensical people running around creating chaos and trying to trim away a little more of country people's way of life, pleasure, enjoyment and fundraising. Indeed, the service clubs in the Yankalilla area have lost considerable revenue in the last couple of years as a result of these events not taking place in the manner that they have in the past.

I have spoken to Mr Michael Fogden, who is heavily involved in that area and who, in the past, has been one of the key people. They are greatly disappointed, as both the member for Frome and the member for Stuart have said, in these idiotic bureaucrats who really do not understand the way things really are and who are probably flat out looking after their pet cat, let alone knowing how to look after sheep, cattle, horses or anything else. They have no idea. They read a book and they think, 'Well, that happens.' They assume that the brain of an animal is the same as the brain of human. It could probably be related to the WorkCover case or to members opposite.

However, the fact is that there are a number of people in this chamber who have had a long career in farming, and who have a great knowledge of raising livestock. You look after your stock; you do not want to hurt your stock. You look after your stock, you feed it, and in no way do you want to be cruel to it at any time. To my way of thinking, these silly, nonsensical regulations that are being put forward should be thrown out the back door; they should not be allowed.

I have a great deal of respect for the Hon. Graham Gunn. When you have had nearly four decades in this place, you do know a bit about the way it operates, and you know a bit about foolish people in the bureaucracy who single-mindedly dwell on an issue but do not have any real understanding of the wider world.

In concluding my remarks I have absolutely no hesitation in saying that I think that members opposite ought to stand on their dig, much the same as they have in the last 24 hours on the WorkCover issue, and take their leadership to task over these regulations. Attempts have been made to introduce these very foolish and stupid regulations and I think they should be consigned to history where, possibly, a few members opposite will go after this morning's showdown.

Mr VENNING (Schubert) (11:16): I thank the member for Goyder for allowing me to speak. I support the member for Stuart very strongly. Many members ask the question, 'How can the member for Stuart be here for so long in such a marginal electorate?' The answer is that the member for Stuart takes on issues like this for the little people. That is one of the chief reasons he has been here for so long with a totally unbroken record in a marginal seat. Let that be a lesson to all of us in this place as to what good advocacy is all about.

This issue is a prime example, because I had the Marrabel rodeo in my electorate and I saw what was going on there when I was a member. I received a phone call from a good friend. I will not name the person, but he is from a well known Marrabel family. He was a public officer with the Marrabel rodeo and action was taken against him personally—personally, because he was a public officer for the Marrabel rodeo—in relation to the actions of the animal liberationists and the shocking accusations that they were making about the way the animals were being treated, etc.

I took up the cudgel but, since then, of course, it has become worse, and I think it is very timely that the member for Stuart has moved this motion here today. The Animal Welfare League is infiltrating so many things that we do in country South Australia; not just in relation to rodeos but we are also seeing it with the poultry industry, we have seen it with the pig industry, and now we are seeing it with mulesing. These people are so bad, so insensitive, that they do not care what effect their actions have on our international reputation overseas. Because we have mulesing of sheep, we now have overseas countries saying to us, 'We won't buy Australian meat.'

I invite anybody to come with me—you will not find it on my property—and I will find you a fly-blown sheep and I will show you what pain and inhumanity is all about. Australian sheep have been bred to what we see today—a very fine animal—and particularly if they have a lot of wool on them, sheep do become fly struck. It is a shocking thing, sheep with flies, and I have experienced it in the past. Mulesing is not a pleasant thing, but we have come a long way with that; and it is much better. As with this issue, for the anti-mulesing lobby to come out and dogmatically take this stand, I think it is just ridiculous. As I say, it is causing great damage to our international reputation.

As the member for Stuart capably said in relation to our rodeos—and I have been to quite a few in my time—it is great to see the volunteers, the community people, putting in the hours that they do to raise money for their community and for their local charities. It represents a lot of money to places like Marrabel because there is not much else there. Apart from the hotel on the opposite

corner, there is little else in Marrabel. This is the big day of the year for Marrabel, and if you take that away there is not much left at all.

The people who are handling this stock, particularly in the chutes, are experts in stock handling. They do it all the time; they know how to handle the stock. The equipment they use is state of the art. The chutes are not the old wooden, clapped out things we used to use years ago; they are modern and as good as we can manufacture.

Much of the stock involved today is professionally used stock. They do the rodeo circuits and the people concerned know that these animals are instinctive. They know how to handle these situations, and they know how to put on a good show for the spectators, and they usually are good shows. Many horses perform because they know it brings a reaction, because horses have brains. A lot of the stock is very used to the circuit and it is treated as an everyday thing. I think it is very appropriate that the member for Stuart has moved this motion here today, and I hope that members will support it.

Nobody condones animal cruelty being carried out just for the sake of being cruel. I love animals. Our dog is very precious to me, because I can get out of this place, go for a walk and take the dog with me. We love our animals, and we do not want to be cruel to them. In this instance, I do not believe that the rodeo movement is cruel to animals. Yes, occasionally you might get an instance, as you would in any activity involving animals, but I certainly do not believe that all this excitement and overreaction is warranted. I certainly support the member for Stuart, and congratulate him on moving this motion. I say to members that the passion of the member for Stuart is the reason he is still here after nearly 40 years. It is about time a few members here emulated him. I commend the member for Stuart's motion.

Mr GRIFFITHS (Goyder) (11:21): It is my pleasure to support the motion of the member for Stuart. There are a lot of things in this world that I do not know much about, and I do not necessarily know a lot about rodeos either, but I do know about the people who run the Carrieton Rodeo. I had the privilege of living in Orroroo—which is only about 45 kilometres away from Carrieton—from 1993 to 1999. It was obvious to me that it was the rodeo that kept that community together, because it gave them an opportunity to actually raise some money, allowing their shops to be open and to make sure they had a pool for the community to use. The money went into the hall and into township beautification programs that allowed Carrieton to do exceptionally well in the KESAB Tidy Town Awards. They were perpetually in the top 10 for the state, which was a wonderful thing for the local community.

Importantly, on that one weekend every year between Christmas and New Year when Carrieton held the rodeo, they had people there who actually respected animals, because these people work with animals all the time. There are big properties up that way and there is a lot of cattle and sheep. People respect the fact that they must have animals there to derive an income. You cannot crop in that area; it is pastoral country. These people knew what they were talking about.

Carrieton is a small community of about 50 people who live in the town; that is how it was when I lived there. The wider region comprised only about 300 people, but everybody was involved in the rodeo. Quite simply, on that weekend, everyone worked very hard to make sure that it was a success. Thousands of people from across the state turned up to enjoy the rodeo and what it offered. All 50 people who lived in the town, and the 300 people who lived in the surrounding region, were there, working from dawn until dusk to ensure that the people visiting their community were entertained.

It is quite probable that the people who framed these regulations actually had good intentions. I have a positive view and assume that people develop legislation on the basis that they want to improve things. The member for Stuart has quite correctly identified the fact that, if we support this regulation, it will make it very difficult for community groups who receive support and derive income opportunities from rodeos; those people will be stifled. So, I think that this house should learn from the message that the member for Stuart is giving us. If the Hon. Graham Gunn tells me that, after 37 years in parliament, what his community needs is for this regulation to be disallowed, it is good enough for me. I think the motion should be supported.

Mr PEDERICK (Hammond) (11:23): I rise to support the member for Stuart's motion. People need to realise that there are many thousands of people who handle stock in a professional way, whether they are involved in the rodeo industry or the stock-handling industry. There are hundreds of thousands of people across the world who have to load or shift stock, and sometimes the stock is stubborn. Anyone here who has loaded six year old broken-mouthed ewes would know

what it is like to put 600 of them on a B-double on a hot day; as the honourable member suggests, sometimes they need a little coercion. Of course you are not going to hurt your stock; you are probably sending them off to market to be sold, so there is no way you would wish to damage the animals that you have looked after for up to six years. There is no sense in coming out with ridiculous regulations that ban the use of some devices.

I attended the Calgary Stampede 25 years ago and it is a fantastic event. They were using D9 bulldozers to pull the stage out into the arena. Millions of people have attended this event over the years, as the honourable member indicated. I suggest that people need to get out of their offices and go out into the big, wide world and have a look at what is going on.

The mulesing of sheep has been brought up. From my many years of farming and treading the boards shearing, I can tell you what full-blown flystrike in a sheep is like—and it is not very nice. You only get the same amount of money to shear the wool off when you are just chaffing through maggots for four minutes to get the fleece off. It is not very nice at all, but it is far worse for the sheep that is getting eaten alive. I ask the people from PETA (People for the Ethical Treatment of Animals) if they have ever had a good look at what happens to stock which are not treated in a husband-like way, because they get eaten alive and go off to a paddock to die a very slow and painful death.

Another issue that the member for Schubert touched on was the chicken industry. My information is that caged birds have a much lower mortality rate than barn hens have. People need to have a look at the facts and see what is going on as far as the handling of stock and running of live animals is concerned. I commend the motion.

Debate adjourned on motion of Mrs Geraghty.

PUBLIC WORKS COMMITTEE: PLAYFORD NORTH REGENERATION PROJECT—ANDREWS FARM

Ms CICCARELLO (Norwood) (11:27): I move:

That the 277th report of the committee, entitled Playford North Regeneration Project—Andrews Farm (Stage 1), be noted.

The Playford North Regeneration Project comprises the regeneration of the existing Davoren Park and Smithfield Plains and the greenfield development of Andrews Farm and Munno Para, and will greatly enhance the northern part of Adelaide. The project is large and complex, and will be implemented over 20 or so years. It will involve the regeneration of a socially disadvantaged community, requiring extensive coordination across agencies as well as extensive community participation and engagement.

The government has committed to development expenditure in excess of $200 million, in addition to the delivery of a B7 and a B12 school through a PPP process. Additional investments are anticipated in health facilities, public transport infrastructure and services, community safety, employment and training.

The Land Management Corporation has negotiated an agreement with the Defence Housing Authority to provide serviced residential lots to facilitate the relocation of the Army's 7th Battalion from Darwin to Adelaide, with the first group of lots to be available in April 2008. The development of stage 1 (Andrews Farm) has been programmed to meet the authority's time frame for completed allotments.

This stage will use 7.6 hectares of vacant land within the Playford North Regeneration Project boundary. It is generally located on the south-western corner of Davoren Road and Stebonheath Road to the west of the existing Davoren Park suburb. It will be developed and subdivided into the following: 112 residential lots; one group housing site to accommodate up to 10 dwellings; a central public open space reserve; and two open space pocket parks.

Sustainability initiatives featured in the development include subsidies for the installation of gas-boosted solar hot-water heaters: stormwater retention and treatment with hydraulic connection to a broader aquifer storage and recovery system for reticulation to open spaces; and the application of urban design guidelines that lift the benchmark for achieving sustainable outcomes in the area.

The main elements of the urban design guidelines include: orientation and designation of buildings to maximise solar access and minimise overlooking and overshadowing neighbours; optimisation of natural lighting, ventilation and indoor air quality; building energy efficiency; waste management; appliance choice; and landscaping solutions.

The mandatory components of the guidelines will be enforceable through encumbrances on title and will need to be met prior to obtaining development consent. The initiatives have been carefully selected to ensure affordable housing outcomes while lifting the benchmark for the provision of sustainable solutions in the area.

As part of the Playford North master plan review, bus routes are being considered along Stebonheath and Davoren roads, with links to be provided between the new and old areas of Andrews Farm to rail stations and major trip-generating developments in the area. The master plan review has also highlighted the need for east-west pedestrian cycle links through the project area to the rail stations and commercial areas east of the Peachey Belt.

A linear-type park along Davoren Road is proposed to link Andrews Farm with the proposed new school site, the McVeity community facility on Peachey Road and through to the Munno Para shopping centre. A $500 subsidy for the installation of a gas-boosted solar hot water system in new dwellings is to be incorporated into the development, and this will ensure that all new dwellings have a solar system without significant reduction in affordability. This will reduce greenhouse gas emissions from each household, from 2.6 tonnes per annum for an electric storage unit to 0.3 tonnes.

The stormwater system flows to the regional stormwater treatment system to the west. Here, the water is to be treated (via wetlands), injected into aquifers, extracted and used to irrigate open space areas in the region. The provision of high needs housing and affordable housing in Andrews Farm (stage 1) will contribute to the dispersal of high needs housing from the Peachey Belt, and 5 per cent of lots have been selected for high needs housing, although the overall target in the Playford North project is 10 per cent. This discrepancy is because the location of this first stage is some distance from transport, community and health services and employment opportunities.

The LMC will undertake an expression of interest process with the building industry to deliver a demonstration affordable housing project on the high needs housing lots. Those lots will attract a 12.5 per cent discount from the market price. The LMC and Housing SA will enter into a land management agreement, and this will see identified lots listed in a Housing SA catalogue for 90 days. These lots will be only available during the 90-day period to eligible low and moderate income earners. After 90 days, the lots can be sold on the open market at the full valuation price. The total project cost is $6,240,000, and it is anticipated that there will be a profit of $1,899,330. The proposal is expected to deliver:

- improved education facilities in the Peachey Belt and greenfield areas;
- dispersal of high needs housing in the Peachey Belt;
- provision of affordable housing for low and moderate income groups (which more than doubles state housing plan targets);
- more integrated human services delivery across agencies, in line with government reform agendas; and
- an integrated stormwater detention system providing the opportunity for permanent water bodies, parkland areas, bicycle and walking trails, and aquifer storage and recharge.

Success for this development will rely upon overcoming several key risks, including the need for effective community engagement and the need to change market perception of Peachey Belt. The LMC has implemented a range of actions to address these risks. It is anticipated that housing construction will commence in the first quarter of 2008.

Therefore, based upon the evidence presented to it, and 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) (11:34): As a member of the Public Works Committee, I would like to make a few brief comments on the Andrews Farm (stage 1) development. Obviously, I am very pleased to see areas in our outer suburbs being redeveloped for the benefit of residents and to see forward planning for some of the great federal initiatives that have come our way in South Australia for the shifting of the battalions into Adelaide and other things that are happening in the north of Adelaide. It is quite ironic that the northern suburbs seem to be doing quite well with no minister for the northern suburbs. Of course the southern suburbs has a Minister for the Southern Suburbs and

yet they are actually struggling quite a bit down there. So, maybe the Minister for the Southern Suburbs could have a look at some of the things that are happening elsewhere.

I need to pick up on the point of maximising solar access that was raised by the member for Norwood. The government still puts restraints on itself when it comes to making sure that our developments and government projects are as sustainable and as green as possible. There is a paragraph in here that actually states that part of the area that is being subdivided as part of this development is north by approximately 38°. That can be fixed: all it needs is money. But, of course, it is not going to be fixed because it goes on to state that, while the north-south street grid is preferred, this re-orientation to the north will result in reduced lot yield which will prevent the Land Management Corporation from meeting its corporate financial target.

So, the government has put a cap on what it is prepared to do to encourage people to use solar power and make use of green energy by its own financial restraints. It has said that it is happy to put a windmill on a building where everyone can see it and get some media attention, but obviously there is not going to be any benefit to the government in spending this extra money re-orientating these blocks so that we get the maximum use, so it is not going to do it. It would rather save the money for perhaps more government advertising or something along those sorts of lines. That is an example of where there are still constraints on our government departments because directives have not come from the Premier or ministers that the No. 1 priority is for the best use of renewable energy in any project.

It goes further to even the installation of small things such as toilets, where new technology tells us that a 4.5/3 flush will do the job just as well as the 6/3 flush—this is litres we are talking about now. I do not need to go into details about when the larger volume of water is required, but new technology is available that has been developed and produced right here in Adelaide where 1.5 litres of water can be saved with every flush because of the new design shapes of the bowl and the new water propelling technology but, of course, the government is not interested. There has been no directive from the government to use these new toilet pans; they are very happy to continue using an extra 1.5 litres for every flush. So, I must say that it is disappointing that the government is putting its own restraints on moving forward in respect of sustainable energy.

I was also disappointed to read that recycled water is not likely to be available for three to five years after the completion of stage 1 of the housing. We are right in the middle of a drought, I would have thought that any pressure we can take off the Murray for our colleagues down in the Lower Lakes should be considered. I know this would not be a lot, but it is a slowly-slowly situation; we have to start somewhere. With the conditions that South Australia is experiencing at the moment, quite frankly, it is unbelievable to see that there is to be a delay of three to five years in the use of recycled water.

So, again, we hear lots of talk about water from this government, but they are not doing the walk—too much talk, not enough walk, not enough action on water. This is a classic example of where the government has full control of the project and it has record revenues to fund it. Mr Foley keeps telling us how we are running with a balanced budget, but he does not tell us that spending is out of control and that we are only being saved by the increased revenues that are coming in over and above the budget. I think it is something like $2 billion over the next four years. So, there is plenty of money out there, if it is managed well, if it is managed properly, to bring projects like this forward and to make proper use of the green energy that is available. I suppose the difficulty there is: how do you get the media? Perhaps they have not worked out the PR angle on this yet and that is what is holding them back. I am happy for the Premier to work out a way to get his face on television over something like this, because then perhaps we will see the money spent on green and renewable energy and water recycling.

Mr PENGILLY (Finniss) (11:40): I would like to make a very brief contribution on this. We are pleased to support the Playford North regeneration project, Andrews Farm stage 1. Obviously, it has gone through, and this side of the house and the Public Works Committee were very keen to have it proceed and be supported. My colleague the member for Unley has picked up on numerous issues he felt he needed to raise and put in some context, and I suppose I would have to say that I am, once again, happy to see money spent in the north, because it has been forgotten—although not as forgotten as the south. However, we continue to see acts of symbolism and, hopefully, this is something that will be of benefit to the community up that way and also to the environment. So, as I said, I am pleased to support it.

I was interested to note in *The Advertiser* this morning that suburbs in the north (and some in the south) are amongst the poorest economic areas in the metropolitan area. It is also quite interesting to see the wealthiest ones, and I guess what really sparked my interest was the seat of

Napier. The member for Napier actually lives in the suburb of Springfield, so there is something a bit confused there; it is not quite right. No doubt they will work that out in due course.

However, the matter this morning is not about that: it is about the project put forward and, as I said in my earlier remarks, I am happy to support the project and speak in favour of it in this place. I look forward to seeing it concluded and having a look out there in due course.

Motion carried.

ECONOMIC AND FINANCE COMMITTEE: CONSUMER CREDIT AND INVESTMENT SCHEMES

Mr KOUTSANTONIS (West Torrens) (11:41): I move:

That the 64th report of the committee, on consumer credit and investment schemes, be noted.

I am pleased to present to the house the 64th report of the Economic and Finance Committee, entitled Consumer Credit and Investment Schemes. I can tell that former premier Kerin is fascinated by my remarks, as he always is, and I will try to make them as entertaining as possible for him.

I do not propose to recite to the house a blow-by-blow account of the committee's inquiry and its report here today. The report is in excess of 100 pages and contains 24 recommendations, all of which would be done little justice were I simply to list them in the time available. Instead, I want to outline the main threads of the committee's inquiry.

In recent years the credit market has developed into a thriving and often bewildering process of products, providers, choices and, unfortunately, perils. The committee's inquiry into consumer credit and investment schemes had broad terms of reference that ranged from short-term fringe lending (often referred to as payday lending), through real estate investment schemes, credit cards and mortgage brokers. It was the intention of the committee to discover how this new, deregulated credit market operates, who are its customers and what are the problems—or, indeed, the benefits—that arise from it.

As the inquiry progressed it began to focus increasingly on the fringe lending and mortgage broking elements in the terms of reference, and the committee found considerable cause for concern with respect to these two areas. Fringe lending has expanded rapidly in recent years, and short-term loans have become a means by which many people may now seek to manage their finances in emergencies—and, in some cases, to enable discretionary consumer purchases. The providers claim that this is a legitimate form of activity and that people of whatever income—and it is largely low income people who access short-term credit in large numbers—should have the right to credit if they can prove a capacity to repay.

We do not dispute this assertion on its face but, when it comes to a sector of the industry that provides credit products which purport to be for short terms but which carry rates of interest that, when annualised, run into the hundreds or even thousands of per cent, the committee does not accept that such activity comes without responsibilities and conditions. It was the committee's conclusion that the current regulations surrounding the fringe lending markets are insufficient.

The committee notes that, during the final stages of the report's preparation, the Minister for Consumer Affairs announced imminent changes to the Consumer Credit Code, tightening the conditions under which short-term credit is provided. The committee supports these and congratulates the minister for that. In its recommendations, however, the committee found the following issues among those which are not adequately addressed at the moment and which should be reformed:

- there should be mandatory financial mediation services;
- credit providers should be licensed, with a fit and proper person test applied to obtain the licence;
- providers should be made to make better efforts than at present to determine a customer's capacity to repay a loan; and
- the Office of Consumer and Business Affairs should be given the power to compel lenders to use dispute resolution services and be able to initiate action against lenders if consumers are unable to do so.

The committee also recommended that consideration be given to capping interest rates.

In a full page advert in *The Advertiser* on 7 November, Cash Converters (a major submitter to the inquiry) stated that the committee 'did not support capping'. I want to state here that this is not a complete statement of our position. The committee recommended a consideration of capping—even if it were not the 48 per cent per annum model currently in place in New South Wales to which Cash Converters is very much opposed. While the committee acknowledges the legitimate right of providers to pursue their business interests, the provision of credit is a socially sensitive activity which can cause potentially devastating harm to the financial, emotional and social health of individuals and the community as a whole.

If the profitability of providers needs to be tempered for the protection and wellbeing of consumers then the greater good must be the priority. I encourage members to read the report as it relates to fringe lending (its being too detailed to elaborate fully here), as the evidence received from providers, customers and people such as Legal Aid lawyers dealing with clients in a financial crisis is very enlightening.

The other main thread of the report dealt with finance brokers, and in some respects the committee's findings in this area were even more troubling. Finance broking has also seen a rapid expansion in recent years—particularly on the back of the housing boom—as customers seek to take advantage of an ever-increasing range of financial products on the market, particularly mortgages.

In taking on a broker, customers place their trust in the broker's ability to obtain the best product to meet their circumstances from the suite of products available to them. The transaction involves providing sensitive personal and financial data which is then used to source appropriate products, yet the committee heard that brokers exist in an almost unregulated environment with no licensing, training or minimum standards imposed on them at all.

The committee heard that individuals are able to set themselves up as brokers without any form of financial qualifications and represent themselves as brokers when they may have only one product to sell, thereby acting as an agent, not a broker at all. That is the most concerning part. The committee heard of the potential for fraud and misrepresentation (indeed, hearing evidence of examples of just that), and the infiltration of the industry by organised criminal elements, specifically bikie gangs. In response, the committee recommended, amongst other reforms, the following:

- licensing of brokers with a fit and proper person test applying;
- disciplinary provisions applying to licences allowing for the cancellation of a licence;
- conditions on the use of the term 'broker';
- the creation of specific offences relating to brokers' misuse of customer information;
- simplification of financial disclosure requirements;
- the disqualification of individuals with serious criminal records for holding broking licences; and
- the creation of a credit tribunal to deal with disputes.

Again, I encourage members to read this report, as its discussion on this matter, as well as on subjects such as credit card limits, real estate investment schemes and the pawn-broking industry, deserves more explanation than I am able to provide with these few comments.

One final point I make on behalf of the committee is the exasperation felt by members with respect to the national bodies established to regulate many of these issues. The Consumer Credit Code, which oversees much of the activity covered in the report, is managed by a ministerial council process which has various subcommittees and bodies that maintain and amend the laws as required.

This process operates on a consensus model, which means that no significant change can occur at an individual state level until a national position accommodating all jurisdictions is reached. The committee understands the underlying principle at work here and the desirability of national uniformity of regulation when it comes to credit. The slow pace at which urgent reform is conducted on this process means that in many cases individuals are suffering significant loss right now while the laws that may assist them are still being negotiated in other places.

The committee is of the opinion that, to the extent that they can, agencies should act to provide basic protections with supplementary and/or complementary regulations while broader

reforms are worked through. Again, I encourage all members to consult the report for a detailed examination of the matters on which I have touched.

I had a constituent come to me just before we conducted this inquiry. He was repaying a loan of $5,000 to someone who would not pass a fit and proper person test. He was required to pay $1,500 a month for five years for a loan of $5,000. This person cannot go to a bank to get a $5,000 loan because he has bad credit. He cannot go to a family member to get $5,000 because they do not have it, either. It is a vicious spiralling circle until they have to go to these people—who, I assume, are members of bikie gangs. In this case, the person was forced to pay $1,500 a month for a $5,000 loan. I do not know what the annualised rate is, but I believe it is well over 1,000 per cent interest. Members may think, 'What kind of person would take out a loan like that?' The answer is that desperate people do.

The one thing that struck me was the evidence taken from representatives of Cash Converters. I thought there would be a high default level on these loans, but there isn't because working class people pay their debts. They pay their debts quickly. The way in which the interest is set up means it takes longer to pay because of the interest charged by these institutions. What really concerns me is that the four big banks—ANZ, NAB, Commonwealth and Westpac—are no longer interested in the little guy because there is no money in it for them. They are happy to withdraw from this marketplace and allow the void to be filled by people without good character; and I think shame on them. They have a responsibility to enter this marketplace and make these loans available. We all have seen the ads. We all have seen the Cash Converters ad where the young girl goes to the bank manager, and the bank manager says, 'Jump through all these hoops to get your loan or go to Cash Converters to get one quickly by showing your driver's licence and a pay slip.' The four major banks have to re-enter this market because people are being extorted.

I urge all members to read our report. I know it is difficult for the minister to introduce changes, because we need to have national reform. Hopefully, ministers from all states and territories and the federal government will get together and bring in urgent reforms to this market. We have a housing boom. It is getting harder to get into the housing market. People are becoming more desperate to finance their loans or to save enough money to get into the market, and we may be paying for it in five to 10 years when we may see some sort of subprime problem in Australia as a result of these loans being given out. It is up to the four major banks and the state and federal governments to get involved. I recommend the report to the house.

Mr GOLDSWORTHY (Kavel) (11:54): I, too, am pleased to speak to the motion moved by the member for West Torrens, Presiding Member of the Economic and Finance Committee (of which I am a member), in relation to the inquiry into consumer credit and investment schemes. As I have mentioned in previous contributions to the house, I have had some experience in the finance and banking industry, having been employed by one of the four major banks in the country for more than two decades.

This was a reasonably lengthy inquiry. We received quite a number of submissions and heard from a number of witnesses, who were all too happy to come before the committee and advise its members of the experiences that those people and companies have gained in the time they have been involved in this industry. There are certainly a number of deficiencies in the way in which these matters are currently handled, in legislative terms. I am aware that the Minister for Consumer Affairs (who is here in the chamber) has indicated that the government is currently reviewing the legislation and is carrying out some work on it, and that there will be further considerations in that regard.

As I said, there are quite a number of deficiencies in the current system, and the manner in which these things are managed came to the fore during the committee's deliberations. As a consequence, a 105-page report has been tabled in the house, with some 24 recommendations. The presiding member indicated that he would not canvass those recommendations in his contribution, and I will not do so either. There is concern in 'money lending land', if I can use that terminology. There are a number of loan sharks out there and, in particular, outlaw motorcycle gangs. Here in the house we have been deliberating on legislation for the last several sitting days specifically in relation to the activity of outlaw motorcycle gangs.

This area of lending money—short-term lending—is one in which we are certainly aware that outlaw motorcycle gangs are involved. Obviously, criminal activity comes into play in this regard. Extortion is used as a mechanism to have the borrowers pay back exorbitant amounts of money in interest, default, penalties, default interest—whatever terms are used. We know that

there is criminal activity in relation to this and that extortion comes to the fore, which obviously is against the law.

I would like to focus on a specific area about which I had concerns during my involvement with this inquiry, and that is the skill of the employees of the organisations that provide credit. I have some concerns about the skill of those employees in assessing the creditworthiness of individuals who are applying for loans. Whether it is a matter of a few days, to the next payday, or a land financing deal through mortgage finance brokers—whatever the lending proposal may be—I have some concerns in relation to the skill of individuals assessing creditworthiness.

The committee heard from providers, such as Cash Converters, that it has a credit scoring computer program. Some data is entered into the program and it indicates whether the applicant is a good, medium or bad risk. Basically, the program assesses the applicant—whether they get $50 or $200, or whatever the advance might be.

Debate adjourned.

STATUTES AMENDMENT (EVIDENCE AND PROCEDURE) BILL

Adjourned debate on second reading.

(Continued from 25 October 2007. Page 1468.)

Mrs REDMOND (Heysen) (12:00): I indicate that I will be the lead speaker on behalf of the opposition in relation to this bill. This is a reasonably technical bill in terms of the changes it seeks to make. As the title might suggest, it deals with evidence law, in particular two areas of evidence law—first, the way evidence is taken in sexual offence cases, and that of course is hand in glove with the bill we dealt with in the last sitting week, the Criminal Law Consolidation (Rape and Sexual Offences) Amendment Bill.

So the amendments to the evidence law in this particular bill relating to that area, as I said, go hand in glove with it and really arise out of the same Liesl Chapman report of 2006 into rape and sexual offences, and sexual assault law generally. The second thing this bill does is deal with the way evidence is taken from vulnerable witnesses in court and the way in which witnesses may be questioned. A lot of that, of course, arises out of the 2003 Layton report into the protection of children.

Here we are in 2008, just on five years since the Layton report was delivered to the government, and I think five years in March since the government tabled that report. My recollection is that Robyn Layton (eminent QC, now a judge of the Supreme Court, and an extremely able practitioner and thoughtful person, who spent a lot of time and energy preparing her report) came up with something like 106 recommendations, and I am pleased to see that the government is at last getting around to doing something about some of them at least.

The government said it wanted to expedite the passage of these bills but I think it said that when it first introduced the bills at the beginning of last year. Originally we looked at this bill when it was introduced by the Attorney in February 2007—it might have been before that, but I prepared my first briefing paper on it in February 2007. So, one year later, here we are getting around to it. But, as I said, it is fairly complex in terms of what it seeks to do, and I intend to go through what I hope is a reasonable summary of the legislation, and I will have some questions, of course, when we get to the committee stage.

In the case of evidence in sexual offence cases, generally most people would be aware that courts cannot accept hearsay evidence. Normally a court requires a person who has actual knowledge of events to give that evidence first-hand. It counts as nothing in terms of evidence for me to say to a court, 'Well, the member for Fisher told me that such-and-such occurred.' That does not add anything in terms of evidence as to whether or not an event occurred. It is only if the member for Fisher saw events himself and gives evidence, usually sworn evidence under oath, to the effect of what he saw.

So, generally you cannot have hearsay evidence. However, there is a slight exception to that in respect of sexual offences in that a court may admit evidence of a person's report of an offence to someone else made out of court, if that report was given at the first available opportunity after the offence occurred: it is what is known as 'evidence of recent complaint'. So, there is that minor exception to hearsay so that someone (for instance, a police officer or a person in a sexual assault referral centre, or someone like that) could give evidence of someone attending upon them to say, 'I've just been raped,' and that would be admitted. However, in that circumstance, if that evidence is admitted, the judge has an obligation to tell the jury that it may not treat that evidence

as bearing on whether or not the event occurred; rather, that the jury can treat it as bearing on the credibility or consistency of conduct of the victim or the complainant.

If there is some delay between the alleged offence and when the complainant reports it, the out-of-court report of it cannot be admitted, and the judge has to tell the jury that the delay in reporting it has to be taken into account when the jury assesses the victim's credibility and the consistency of conduct.

These two elements of the law of evidence have been given particular names because of the cases under which they originally arose. The first area (that is, the exception to the rule about hearsay, where evidence of recent statement as to the occurrence of an event can be given by someone who received that statement) is known as a Crofts direction, and a Kilby direction is where the judge has to tell the jury that the delay in reporting the offence must be taken into account when it assesses the victim's credibility and consistency of conduct. There is a third area, which is known as a Longman warning, and that is that, if there is a long delay in reporting, the judge must warn the jury that it is dangerous to convict the accused because the delay has put the accused at a forensic disadvantage.

Liesl Chapman, in her report, identified that a number of these things were leading to problems. It is fair to say that we have for a long time in this and other jurisdictions had considerable difficulty in getting the level of conviction in sexual assault cases up to the level which applies in other areas of the criminal law. It is also clear that many, many people do not report sexual assault, so it is considered likely that there is, in fact, a far greater prevalence of sexual assault in the community than the prosecutions would lead us to believe.

Liesl Chapman, in her report, raised the issues that are created by these various things: the Crofts direction, the Kilby direction, and the Longman warning. Essentially, it is the case that there could be a variety of reasons why someone who has been subjected to a sexual assault may not report that assault immediately. In fact, it is far more likely in the case of someone who has suffered sexual assault that it will not be reported—

The Hon. R.B. Such: They often blame themselves.

Mrs REDMOND: —than, for instance, if it was an ordinary assault, where someone has been bashed up in the street. As the member for Fisher says, they often blame themselves. People can get into situations where they may not even fully appreciate that they have, for instance, been raped if there are issues of consent, what they consented to and when they consented, and so on and so forth, and Liesl Chapman raised these issues.

There had been an earlier attempt to overcome the problem by inserting a new provision in the Evidence Act. That provision provided that, if there was a suggestion that the victim failed to report or delayed reporting, the judge had to warn the jury that that failure or delay did not necessarily mean that the allegation was false and that the victim could have valid reasons for the failure or delay. So, there was that earlier attempt to address that part of the problem, but it did not solve it, so the current amendments are directed to going further than that original attempt.

Because section 34I(6a) of the act confines the admissibility of out of court reports of sexual offences to recent reports, that is, immediately after the event, those directions, known as Kilby directions and Crofts directions, are too often given without the jury having heard evidence from the victim as to why it was reported when it was and to whom it was reported or why it was reported at a particular time and not at an earlier time. In practice, the defence can make a tactical decision to ask the complainant when he or she reported the offence but not to ask further questions about it, so the complainant has no opportunity to explain any delay. That might be overcome by a re-examination, but an impression can be left with the jury that this person's evidence is not acceptable or not to be relied upon simply because of the delay, when in fact there could be numerous and quite valid reasons why someone has not reported an offence immediately.

If the defence did that and asked when it was reported without asking anything further, it could leave the jury wondering why the prosecution had offered no evidence to explain the delay when it hears the defence in its address talk about the delay, and then they hear a warning from the judge that the delay may have significance to the complainant's credibility. The effect, almost inevitably, will be to encourage a belief that the prosecution has something to hide and that the complainant or victim for some reason should not be believed. It is the case that a number of other jurisdictions have expressed concern about those Crofts directions in particular, as encouraging 'a stereotypical view that delay is invariably a sign of the falsity of the complaint'. So, we are not the first jurisdiction to recognise the problem nor the first to seek to legislate to overcome the problem.

In the Attorney's second reading explanation he asserted that the principles should be (and I agree with him):

> That it should not be assumed or suggested to a jury that a delay in reporting a sexual offence necessarily means that the complainant is lying and that indeed juries should understand that there are often legitimate reasons for not reporting a sexual offence for some time.

The bill seeks to address that by deleting what we had previously put in (section 34I) and replacing it with section 34M, which expressly abolishes the common law on the admissibility of recent complaint in sexual cases, including the Kilby and Crofts directions. It goes on to forbid any suggestion or statement to a jury that the timing of the reporting of a sexual offence has an inherent significance for the complainant's credibility or consistency of conduct, and it allows the admission of evidence of a complainant's initial report of a sexual offence, if relevant, whenever that occurred. That evidence may include evidence about when the report was made and to whom, its content, how the complaint was solicited, why the complainant reported the alleged offence to that person at that time and why the complainant did not report the alleged offence to someone else at an earlier time, if relevant.

In giving direction subject to the new clause, judges will not be constrained as to the particular form of words that they use, and I think that that is a good thing, because it is unhelpful to dictate too closely the method of communication to be used by judges. I think they need to be given a fair bit of discretion about the best way to express particular issues to a jury. But they must direct the jury that this is hearsay evidence and that, as such, it is not evidence as to the truth of the matter but it may be evidence as to how the allegation first came to light, that there could be any number of reasons why it was reported to a particular person at a particular time, and that it is the jury's job to determine what significance, if any, should be given to the circumstances of the report of the offence and its timing.

As to a Longman warning, that must be given regardless of whether, in fact, the delay has put the defendant at a forensic disadvantage. There is no settled authority about what constitutes a delay long enough to involve a Longman warning, but it is considered that, after such a warning, which will include the words 'unsafe or dangerous to convict', a jury is highly unlikely to convict. The bill abolishes that Longman warning as it applies to sexual cases, and instead the judge must first consider the length of the delay and whether it has in fact caused the defendant a forensic disadvantage, and, if it has, to explain to the jury the likely nature of that disadvantage and direct the jury to take that disadvantage into account when scrutinising the evidence. The judge has to avoid generalised warnings and now will not be able to use the phrase 'dangerous or unsafe to convict'.

I guess it is important also, although it seems self-evident, to point out that these rules will apply to judges sitting alone as well as to judges sitting with juries in jury trials. Clearly, it would not make any sense if different rules applied when juries are deciding the very things that judges have to decide when they are sitting alone.

The next aspect in this area is the amendment of the Evidence Act, and that really is to complement the amendments to the Criminal Law (Rape and Sexual Offences) Bill. This particular bill requires a judge in a jury trial where consent is an element to direct the jury that a person is not to be regarded as having consented just because the person did not say or do anything to indicate that he or she did not consent, or just because they did not physically resist, or did not sustain a physical injury.

Similarly, the jury has to be directed that it is equally irrelevant that on another occasion a person had consented to a sexual act with the accused or with someone else. The aim of the amendments in this regard is to ensure that the jury can not misinterpret evidence about the conduct of the alleged victim to infer consent when none was actually given. Members would recall from the discussion last week about the rape and sexual offences legislation that this issue of consent is at times somewhat vexing but, according to my understanding of the law as confirmed by the Attorney during last week's debate, consent may be withdrawn at any time, and consent must be basically a full and informed consent, so that people who lack the ability to give informed consent, for instance, may now be more protected by the law.

There is then an extensive change to the act in relation to sensitive material. At the moment the law provides—and I am pretty sure it is in the Evidence Act—that a defendant can see (and generally have a copy of) any material that the prosecution intends to introduce at trial unless the material is pornographic. Therefore, evidence which is sensitive but not actually pornographic is still included in the material that a defendant is entitled to access and obtain a copy of. If bruising or

damage was relevant, photographs of genitals would currently be available in evidence and, because they are available in evidence, they would be made available to the defendant.

It is obvious when you stop to think about it that that could be distressing to the complainant, if one imagines the complainant having to be aware that a defendant now had copies of photographs of the complainant's genitals, and there is nothing to stop the defendant from not only keeping such photographs but also from displaying, copying or circulating (or whatever) those images. For obvious reasons, that presents something of a problem. The bill aims to deal with that problem by restricting access by a defendant or anyone else to sensitive material created or obtained as part of a criminal investigation or trial.

In fact, it is being broadened so that it does not just include sexual offences but also so that this particular provision will apply generally. Sensitive material is defined as a person engaged, or apparently engaged, in a private act. The decision on whether something is sensitive is to be made by the prosecuting authority, and the prosecuting authority (normally the DPP) may restrict access to sensitive material but must allow access by a court or public official who reasonably needs to see it, and the DPP (or other prosecuting authority) can impose conditions on access and, indeed, the bill introduces penalties—a maximum of $8,000 or two years' imprisonment—for breach of the provisions or any condition imposed on the access.

Another aspect that the bill deals with in terms of evidence is the peculiar situation where someone is seeking to cross-examine a witness in a sexual offence case. A new clause 13B is inserted into the Evidence Act. In most criminal trials it is possible for defendants to represent themselves. In the case of a criminal trial relating to a sexual offence, it could lead to distress and embarrassment for witnesses if the victim is to be subjected to a cross-examination by the very person who is accused of having committed the offence against them.

So, the law is to be changed to ensure that, generally speaking, the person will be given legal aid—and there is a definitive requirement in terms of the legal representation act—to ensure that, when it comes to a cross-examination of a witness in a sexual assault case, those who represent themselves cannot undertake the cross-examination themselves but must be given legal aid so that a legal aid officer does the cross-examination. Various other regulations are put in place around that particular provision.

I want to clarify the major changes to this bill resulting from the consultation after the earlier bill. Originally, a bill with this title was introduced in February 2007. That bill lapsed because it had not been proceeded with when the parliament was prorogued prior to our sesquicentenary celebrations last year and the recommencement of the parliament as a result. The original bill having lapsed, the government did at least consult in the meantime and made a number of changes. I will run through a couple of those. One of the things which was requested by the courts in their consultation was that cases involving proceedings for sexual offences against children have priority over less urgent criminal cases, and be given priority and be dealt with as expeditiously as the proper administration of justice will allow.

There is no doubt in my mind that every criminal who is charged with an offence would see their case as being urgent, especially if they are being held in remand, but I think it is sensible that these cases—particularly involving children and their memories and the problems we have already identified about children giving evidence—proceed as quickly as possible. Interestingly, there is another policy change whereby the offence of blackmail is included as a serious offence against the person. I find that a little odd because most of the serious offences against the person involve physical aspects, whereas blackmail is clearly in another realm. Nevertheless, the government wants to treat blackmail as a serious offence against the person, and having looked through the implications of that, it did not seem to me to do any great harm.

As I have already mentioned, the judicial warnings to which the bill refers are to be given to juries, but equally those same rules will apply to judges sitting alone without a jury. That is really simply clarified, although I would have thought it should be self-evident. The special arrangements for vulnerable witnesses are set out in greater detail, but there did not seem to be any vast change between what was previously there and what will now be there in terms of the actual operation. Most significantly, the grounds for a court dispensing with special arrangements for vulnerable witnesses are changed. There are provisions in relation to vulnerable witnesses, and at the committee stage no doubt there will be some discussion about vulnerable witnesses. Essentially, vulnerable witnesses can come into a variety of categories. They may be someone with an intellectual impairment who is nevertheless an adult. They may be children. They may be people in a range of circumstances.

The new provisions provide that you can only dispense with the special arrangements for vulnerable witnesses where the witness is an adult and only in certain circumstances. Firstly, the facilities for those special arrangements are not readily available to the court and it is not reasonably practicable to make the facilities available. If one were sitting in court, for instance, in Coober Pedy or some outlying area, it might not be reasonably practicable, and I suspect that the most common application of that particular provision will be where a court is in a location remote from Adelaide. The other ground on which dispensation from the special arrangements can be made is that the court is satisfied that the vulnerable witness will be able to give evidence effectively and without significant harm or distress without the special arrangements.

As I understand it, both those things have to apply, although I will clarify that in the committee stage. My understanding is that both those grounds have to be satisfied; that it is basically not practicable to provide special arrangements for vulnerable witnesses, but the court is nevertheless satisfied that they will be able to give evidence effectively and without significant harm, notwithstanding the lack of those special arrangements.

The court is also to have regard to the urgency of the proceedings and the cost, inconvenience and delay involved in procuring the necessary facilities, or adjourning the case to some other place. For instance, if the facilities were not available in Port Augusta, the court would have to take into account whether the cost of moving the entire court down to Adelaide where facilities might be available was worth the effort, the cost, the time, the delay and so on; bearing in mind, of course, that delay is an important factor in assessing whether justice is being served appropriately. Lastly, and this appeared in the previous bill, the court has to give reasons for its decision to dispense with special arrangements for vulnerable witnesses.

A lot of the changes that are made, of course, are simply clarifying as a result of questions and matters that were raised during the course of the consultation. In particular, in relation to the admission of hearsay evidence of a statement made out of court by a protected witness, the emphasis is changed. It now provides that a protected witness may not be cross-examined on matters to which the hearsay evidence about their out-of-court statement relates unless the court gives leave for that cross-examination to occur. Again, that is set out in a fair bit of detail within the bill and I will deal with it in committee.

The court cannot permit the cross-examination of a protected witness unless the court is satisfied that the evidence that comes forth is likely to be of sufficient probative value or whether it is material that would substantially reduce the credibility of the hearsay evidence. Of course, in a criminal trial if a protected witness is not cross-examined on matters to which that hearsay evidence about when they reported the offence relates, the judge must warn the jury that hearsay evidence should be scrutinised with particular care, because it has not been tested in the usual way. The previous bill allowed the court an absolute discretion to exempt the protected witness from being questioned at all; so the situation has been somewhat rebalanced in terms of what is now going to happen. Cross-examination will still take place, but only when the court permits it, and the court will not permit it unless cross-examination is of some real value in the circumstances.

The most significant of the other changes to this legislation, in my assessment, is that a person who is the subject of an image that is sensitive material will have to apply to the prosecuting authority for access to it. In other words, a person whose genitals, or whatever, have been photographed, the person who is the subject of the image, will have to apply for access to it. There is to be no automatic entitlement to access to the image. In the previous bill, the accused might have had unfettered access to it, but it was decided to limit unrestricted entitlement to access to sensitive material to simply courts and public officials. So, other than the courts and the public officials such as the DPP involved in the prosecution of the case, there is now to be restricted access, but obviously if a victim does want copies there is no reason why the DPP would deny them access.

This bill seeks to address a number of issues in terms of evidence law that really go hand in hand with the rape and sexual offences law, which has already passed as a bill through this house and will no doubt be dealt with in the other place in the reasonably near future.

Most of the changes are, in fact, relatively straightforward in terms of evidence, although they are sometimes hard to explain once one gets into the Kilby and Crofts directions and the Longman warnings, and so on, and especially when one has not been a criminal law practitioner. Generally, I am satisfied that the criminal bar in particular has had a chance to examine the originally proposed legislation and to make suggestions mostly directed at clarifying the intention rather than changing the law; although in a couple of cases, like the one just mentioned, where we are rebalancing the right to cross-examine, there have been some policy changes as a result.

I think it is appropriate for this bill to proceed reasonably quickly to catch up to the rape and sexual offences legislation so that they can go through. As I said, it has been a long time coming given that the Layton report was brought down five years ago and a number of changes reflected in this legislation were in fact recommended by Robyn Layton QC, as she then was, now Robyn Layton, justice of the Supreme Court. In that sense, it is long overdue and, accordingly, the opposition has no difficulty in supporting the bill and wishes it a good passage through both houses.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

Mrs REDMOND: I just want to clarify the provisions of new section 13B, which is inserted. This clause provides:

> If a defendant who is not legally represented applies to the commission for legal assistance, that legal assistance must be given subject to the qualifications that appear below.

I want to clarify what the effect of that is when one reads the qualifications that appear below. I refer to section 6(2), (3) and (4) of the Criminal Law (Legal Representation) Act. The provisions that appear below—as referred to in those subsections—allow the removal of legal aid.

I am just curious about what the effect of those provisions—that is, the qualifications appearing below in section 6 of the Criminal Law (Legal Representation) Act 2001—would be if, for instance, we have a self-represented defendant in a criminal sexual assault case and that person gets to the point of wanting to cross-examine but receives advice that they cannot cross-examine the witness themselves, but that they have an entitlement to legal representation. I presume that they have to apply in the normal way to the Legal Services Commission. The 'must' appearing in that inserted provision we are dealing with indicates that the Legal Services Commission has an obligation to provide the legal assistance.

I wonder, therefore, what would happen, for instance, if the person was a millionaire: will that person be subject to any of the usual provisions? Normally, a millionaire who goes to the Legal Services Commission would not be given legal aid. Assuming the commission finds out all that information, then legal aid would not be given to a millionaire who has the capacity to pay for legal representation. However, if a millionaire decides that he or she is going to self-represent, is the Legal Services Commission, under this provision, going to be obliged to provide legal assistance? What are the consequences if, for instance, they do not comply with conditions that might be put on it? I am just curious as to how, in reality, one compels a defendant to apply for legal assistance, and for the Legal Services Commission to grant legal assistance.

The Hon. M.J. ATKINSON: The usual qualifications for legal aid apply. If the person did not qualify for legal aid they then do not get to ask the questions, because they refused to engage a lawyer. Their next step, I would think, is to apply for a Dietrich application to stay the trial on the grounds that it is not a fair trial. Then, as a result of the legal representation law introduced in the 1997-2001 parliament, the trial would go ahead because it is not a valid Dietrich application, because they genuinely do not qualify for legal aid, and they can afford their own legal representation—if they really want to ask those questions.

Mrs REDMOND: So, I guess the short answer really is that, ultimately, they miss out on the ability to cross-examine.

The Hon. M.J. ATKINSON: On those particular questions, yes.

Clause passed.

Clause 6 passed.

Clause 7.

Mrs REDMOND: This is along the same lines as my previous question. The amendment basically adds onto the provisions of the existing section 10 of the Criminal Law (Legal Representation) Act, which provides that, if a court adjourns a trial to allow the defendant to apply for legal aid, and the adjournment is because they failed to do so earlier (that is, they change their mind once they are in the trial, they start the trial self-represented and it has all had to be thrown away or delayed unnecessarily), they can have costs ordered against them.

I am curious about the effect of the amendment, because it seems to provide that, if this unrepresented defendant decides that they want to apply for legal representation at the point when they are confronted with the fact that they cannot cross-examine their alleged victim themselves (notwithstanding that they may well have known about that), this provision seems to prevent the court ordering costs against them if they are specifically applying for the delay while they seek legal aid for the provision of cross-examination of their alleged victim in a sexual offence case.

The Hon. M.J. ATKINSON: It is as it appears.

Mrs REDMOND: Does that not then lead to a potential problem? Again, if we take the mythical millionaire who is self-represented, say a judge actually warned a self-represented defendant at the beginning of the trial and made clear at the outset, 'You're unrepresented. Do you realise that, when this goes to trial, you will be unable to cross examine?'

I accept what you have already said about the application and so on. However, is the effect not the same sort of problem we are trying to address in section 10 as it appears; that is, it is unreasonable for that person to escape having to pay for the delay if they quite deliberately go into a trial unrepresented, knowing that they will come up against this blockage but then say, 'I've changed my mind. I want to apply for legal aid so that I can have a lawyer represent me in this cross-examination'? What is the policy theory behind not allowing the court to order costs against the defendant in that circumstance, when clearly they seem to fall squarely within the ambit of the ill we were trying to address in section 10 in the first place?

The Hon. M.J. ATKINSON: I think we can predict that the great majority of accused in this position will not be trying to thwart the system. Also, at the beginning of the trial they will not have addressed their mind to cross-examining the alleged victim and so they will not have worked out what questions they would ask. So, it just seems fair, at that point in the trial, if they decide to cross-examine, to give them an adjournment to seek legal representation to ask questions—that is after the Crown case has been presented, or during the Crown case—and not to penalise them with costs. It is possible that the hypothetical millionaire mentioned by the member for Heysen may try to do this.

Mrs REDMOND: I accept what the Attorney is saying in terms of most defendants. It seems to me that it might have been more reasonable to say something like: 'however, the court may not make such an order if it is for a section 13B unless the court is satisfied that circumstances justify it', or something like that. It seems to me to be a blanket shut-off of a situation which really would allow a nonsense to be made of the other provision of section 10 as it exists, but it is the government's bill.

Clause passed.

Clause 8.

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

Page 4, line 31—

Clause 8, inserted section 50B(1)—Before 'victim' insert 'alleged'.

The word was mistakenly omitted from the bill. I am introducing identical amendments to equivalent sections in the Magistrates Court Act and the Supreme Court Act in amendments 12 and 13.

Mrs REDMOND: I have no difficulty with the amendment, but since I am on my feet and in order to save time, I will ask two very brief questions in relation to clause 8. In that first subparagraph, just after where the alleged victim of the offence is a child, what definition of 'child' applies there? I have not had time to look it up. What constitutes a child there? It runs through: 'sexual offence means' (a), (b), (c), (d), (e) and then (f):

> Any attempt to commit, or assault with intent to commit, any of the offences referred to in a preceding paragraph.

I assume that that is preceding what I would call a subparagraph; that is, (a), (b), (c), (d) appearing above, and I want to clarify that that reference to 'a preceding paragraph' at the very end of the clause is in fact a reference to the subparagraphs (a), (b), (c), (d) and (e) immediately above.

The Hon. M.J. ATKINSON: There is no definition of 'child' in the District Court Act. We will just go with the conventional one of under 18. The member for Heysen is right about (a), (b), (c), (d) and (e).

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10.

Mrs REDMOND: I have one question, and it relates to the definition of 'vulnerable witness'. On my reading, it is almost identical to the provisions that currently appear in the act; however, I notice there is a change from 'intellectual disability' in paragraph (b) to 'mental disability', and I want to clarify just what is intended. I note there was also a provision that mental disability includes intellectual disability, and I have no problem with the idea that we can encompass vulnerability on the basis of both intellectual impairment and mental disability, but I wonder what is the definition of 'mental disability'. One may, for instance, have a diagnosed mental illness such as depression, schizophrenia or any number of other things—and could, indeed, present a medical certificate to say that one is so diagnosed—but, of course, a lot of those things are adequately managed by medication and, provided someone is on a regime of medication, I see no reason why they would be considered vulnerable.

It seems to me that there is a difference between mental illness and mental disability but I could not find a definition, and I want to clarify who makes the assessment as to what constitutes a mental disability for the purpose of assessing whether someone is a vulnerable witness, and on what basis they make that assessment.

The Hon. M.J. ATKINSON: We accept that mental disability is broader than intellectual disability. For the purposes of the act it would be a matter of obtaining expert evidence to persuade the court to apply the provisions.

Mrs REDMOND: Would that necessitate, for instance, a voir dire as a preliminary to decide whether or not a vulnerable witness was entitled to the various things that flow from being so classified? I am curious about how it is assessed. As I said, I have no difficulty with the need to protect people with a mental disability as vulnerable witnesses, but I foresee the possibility that someone who should be subject to the full rigours of cross-examination could get a protection to which they are not entitled. They may be able to worm out of that cross-examination by asserting that they should have vulnerable witness status. How will that occur in practice? Will there be an application by the prosecution to have someone classified as a vulnerable witness, and how will that occur? Will there be a trial on the voir dire once proceedings are under way?

The Hon. M.J. ATKINSON: Proposed section13A, subsections (7), (8) and (9), outline the procedure.

Progress reported; committee to sit again.

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

GLENSIDE HOSPITAL REDEVELOPMENT

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 254 residents of South Australia requesting the house to urge the government to retain the areas known as precinct 3, 4 and 5 of Glenside Hospital to ensure they continue to be available as open space and recreational, together with mental health services.

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the following written answers to questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*.

EYRE PENINSULA WATER SUPPLY

In reply to **Mrs PENFOLD (Flinders)** (6 February 2007).

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): I am advised that the proponent of a proposed desalination plant near Ceduna has not been refused permission to put their potable water into SA Water's systems.

VIRGINIA PIPELINE

In reply to the **Hon. I.F. EVANS (Davenport)** (7 February 2007).

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): The state government has committed more than $2.5 million to extend the Virginia Pipeline Scheme, cementing Adelaide's position as Australia's leading capital city in recycling water.

The extension will provide an extra three billion litres a year of high quality treated wastewater through a 20 km pipeline network to horticulturists and market gardeners at Angle Vale.

The project will:

- Contribute to increasing Adelaide's use of recycled water.
- Reduce discharge of harmful nutrients into the Gulf St Vincent.
- Reduce demand pressure on the region's over-allocated groundwater resources.
- Contribute to reducing River Murray extractions.

MOUNT BOLD RESERVOIR

In reply to **Mr WILLIAMS (MacKillop)** (6 June 2007).

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): I am advised the water resources of the Mount Lofty Ranges are currently being prescribed, to limit further expansion of water use in that area.

The proposed expansion of the Mount Bold dam, would increase the flexibility of operating the system, including better flexibility for environmental flow releases.

AUDITOR-GENERAL'S REPORT

In reply to **Mr PENGILLY (Finniss)** (21 November 2007).

The Hon. J.M. RANKINE (Wright—Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Volunteers, Minister for Consumer Affairs, Minister Assisting in Early Childhood Development): In relation to the number of motor vehicle leases and non-cancellable photocopier leases operating within the Office for State/Local Government Relations I draw the member for Finniss's attention to the Auditor-General's 2006-07 annual report for the year ending 30 June 2007—Part B, volume III, page 854, note 34 other commitments.

Note 34 relates to the whole of PIRSA. However, I can inform the member for Finniss that the Office for State/Local Government Relations' component relates to the lease of two motor vehicles and the amounts payable are as follows:

- within one year $11,777
- later than one year but not later than five years $45,892

The Office for State/Local Government Relations has no non-cancellable photocopier leases.

WORKCOVER CORPORATION

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) (14:02): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: Yesterday I tabled the review of the South Australian Workers Compensation System report prepared by Mr Alan Clayton, together with Mr John Walsh. As I indicated, the report represents a very comprehensive set of findings and recommendations.

Members interjecting:

The SPEAKER: Order! The Premier has the call.

The Hon. M.D. RANN: I will start again. As I indicated, the report represents a very comprehensive set of findings and recommendations for changes to the scheme—

Members interjecting:

The SPEAKER: Order! The Premier has been granted leave. Members will hear him in silence. The Premier has the call.

The Hon. M.D. RANN: Thank you, sir. As I indicated, the report represents a very comprehensive set of findings and recommendations for changes to the scheme that have as the primary focus improving the rehabilitation and return to work rates of workers and making the system more affordable and efficient. Government members considered the report and its recommendations this morning. Government members have agreed to the introduction of legislation that reflects the recommendations of the review report. This afternoon the Minister for Industrial Relations will give notice of introduction of the relevant bills tomorrow.

Members interjecting:

The SPEAKER: Order! The Premier has the call.

The Hon. M.D. RANN: The government is committed to passing legislation through the parliament as soon as possible to make the scheme fully funded, fair to workers and affordable to business. The recommendations of the Clayton review provide a very sound basis for this legislative reform. Once the legislation is introduced, Mr Clayton will be available to interested parties representing employers and employees to hear directly from them about any specific suggestions they may have to enhance the measures outlined in the legislation.

Mr Hanna interjecting:

The SPEAKER: The member for Mitchell will come to order! The Premier.

The Hon. M.D. RANN: In their dialogue with Mr Clayton, interested parties will be able to make constructive contributions about the specific provisions included in the bill. The government is open to reasonable proposals which are consistent—I repeat, consistent—with the objectives the government has set and which do not disturb the fundamental underpinnings of the report and the legislation, including fairness to injured workers, eliminating the unfunded liability and reducing the average levy rate. Let me repeat that. The fundamentals of it will be, must be, fairness to injured workers, eliminating the unfunded liability and reducing the average levy rate. The government expects to debate the legislation in the April sittings.

Members interjecting:

The SPEAKER: Order!

TRAM AND TRAIN DERAILMENTS

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (14:05): I seek leave to make a ministerial statement.

Leave granted.

Mr Hamilton-Smith interjecting:

The Hon. P.F. CONLON: We will talk about that bridge today, Marty. I do hope you ask me a question about it. I rise today to table rail investigation reports from TransAdelaide—

An honourable member interjecting:

The Hon. P.F. CONLON: Please do ask a question today; I have some very good answers.

An honourable member interjecting:

The Hon. P.F. CONLON: Well, stop interjecting then, goose! I rise today to table rail investigation reports from TransAdelaide—

An honourable member interjecting:

The SPEAKER: Order!

Dr McFetridge interjecting:

The Hon. P.F. CONLON: No; you will enjoy this Duncan. I loved the article about you in *Cycling SA*; it was very good.

The SPEAKER: Order!

Ms CHAPMAN: Mr Speaker, this is totally out of order.

Members interjecting:

The SPEAKER: Order! As are members on my left who have interjected consistently on the minister. The Minister for Transport will not respond to interjections.

The Hon. P.F. CONLON: Thank you, sir. I rise today to table rail investigation reports from TransAdelaide regarding the South Terrace tram derailment on Tuesday 6 November 2007 and the Adelaide yard train derailment on Thursday 27 September 2007. There has been misinformation from the Leader of the Opposition and those opposite regarding both incidents, and I am pleased to inform the house of the results of both investigations.

The cause of the Melbourne Cup day derailment was a tram proceeding through a red signal when departing the South Terrace down platform. The report finds that tram 842 was operating a Glenelg-bound service when it entered the South Terrace siding before the switches had returned to the main line. This initial error caused the rear bogey of the tram to foul the track switch. The driver then made a further forward movement causing the tram to derail. The driver was not told to make this movement. The report states:

> The primary factor leading to the derailment was the Glenelg-bound tram proceeding through a red signal and then a further breach of instructions.

The tram network was disrupted for six hours and affected thousands of Melbourne Cup patrons. TransAdelaide arranged for five articulated buses and four rigid buses to service the network, while a number of 22-seat minibuses were also used, where possible.

The investigation has found that the long delay in returning services was due, partly, to the need to take greater care when re-railing the new trams compared with the old rattlers. However, the report also found there was some confusion among work crews regarding the new overhead power system. I am advised that this problem has been addressed. TransAdelaide has advised that a number of other steps have also been taken in response to the derailment, including a review of signal positions across the tram network to ensure best practice sighting standards are in place.

I now move to the detail of the train derailment. The cause of the Noarlunga-bound train derailment was an infrastructure failure that allowed the track to become 'out of gauge', derailing bogies on the third and fourth railcars. The report finds that the failure occurred at a fishplate that was installed in February 2000, following a heat buckle. It was understood at the time that this fishplate should have been removed before the following summer, and it was not.

An honourable member interjecting:

The Hon. P.F. CONLON: A very good question: why not? What was your minister doing at the time? To further aggravate the problem—

Members interjecting:

The Hon. P.F. CONLON: The year 2000.

The Hon. M.D. Rann: The year 2000: was that Diana Laidlaw?

The Hon. P.F. CONLON: Yes, that's right. It wasn't Trish. How did that politician get it so wrong? The year 2000.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: To further aggravate the problem, excess ballast was used at the time to cover the fishplate, contrary to TransAdelaide's code of practice. I am advised that the excess ballast meant that track inspections had not identified the failure of the screw spikes at the fishplate in the seven years prior to the derailment. The report states, 'The extended use of the fishplate'—

An honourable member interjecting:

The Hon. P.F. CONLON: You should have seen the first version of this. The report states:

> The extended use of the fishplate and the failure of track inspectors to detect the over-gauge risk because of excessive ballast in the location have been identified as the key factors in this derailment.

This derailment was caused by mistakes made in the year 2000.

Members interjecting:

The Hon. P.F. CONLON: I am sorry, sir, but they are the facts of the matter. We had the opposition saying that I had to take responsibility for being the minister, but the truth is that, unless these people believe that the people doing the investigation do not tell the truth—

Mr Hamilton-Smith interjecting:

The SPEAKER: If you have a point of order, stand up and stop interjecting.

Mr HAMILTON-SMITH: A point of order, Mr Speaker. I will make a point of order.

The SPEAKER: Order!

Mr HAMILTON-SMITH: The minister is debating the statement.

The SPEAKER: Order! The Leader of the Opposition will contain himself when he speaks to the chair. There is no standing order that says a minister is unable to debate in a ministerial statement. The minister has been given leave, and it is up to the house to decide whether to continue to allow leave. But there is no standing order that prevents a minister from debating in a ministerial statement.

The Hon. P.F. CONLON: Come on, Marty, suck in the good air; blow it all out.

The SPEAKER: Order! The minister will get on with his ministerial statement.

The Hon. P.F. CONLON: I am advised that TransAdelaide has undertaken inspections of the rail network to ensure that these errors have not been made in other locations. Several operational procedures have also been changed as a result of the derailment to improve the integrity of the inspection processes. Some 15 people were injured in the derailment, and thousands of commuters were delayed on their ride home from work. TransAdelaide and the government were heavily criticised for the immediate response.

The report identifies many shortcomings in emergency procedures and the communications of TransAdelaide staff. I am advised that many actions are already being undertaken to ensure that staff are now better equipped. I can announce today that the government has allocated $11 million for immediate improvements as a result of this investigation.

The Department of Transport, Energy and Infrastructure will spend $9 million on the upgrade of ageing telemetry and cabling around the rail network, and a further $1.9 million will be spent on the installation of digital public address systems in all 83 suburban stations. This investigation will allow for commuters to receive timely and accurate information in the unlikely result of a delay in the rail network. I table the investigation reports.

The SPEAKER: I remind members on both sides that, if they have a point of order, there is an orderly way to draw it to my attention, and that is to get up and call out 'Point of order'. I will not respond to members—and members on both sides have done this—who call out to me while the member is speaking, drawing my attention to a point of order. I will not respond to calling out. If you have a point of order, it is quite simple: get up on your feet and draw it to my attention in the proper way.

PAPERS

The following paper was laid on the table:

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

National Environment Protection Council—Report 2006-07

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens) (14:15): I bring up the 13th report of the committee.

Report received.

VISITORS

The SPEAKER: I draw to honourable members' attention the presence in the chamber today of students from Concordia College (guests of the member for Unley) and students from Blackfriars Priory School (guests of the member for Adelaide).

QUESTION TIME

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:16): My question is to the Premier. Why have the Premier's personal convictions on workers' rights shifted since 1995? During debate on the Workers Rehabilitation and Compensation (Benefits and Review) Amendment Bill 1995, the Hon. M.D. Rann, as leader of the opposition, stated the following:

> Behind the rhetoric and behind the weasel words lies a proposal to cut significantly the income of most injured workers.

He argued against a measure in the bill to reduce injured workers' payments to 85 per cent after six months. The Hon. M.D. Rann said:

> WorkCover benefits will be so low the injured workers will be shunted onto commonwealth benefits.

He then said the following:

> It will condemn people who want to work and their families to a lifetime of poverty and dependence.

He concluded:

> And if we in the Labor Party are accused of being passionate about injustice, of being passionate about the rights of injured workers, of being passionate about the need for a fair go, about the needs of those least able to defend themselves, then we are guilty.

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) (14:18): I am delighted. Can I just say, if we are going back in history, I would like to—

An honourable member interjecting:

The Hon. M.D. RANN: Do you want to talk? Do you want to keep talking?

Mr Hanna interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: I heard the honourable member calling on someone on this side of the house to resign. Of course, he has left more parties than Paris Hilton; we all know about that. We saw what he did to Bob Brown. If you want to go back in time and history, I suggest you go back to probably the most definitive work that I have seen in the history of this state on this subject; that is, the publication *Limbs, Lungs and Lives*, which was published in about 1984. That publication lays down what has to be done in parallel between occupational health and safety reform and, in fact, a no-fault compensation scheme. If you want to go back in time and history, go and look at what I wrote back then in the 1980s, because I am very proud of my involvement in this area. But there is one hell of a difference between the two of us—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —and that is that people on that side of the house have never given a damn about workers, and no-one in the working field and no-one in the unions will ever believe you did, because we remember what you wanted to do to WorkCover. By contrast, what we are insisting upon is that we get rid of the unfunded liability, which your government failed to do, that we are fair to workers, and at the same time we lower the premiums. At the moment, we have a system that isn't good for business, isn't good at returning injured workers to work, and it has an unfunded liability. We are going to fix it because you did not have the guts to do so.

Members interjecting:

The SPEAKER: Order!

THINKER IN RESIDENCE

Mr KENYON (Newland) (14:20): Can the Premier inform the house about the state's newest thinker in residence?

Members interjecting:

The SPEAKER: Order!

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) (14:20): It is very interesting that we have heard different solutions from members on the other side of the house. One of them wants to bring back common law.

The Hon. K.O. Foley: The lawyer!

The Hon. M.D. RANN: The lawyer. Who would a common law system benefit? The lawyers. Because that was the problem. If you go back to that seminal work I talked about before, you will find that the beneficiaries—

The SPEAKER: Order! The Premier will turn to the substance of the question.

The Hon. M.D. RANN: I am pleased to be able to inform the house that the state's newest thinker in residence, Professor Andrew Fearne, commenced his residency this week. I know the Leader of the Opposition was at a function with him last night. An economist by training, Professor Fearne is Principal Research Fellow in supply chain management and consumer behaviour at Kent Business School, University of Kent, where he is director of two research centres, namely, the Centre for Supply Chain Research and the dunnhumby Academy of Consumer Research, which would be known to everyone in this chamber.

He is the founding editor of the International Journal of Supply Chain Management and the author of over 100 academic journal papers and conference papers. During his 20-year career, Professor Fearne has transformed underperforming supply chains into value chains by focusing on consumer preferences and behaviour.

An honourable member interjecting:

The Hon. M.D. RANN: I cannot believe that someone on the opposite side said, 'What?' If they have not actually heard of supply chains or value chains, I am not sure how they could possibly add value in this parliament. Professor Fearne's research interests include demand management and the impact of promotions on food purchasing behaviour, the development of supply chain mapping methodologies for the analysis of co-innovation and sustainable waste management, and the co-regulation of food safety and quality assurance.

Professor Fearne's client and research partners have included non-government organisations, major supermarket chains such as Marks & Spencer, JS Sainsbury and Tesco, and a host of livestock, dairy, poultry, grains, fruit and vegetable companies and industry associations in the food production and processing sectors. He has analysed supermarket loyalty card data from over one million households in the United Kingdom. He has worked in France, Ireland, Slovenia, Germany, North America, the Middle East and South-East Asia.

Professor Fearne has also regularly visited and worked in Australia and he is a visiting research professor in value chain innovation in Western Australia and Tasmania. In 2001, he was recognised academically by receiving the Visiting Scientist Award from the Tasmanian Institute of Agricultural Research and the Henry Schapper Fellowship from the University of Western Australia.

In South Australia, Professor Fearne's residency will concentrate on the state's biggest employer in regional South Australia—the food and wine industries. Contemporary issues such as drought and rising living costs—combined with a carbon conscious, health conscious and increasingly socially conscious community in South Australia—make this residency very timely. Professor Fearne will work with the state's agrifood and wine companies to help them work in partnership to tackle these issues, making them even more innovative, efficient and competitive in world markets. He will advise these companies on how to improve their products through packaging, promotion and effective pricing, and he will help them think more strategically about the changing needs of consumers and the characteristics of particular markets.

The challenge in our state for local food and wine companies is to hit the mark with customers in international supermarkets. I am delighted that Professor Fearne will be working with the food and wine industry, our universities, non-government organisations and the state government to face the challenge. He will also work closely with the Barossa and Light region to develop a model to enhance and strengthen specific value-chain opportunities. This is a world expert; yet another one of our thinkers in residence. The others have all made substantial contributions to our community, whether it be in social policy, environmental policy, economic policy or science, and I am delighted to welcome Professor Andrew Fearne to South Australia.

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:25): My question is for the Premier. Did the member for Mount Gambier and the member for Chaffey, as members of the Labor cabinet, participate in the vote which recommended to the ALP caucus changes to WorkCover legislation? Was their vote decisive and was their role conveyed to the Labor caucus?

Documents leaked to the opposition from within Labor's caucus include two second reading speeches for two bills to be introduced tomorrow regarding the government's plans and a briefing paper considered yesterday and today by Labor members. The opposition understands that the members for Chaffey and Mount Gambier were involved in cabinet briefings and approvals of those bills and papers.

Members interjecting:

The SPEAKER: Order!

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) (14:26): This is breaking news. We were just asked whether the member for Chaffey and the member for Mount Gambier participated in the caucus decision. They are not members of the Labor caucus. They are not members of the Labor Party.

Members interjecting:

The Hon. M.D. RANN: He said 'caucus'.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Let me give him the benefit of the doubt. Did they participate in the cabinet decision? Yes, because they are cabinet ministers.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. Conlon interjecting:

The SPEAKER: The Minister for Transport will come to order!

Members interjecting:

The SPEAKER: Order! I should not have to call for order more than once.

HEALTH REFORMS

Ms THOMPSON (Reynell) (14:27): My question is to the Minister for Health. How are the state's doctors and nurses getting involved in South Australia's health reform process?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:27): Last year, the state government launched South Australia's Health Care Plan, which is a blueprint for reform and change within our health system. I have spoken a lot about it. An essential part of this plan is to prepare our hospitals for the growing demand that we face in the future. Increasing demand is already being felt in emergency departments in our public hospitals. Over the past five years, admissions at South Australia's public hospital emergency departments have jumped by 25 per cent. That is 25 per cent over five years. Sir, to deal with this—

Ms Chapman interjecting:

The SPEAKER: I warn the deputy leader!

The Hon. J.D. HILL: To deal with this massive increase, the state government is employing more ED staff and we are expanding ED capacity. We are also, of course, rolling out our GP Plus health care structure to provide more services closer to where people live. The role of emergency department staff is vitally important in providing the very best emergency care to all South Australians. The government values the passion, dedication and care of staff who work in our emergency departments.

As part of our development and implementation of the health care plan, we are learning from other jurisdictions which have reformed their health systems. This month, the government

arranged for a delegation of physicians and nurses to travel to the United Kingdom to look at how that country is working to improve its public hospitals, in particular, the performance of their acute medical services. Six delegates in total from Flinders Medical Centre, the Royal Adelaide Hospital, and the Queen Elizabeth Hospital visited hospitals in London and Edinburgh to observe the treatment of acute medical patients within emergency departments and inpatient wards.

They also studied different models of care and looked at the emerging roles of advanced nurse practitioners and admission and assessment processes. In particular, the clinicians have studied the UK system to see how emergency care can be better delivered, waiting times reduced and patient outcomes improved.

I refer to some of the interesting features of the UK system and the reforms that have occurred there. First, there has been a focus on acute medical care that integrates the role of the emergency department with medical inpatient units. This has improved times to admit medical patients. A system has been devised of dividing patients into three specific groups that are related to the potential time a patient requires clinical care. This means that long-stay patients are targeted earlier to move into an appropriate inpatient ward. A strong multidisciplinary approach is now taken to the acute medical unit, which allows for all the patient's needs to be accommodated and appropriate arrangements for community support when they are discharged. And in some acute medical units, GPs can make a direct admission to the unit rather than go through the emergency department system.

Of course, in Britain there is a strong focus on patients seeing the clinical decision maker so that care can be put in place as soon as possible and patients do not have to repeat their condition and medical history several times with various clinicians. The team of doctors and nurses will report back to the Department of Health on what they have found and how South Australia can learn from the UK experience.

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:31): My question is to the Premier. As leader of the government, does the Premier accept responsibility for the deterioration of WorkCover's performance over the last six years? Does he concur with the Clayton-Walsh report's finding that the WorkCover scheme was in good shape when Labor took office in 2002?

The Clayton-Walsh report states that during the late 1990s 'claim payments were very well controlled, reducing in real terms throughout the five year period' and that 'the scheme began the 2000s in an apparently healthy position with respect to both financial stability and reputation for forward-thinking as represented at various seminars and conferences'.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:32): Let us put this question into context. Look at the economic conditions of the late 1990s compared to the economic conditions of today when unemployment was higher and there were less people employed. That would have a—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I could go back to the appalling management of the last WorkCover management team and the performance of the previous board and I could refer to—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —the highly politicised decision by the then management and board to cut the levy following the privatisation of electricity and prior to the election, which has been well commentated upon, but —

Mr Hamilton-Smith: Clayton says you're wrong.

The Hon. K.O. FOLEY: He doesn't say that at all—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The point we are at is that, if the opposition wants to say that WorkCover's financial performance is a result of poor management and poor leadership, what the member opposite is saying is that very fine South Australian business people, who sit on the board of WorkCover and have done so for five years, have failed this state. Are you saying that?

Members interjecting:

The SPEAKER: Order!

Ms Chapman: Are you blaming the board now?

The Hon. K.O. FOLEY: Well, the board was given the job of managing the organisation, and that board has managed the disaster.

An honourable member interjecting:

The SPEAKER: Order! I have already issued a warning.

The Hon. K.O. FOLEY: That is reflecting on some very fine business people in this state.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The board—and I do not need to name the people, or I can if you would like?

An honourable member interjecting:

The Hon. K.O. FOLEY: All right: Bruce Carter, a prominent businessperson; Peter Vaughan, CEO of Business SA; David Klingberg, a major industrialist in this state, recently resigned and replaced by Mr Tom Phillips; Sandra De Poi. There are a number of very senior South Australian business people who have managed and directed that business to the best of their ability. In their place is an outstanding CEO, the former CEO of Flinders hospital, Julia Davison, somebody for whom I am sure both sides of politics have high regard. The management of the organisation has been significantly changed.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: What it comes down to is the fundamental shape of the legislation that has been largely intact since the mid-1980s. Other state governments, Victoria, New South Wales in particular, in recent years have reformed their statutory scheme significantly. What has been proposed in our system is a fair system that still gives us a scheme that provides a more generous set of benefits to workers than either Victoria or New South Wales, but will give the government of the day the ability to see that that unfunded liability is eliminated, and over time—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Over time the levy rate, one would hope, will reduce to a more competitive rate as it relates to other states. But I should note that the government has no intention, and will not agree to the suggestion of common law coming back into the system, but I think it is very important to note that the shadow attorney-general is calling for it here today.

Members interjecting:

The Hon. K.O. FOLEY: The Deputy Leader of the Liberal Party is calling for the introduction of common law.

The Hon. M.J. Atkinson: And the member for Mitchell.

The Hon. K.O. FOLEY: And the member for Mitchell.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: We have agreed as a parliamentary Labor Party, as difficult as it has been, for obvious reasons, but our party has shown courage and leadership in being prepared to do what we believe to be in the best interests of the taxpayers and the community of South Australia.

Mr Hanna interjecting:

The SPEAKER: Order! The member for Mitchell is warned.

The Hon. K.O. FOLEY: I am looking forward to this pressure being applied to the—as he likes to be referred to—alternate premier. I would like to see the pressure applied to him now as to what is his position.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: His party has now had the Clayton report for over 24 hours, and we will have legislation tabled tomorrow, and I look forward to seeing what the Liberal opposition's position will be. We have already seen the shadow minister saying that they will not support a cut to workers' benefits.

Members interjecting:

The Hon. K.O. FOLEY: Yes you have.

Members interjecting:

The Hon. K.O. FOLEY: Oh yes you have. Here we go—the shadow minister for industrial relations on 18 February, quote:

> We will oppose cutting workers' entitlements because that is not the long-term result that is required in South Australia for the workers compensation scheme. It is a better management of the scheme that is required.

He then said on Channel 10 news—Duncan McFetridge, on 18 February:

> Workers' payments don't need to be cut. The whole workers compensation scheme for South Australia needs to be better managed.

He said that again on ABC news. It was on *Adelaide Now*—

Members interjecting:

The Hon. K.O. FOLEY: Oh, 'Hear hear!' So, Mr Speaker, the Liberal Party—

Members interjecting:

The SPEAKER: Order! The Deputy Premier.

The Hon. K.O. FOLEY: For the most important piece of legislative reform in this session of parliament, indeed this term of government, the Liberal opposition is now saying that they will not support the legislation.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: That will be interesting—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —because, sir, as he would like to be referred to, as he parades around the state, the alternate premier now has the pressure upon him to articulate a Liberal Party position.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Because if the alternate premier aspires to higher office it will take political courage and an ability to make a hard decision and do what is in the best interests of the state. On this one, as much as he has been allowed to get away with it so often in this state in the last 12 months, the pressure and the spotlight is now on the Leader of the Opposition. What is his position? We have made our decision. What is he going to do? That is now the question.

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:40): As a supplementary question, again to the Premier if he will take it, if neither the Premier nor the minister will accept

responsibility on behalf of the government for WorkCover's financial position, who is at fault? Who did cause it?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:41): This parliament is at fault, and the reason for that is—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! I will vacate the chair if this continued interjecting goes on. The Deputy Premier.

The Hon. K.O. FOLEY: As a government, we have done all we can—

Mr Pengilly interjecting:

The SPEAKER: Order! I have just called for order and already the member for Finniss, before the Deputy Premier has even started, is interjecting. The member for Finniss is warned, and he can consider it his last warning.

The Hon. K.O. FOLEY: The government believes that, in terms of a board, it has put in place—and I have yet to see other than the Liberal opposition be critical of this board—the best business skill base we could.

Members interjecting:

The Hon. K.O. FOLEY: I'm not struggling at all.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: That board has put in place what it considers to be the best management available to manage the scheme, including an outstanding CEO in Julia Davison. Notwithstanding a high quality board, notwithstanding high quality management—

Mrs Redmond interjecting:

The SPEAKER: Order! The member for Heysen is warned.

Mr Venning interjecting:

The SPEAKER: Order! The member for Schubert is warned.

The Hon. K.O. FOLEY: You have a bit more to be worried about, Ivan. I'd be very careful.

Ms Chapman: Is that a threat?

The Hon. K.O. FOLEY: No, it's a fact.

The SPEAKER: Order! The Deputy Premier does not assist me by responding to interjections.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: I give up. Honestly. I will not waste my time, Mr Speaker. Either they want to hear an answer or they do not. Sir, the best quality boards and the best quality management, with the legislative framework that oversees the provision of workers compensation in this state, is fundamentally flawed—

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop is warned.

The Hon. K.O. FOLEY: —and, without substantial legislative reform, the unfunded liability will grow, not reduce. Without substantial legislative reform, the WorkCover scheme will continue to be the most ineffective, expensive and unfair to workers in Australia. That is the opinion of the board itself which handed down a series of recommendations, and that is the view of Alan Clayton

and John Walsh, two of the nation's leading experts with respect to WorkCover. If members recall, the WorkCover Board said, 'For us to be able to manage this scheme to a position of being fully funded, this is what we believe the parliament needs to do to reform the legislation.' We put those recommendations by the board to a further independent review process, which has agreed with about 80 to 85 per cent of what the WorkCover Board said.

It is easy in opposition to try to make political points out of this, but at some point responsible politics requires an opposition to also appreciate that parliaments of the past and governments of the past of either persuasion perhaps should have acted sooner; and that goes back for a decade or more.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: It requires decisive action by this parliament.

An honourable member interjecting:

The Hon. K.O. FOLEY: You can laugh all you like, the member who would like to see common law return, but any objective analysis of this current situation can only concur that the legislation is fundamentally flawed; otherwise, you are saying that the likes of the senior business people who sit on WorkCover's board and Julia Davison and her management team are not up to the job. If that is what you are saying that is a fairly low blow.

The SPEAKER: Order! The Deputy Premier is debating the matter.

ADELAIDE FESTIVAL OF ARTS

Ms FOX (Bright) (14:46): Will the Premier tell the house about the opening of one of Adelaide's signature festivals this Friday night?

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) (14:46): This is an important question on a topic that is an integral part of Adelaide's cultural identity. The 25th incarnation of the Adelaide Festival of Arts opens this Friday night; so it is 50 years of festivals. This is the 25th festival, and from Friday there will be 80 events and 280 performances involving more than 715 artists from 28 countries. In addition, 65 per cent of the program is exclusive to Adelaide and two-thirds of the events are either international or international and Australian collaborations. From opera to visual arts, music to theatre and film, dance to the renowned Adelaide Writers Week (which features such luminaries as Ian McEwan), as well as WOMADelaide (which is now an annual event), the Adelaide festival is one of the world's premier broad-based multi-arts festivals.

Under the direction of Brett Sheehy, it promises to be a festival of truly international proportions and one of the most unforgettable. The festival's sales figures demonstrate this, with tickets selling exceptionally well. Currently, we are approaching $1.9 million worth of sales. The level of interest reflects the quality of the performances on show, with artists of the calibre of Ornette Coleman and Phillip Glass. In addition, there is prima ballerina Sylvie Guillem and Kathak contemporary dancer Akram Khan, as well as the Emanuel Gat Dance Company and *The Age I'm In*, with the latter two performing in the new refurbished auditorium of the Dunstan Playhouse. I thank the Treasurer and I hope he will go and have a look at the difference a few million dollars makes to the interior of the Dunstan Playhouse.

Two of our festival's centrepiece performances are the Pulitzer Prize-winning classic, *Cat on a Hot Tin Roof* and Tim Supple's glorious subcontinental adaptation of *A Midsummer Night's Dream*, which is vivid, exotic and spectacular and which includes an array of different artists from Sri Lanka and India. Actors, dancers, musicians and martial arts performers will come together to create a stunning and compelling piece of theatre.

As I have previously informed the house, bringing these two sensational performances to Adelaide became possible when Festival chairman Ross Adler and artistic director Brett Sheehy came to me to propose that, with an additional sum of $500,000 and by bringing these two performances to Adelaide, the 2008 festival would become more than an exciting Australian arts celebration: it would become a truly international event—and I thank the Treasurer for enabling us to achieve this. I know his commitment to the arts is second only to his commitment to the environment, as the Port Adelaide Dolphin Sanctuary testifies. I suggest that these two

performances are not to be missed; so with tickets selling as well as they are, members will need to get in quickly.

Another production of mammoth proportions will be *Ainadamar*—a newly commissioned production of the double Grammy Award winning opera. With some of the original Grammy Award winning cast members and directed by Graeme Murphy (one of the Australia's leading dance and opera directors) this production is destined to be the future of opera. In true Latino style, *Ainadamar* will take one on an 80-minute rollercoaster ride of drama and passion, and promises an opera experience unlike anything one has seen or heard before. The story of the life of Spain's revered musician, playwright and poet Garcia Lorca, is brought together in this opera by the hottest new composer on the international music scene, Osvaldo Golijov. Few new opera productions are now produced in this country, and we are privileged to host such a major coup at this year's festival. With only three shows, I advise all members to make sure that they do not miss it.

This Friday, 29 February (a day that only comes around every few years—in fact, every fourth year, because it is actually leap year, and I am sure there will be all sorts of proposals), Adelaide's cultural boulevard will burst into life with the opening of the 2008 Adelaide Festival of Arts. In 2006, we had the awe-inspiring public performances of Dancing Sky from northern Italy to open the festival—a free show that brought young and old to the banks of the River Torrens in record numbers to watch in wonder as the sky above them came to life. Now, in 2008, what a treat we have in store.

Our iconic cultural institution buildings lining North Terrace will be the canvas for what will be a spectacle of light. Amazingly beautiful at the best of times, the Art Gallery, the Institute Building, the Mortlock Chamber of the State Library, the South Australian Museum, Elder Hall, Bonython Hall and the Mitchell Building of the University of Adelaide will dazzle as they are painted with a spectacular array of colours and patterns of light. From 6pm on Friday night, North Terrace between Kintore Avenue and Pulteney Street will be closed to traffic to make way for the major event that follows. This will be simply stupendous. Please enjoy our great festival.

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (14:51): Can the Premier advise the house what will be the expected value of transactions under current contract agreements between WorkCover and the organisation of a current board member, Ms Sandra De Poi, of De Poi Consultancy Services, this financial year? The WorkCover SA Annual Report 2006-07 (page 90) states:

Ms Sandra De Poi, of De Poi Consultancy Services, has a current contract with WorkCover for the provision of rehabilitation services. The value of transactions during the year ended 30 June 2007 was $2,125,953.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:52): Sandra De Poi is a very valuable member of the WorkCover Board. Since she has been on that board, it is my understanding (this is what I have been advised by the chair), that, if and when it is appropriate, she declares a conflict of interest. With regard to the specifics, I do not have that detail, but I will obtain it for the member.

RENTAL ACCOMMODATION, REGIONAL SOUTH AUSTRALIA

Mr BIGNELL (Mawson) (14:52): My question is to the Minister for Housing. How is the government helping people in regional South Australia get into and stay in rental accommodation?

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Families and Communities, Minister for Aboriginal Affairs and Reconciliation, Minister for Housing, Minister for Ageing, Minister for Disability, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:53): I thank the honourable member for his question and his particular interest in questions of housing and homelessness, and I was very pleased to be able to work with him on the closure of a caravan park very early in the life of his term in this place.

The key focus of the state government has been the homelessness initiative through Monsignor David Cappo's Social Inclusion Board. While the statistics show that there is a lot of work to be done in South Australia, we are making progress—and progress against the national trends. In fact, South Australia was the only state to demonstrate a fall in primary homelessness, when around the nation there was, in fact, an average of a 19 per cent increase—and, indeed, in those states that we are properly compared with, about a 39 per cent increase—in primary

homelessness. So, we are cautiously optimistic about the fact that our approaches are having some impact.

One of the Social Inclusion Board's initiatives in this area was the private rental liaison project, which was aimed at reducing homelessness by linking vulnerable people with rental accommodation and making sure that they could make a success of it. As we know, there is a squeeze around the country in terms of affordable rental accommodation, with vacancy rates at record lows, and it is vital that our housing effort concentrates not only on social housing but also that other important area of housing. Almost double the number of people in South Australia are in private rental as opposed to social housing.

The private rental liaison officers liaise with landlords and property managers and assist tenants to understand their rights and responsibilities. They also receive ongoing visits at two, four, six and 12 weeks to assist them to make sure that handling the tenancy is going well. They also respond to difficulties that the tenancy might be experiencing, and they work with tenants to address issues.

Since it began in May 2004, this private rental liaison project has helped 1,400 people into housing and, more importantly, it has stopped people from falling into homelessness—so much so that a side benefit of this scheme is that we have had private sector landlords asking to be signed up to it, providing us with lists of their properties so that they can actually have this association, because they can see the benefit in having a successful tenancy.

I am pleased to announce that, while we have mainstreamed this service beyond the social inclusion initiative in the metropolitan area, we are now seeking to take it out to some of the regional areas, including Mount Gambier and Murray Bridge. This means that the scheme now supports people in the South-East, Murray Bridge, as well as metropolitan Adelaide, the Riverland, Port Augusta and Port Pirie.

The provision of private rental liaison officers is an example of this government's recognition that housing policy is more than just about the provision of bricks and mortar: it is about providing people with the support to make a success of their tenancies.

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (14:56): My question is again to the Premier. On what advice did WorkCover spend $850,000 on coffee mugs, stress toys and show bags as a means of improving the corporation's performance?

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:57): The honourable member having asked a question of that type, I will get that detail for him. If those figures are correct, we will find that out.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: To the best of my knowledge, I have not had that figure put to me before today.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: Asking a question about coffee mugs, stickers, what Sandra De Poi is doing, and so forth—what a shallow performance!

The Hon. P.F. Conlon: Did your brains trust get together on that?

The SPEAKER: Order!

An honourable member interjecting:

The SPEAKER: Order!

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (14:57): My question is again to the Premier. Is Employers Mutual Limited using commonwealth funded trainees, who have little or no training, to provide case management services to WorkCover?

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:58): Yesterday, the member asked me a question about Employers Mutual, which I have referred to WorkCover to bring back a response. With regard to commonwealth trainees, I will obviously get some advice, once again, from WorkCover on how Employers Mutual is using its employees.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: As I said yesterday, this government brought in a new set of regulations that would provide the correct incentives and penalties to make sure that claims management could be done more effectively. As a result of those regulations and as a result of the contract that has been let out by the WorkCover Board to Employers Mutual, claims management is now being better performed than previously.

Members interjecting:

The SPEAKER: Order!

CLAYTON-WALSH REPORT

Dr McFETRIDGE (Morphett) (14:59): My question is again to the Premier. Did the government seek to make changes to the Clayton-Walsh report to influence its recommendations? The Clayton-Walsh report compared South Australia's WorkCover scheme only with New South Wales, Victoria and Queensland, yet Mr Clayton's recent report to the Tasmanian government on that state's scheme includes comparisons with all states and territories, including the more generous and efficient Comcare scheme.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (14:59): I thank the shadow minister for his question. I think that Mr Clayton and Mr Walsh would say that this is an independent report and that they have been allowed and able to go ahead with their business. They have undertaken consultation through the process. Obviously, as the responsible minister, I have met with them. As a part of those—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: —as a part of the work they have been doing. But I remain confident that both Mr Walsh and Mr Clayton, who have made a series of recommendations to this government, both of a legislative and non-legislative nature, have come forward with an independent review.

SHARED SERVICES

Mr GRIFFITHS (Goyder) (15:00): Has the Minister for Industrial Relations received a copy of the independent study into the Queensland government's ailing shared services agency and what changes will he make to the already delayed shared services reforms in South Australia?

The Hon. K.O. Foley interjecting:

Mr GRIFFITHS: They are delayed. A University of Southern Queensland report, released under freedom of information, has revealed that the Queensland state Labor government's $130 million a year shared services agency is in disarray. The report identifies a series of failures in the concept of centralising administrative functions into a separate agency, similar to the problems experienced in Western Australia.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (15:01): Shared services is an important initiative of this government. It is going to be done carefully and properly and, as a part of that process, obviously we have learnt from the experiences of Western Australia and Queensland. We have also looked at other jurisdictions, whether they be in the public or private sector. But as we have said before, this is an important initiative of government which I think, from memory, is going to deliver $60 million in savings from 2009-10 onwards. So, of course, we will learn from what has happened in Queensland and Western Australia, and in other jurisdictions.

MENTAL HEALTH TRAINING

Mr O'BRIEN (Napier) (15:02): My question is for the Minister for Employment, Training and Further Education. What support is the government providing to boost the skills of workers in the non-government mental health sector workforce?

The Hon. P. CAICA (Colton—Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Gambling) (15:02): It was last week that I had the pleasure of attending a graduation ceremony for participants of what was then a pilot program to provide training in psychosocial rehabilitation. This pilot program was funded by DFEEST, and it was delivered through the Mental Health Coalition of South Australia to direct care staff of the non-government sector who provide community-based mental health services.

This training program was developed following the Social Inclusion Board's 2007 report entitled *Stepping Up: a Social Inclusion Action Plan for Mental Health Reform 2007-2011*. The main task of the program was to deliver psychosocial rehabilitation training to 65 mental health care workers. Initially, the program aimed to train 12 participants as trainers but, in fact, 19 enrolled in that program for trainers.

Following the completion of this program, further discussions commenced between DFEEST, the Mental Health Coalition, the Health and Community Services Skills Board, and the Mental Health Operations Unit of the Department of Health in order to explore how the success of this pilot program could be built upon. The result of those discussions was my being able to announce at the graduation ceremony that $120,000 will be provided to fund a two-year extension of what is a very important training program. This funding will be provided jointly through DFEEST and the Department of Health.

I take this opportunity to acknowledge publicly the support of my colleagues the Hon. Gail Gago, Minister for Mental Health and Substance Abuse, and the Hon. John Hill, Minister for Health. It is anticipated that the program extension will provide psychosocial rehabilitation training for some 200 non-government mental health care workers over two years. That is almost one-third of the sector's workforce. I thank also Monsignor David Cappo, Commissioner for Social Inclusion, for his letter commending the continuing support for the implementation for the Social Inclusion Board's 2007 report and for noting that this training will 'add momentum to the reform process and help to re-fashion our mental health system into one that is modern and recovery focused'.

This successful training program demonstrates the government's commitment to supporting the development of the non-government mental health sector workforce to enable it to continue to build its capacity to assist in the recovery of people with mental illness. I certainly congratulate all the people who have been involved in this particular training program.

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (15:05): My question is to the Minister for Industrial Relations. Minister, are you the minister responsible for WorkCover?

The Hon. P.F. Conlon: He should direct his question through you, Mr Speaker.

The SPEAKER: Order! I remind the Minister for Transport of what I said earlier to the Leader of the Opposition. If he has a point of order to make, do not call it out. We are not at a football match: get on your feet and draw it to my attention.

The Hon. P.F. Conlon: I apologise, sir.

The SPEAKER: However, I do take the point. I remind the member for Morphett that he must address his questions through the chair.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (15:05): Yes, of course.

MIGRATION, BALTIC STATES

The Hon. L. STEVENS (Little Para) (15:05): My question is to the Minister for Multicultural Affairs. Can the minister inform the house how the South Australian government has marked the arrival of peoples from the Baltic states over 60 years ago?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (15:06): In 1939, war broke out in Europe and that was quickly followed in 1940 by the Soviet Union's invasion of the three Baltic nations: Lithuania, Estonia and Latvia.

The Hon. M.D. Rann interjecting:

The Hon. M.J. ATKINSON: Thank you, Premier. The Soviet Army carried out mass arrests, deportations and executions. As if that were not enough, the Nazi invasion followed in June 1941, and more forced conscriptions, forced labour, arrests and persecutions followed. The Jewish communities of the three nations were destroyed. The people of the Baltic nations resisted both invaders as the currents and fortunes of the war on the Eastern Front waxed and waned, until the Soviet terror returned with the Red Army as they forced the Germans back to Germany.

Just when the Baltic people thought they might regain their freedom, their hopes were dashed again by their old oppressors who re-established their occupation. Those Lithuanians, Estonians and Latvians who managed to flee the new occupation through the refugee camps in Germany and elsewhere went into self exile, not by choice but by necessity.

Sixty years ago, the commonwealth government began its highly successful migration program, an initiative that has made and continues to make it possible for the Australian nation to grow and prosper. The first major source of migrants who came to help meet Australia's severe labour shortages were from the Baltic nations. Those who came to Australia came by choice as they sought an opportunity for a new life away from the tyranny of Nazi and Soviet oppressors.

Late last year, I was pleased to host a reception in the members' dining room to celebrate the 60th anniversary of the Baltic community's arrival in Australia and to acknowledge the contributions of the Lithuanian, Latvian and Estonian communities to Australia since 1947. Among those present were Mr Hieu Van Le, Lieutenant-Governor of South Australia and Chairman of the South Australian Multicultural and Ethnic Affairs Commission, and Mrs Lindsay Simmons, member for Morialta. I also make special mention of Bruno Krumins, former lieutenant-governor of South Australia, current President of the Latvian Association of South Australia and the first chairman of the South Australian Multicultural and Ethnic Affairs Commission. He is a man who has made South Australia and the Latvian community proud. Of course, there are many other members of the Baltic communities who have contributed much to the success not only of their communities but of South Australia and the nation. Many of these people were present at the reception here at Parliament House.

Through the long years of the occupation and repression of the Baltic nations, the Baltic people in exile never lost hope and never gave up the fight. The Latvian, Estonian and Lithuanian communities organised themselves here in Australia with clubs and associations to look after the cultural and welfare needs of their members: with media outlets in their languages; with relief and aid organisations to help their compatriots in the occupied homelands, and with groups to pursue the political issues that were necessary to help achieve freedom for the Baltic States. I was pleased to work with the Captive Nations Council, from the mid-1980s onwards.

When that freedom and independence for the three nations finally came in the early 1990s, they celebrated not only their independence but also their contribution to that freedom. They can hold their heads high knowing that they helped to bring freedom, democracy and independence to the Baltic nations.

During the reception, I was honoured to receive some thoughtful and charming gifts from community leaders. One gift was a beautiful Namejs ring, the ring of Latvia, that symbolises Latvian collective unity and individual freedom. I was also given a pair of fascinating traditional Estonian dolls by Dr Peter Salu which, I was assured, will not answer me back. I will, however, be forever under their watchful eye and they will remind me of the more than 300,000 South Australians who were born overseas. These gifts that I value are a perfect reminder of the wonderful evening on which we celebrated the 60th anniversary of the arrival of Baltic communities in Australia. I am sure that members of the house will join me—

An honourable member interjecting:

The Hon. M.J. ATKINSON: For the information of the member for Stuart, that is the Baltic states, not the Balkan states. I am sure that members of the house will join with me in acknowledging everything the Baltic communities have done to make South Australia great and thank them for choosing to make South Australia their home.

WORKERS COMPENSATION

Dr McFETRIDGE (Morphett) (15:13): My question is for the Treasurer. Does the Treasurer stand by his statement to parliament on 7 February 1995 that 'the care, the financial security and the wellbeing of members of the workforce who are injured are our paramount priority'?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:13): I stand by what I said in 1995, absolutely, but I am more interested in whether the shadow minister stands by his statements through media outlets for all to see—

The Hon. P.F. Conlon: Just a week ago.

The Hon. K.O. FOLEY: —just a matter of a few weeks—that the Liberal Party will support no cuts to workers benefits? Do you stand by that?

Members interjecting:

The Hon. K.O. FOLEY: Do you stand by that? Do you stand by that?

The SPEAKER: Order! The Deputy Premier will take his seat. The Deputy Premier asking questions of the opposition, whether they be rhetorical or not, and inviting interjections makes it very difficult for me to maintain control of the house. I ask him to refrain from it.

The Hon. K.O. FOLEY: I apologise for that repeated request for the member to clarify his position. The truth of the matter is that there is only one side of politics that is incapable of making a sound decision, and that is members opposite. I look forward to reading, watching or hearing what the Leader of the Opposition and, indeed, the Liberal opposition's position is on this very important matter.

INTERNATIONAL YEAR OF LANGUAGES

The Hon. S.W. KEY (Ashford) (15:15): My question is directed to the Minister for Education and Children's Services. Minister, what are South Australian schools doing to recognise the International Year of Languages?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (15:15): Can I thank the member for Ashford for her question. I know she supports language education and is a great supporter of multiculturalism as well. This year, as members would know, is the United Nation's declared International Year of Languages. Its significance is that it not only promotes diversity and global understanding but, incidentally, promotes the globalisation of various economies, by promoting the learning of second and third languages and, in addition, helps child development by promoting the skills that are inherent in learning a second language.

South Australia, I am pleased to advise the house, has taken up the challenge to promote the importance of learning one of the many different languages offered in our schools very seriously. This includes students studying new languages and students doing maintenance studies in their first language, if that is other than English. Currently there are around 50 different languages that students can choose to study, including 10 different indigenous languages.

Students have the option of studying these languages at one of the 192 ethnic schools that are run by community groups or at the specialist School of Languages, which provides language education to 1,300 students, in 23 different languages. In 2007 almost 103,800 students were studying languages other than English in government schools.

This includes more than 5,000 students at over 40 schools studying one of the 10 Aboriginal languages, and many more students taking part in first language maintenance. This may interest the member for Unley because he has shown an interest in a term called 'mother tongue programs', which are not used under that term any more and are now called first language maintenance programs.

First language support is offered in Aboriginal languages, Chinese, French, German, Greek, Italian, Indonesian, Japanese and Spanish. There is also an expectation that when many

newly arrived African students take up their places in South Australian schools these programs will be extended to those new and emerging African languages.

Language education forms an important part of the international partnerships that our government forms with oversees governments. In particular the department has formed partnerships through memoranda of understanding agreements with France, Greece, Germany, Italy and Spain. These agreements set out the commitment both by South Australia and the partner country in supporting language programs and developing cultural understanding.

For example, the MOU with the Spanish government includes the appointment of a Spanish language adviser, funded by the Spanish government for five years, to teach Spanish and provide professional development opportunities for local Spanish teachers. This is of enormous benefit to the more than 6,000 students in South Australia who learn Spanish, in 61 schools across the state. Similarly, the German government provides a German adviser who supports 13,000 students learning German, in 95 schools.

South Australian schools have certainly embraced the idea of an International Year of Languages, with schools across the state being involved in a range of events that benefit language education. For instance, some of the events include a languages conference, which is being facilitated by the department in June. In the western part of the city there will be a languages expo at Le Fevre High School in March; and the Multicultural Education Committee is developing a full calendar of activities across the whole year.

Learning a second language, of course, opens up many opportunities in employment and trade, but it also helps students study other subjects at school and incorporates the skills that they need to commit to an understanding of the English language and be full members of civil society. So, learning a language is important on many levels, and I suppose that there would be no-one in this chamber who would not support the Year of Languages as a UN year, and support efforts in our local schools.

DEPUTY PREMIER'S REMARKS

Mrs REDMOND (Heysen) (15:19): I seek leave to make a personal explanation.

Members interjecting:

The SPEAKER: Order!

Leave granted.

Mrs REDMOND: During question time the Deputy Premier on a number of occasions asserted that I had indicated support for the reintroduction of common law. The Deputy Premier knows full well that what I was indicating was that it was unreasonable to compare the WorkCover system in this state, where we do not have common law, with the WorkCover systems that apply in various other states where they do have common law. The point I was making was that it was a matter of comparing apples with oranges, and to assert that I was saying something about the introduction of common law was simply wrong, and the Deputy Premier knows it.

The Hon. P.F. CONLON: I rise on a point of order, Mr Speaker. The making of a personal explanation is not the place to debate the matter.

The SPEAKER: I do not uphold the point of order. I think that the member for Heysen was simply making clear her point. However, I do point out that the member for Heysen should not have been interjecting.

GRIEVANCE DEBATE

WORKCOVER CORPORATION

Mr WILLIAMS (MacKillop) (15:20): What an auspicious day for the Labor Party in South Australia. After at least 4½ years of denial, the Labor Party comes into this place, about to slash the benefits to injured workers, and blames everyone but itself, its own incompetence and its own mismanagement. Today, the Labor Party would have the people of South Australia believe that; and I think that the Treasurer said that it was the parliament's fault. Well, let me just remind the Treasurer how the parliament got it wrong. Back in 1995, when the then Liberal government was intending to change the legislation to lower the benefits to 85 per cent of average weekly earnings after six months, both the Treasurer and the Premier rallied against it. They said, 'We will have poverty in the streets. We will be turfing the working men and women of South Australia onto the commonwealth pension scheme.' That is what they said then.

The working men and women of South Australia need to know that this government is today proposing something more draconian than that: it is reducing to 80 per cent (that happens to be 5 per cent below 85 per cent) after 13 weeks. That happens to be about half of what the proposal was back then. The interesting thing is that the Treasurer claimed today that the WorkCover scheme is not functioning; that it is impossible for it to work under the current legislative regime. What happens to all those industries, all those businesses and all those working men and women who happen to be covered under self-insured businesses?

Ms Chapman: Like at *The Advertiser*.

Mr WILLIAMS: Like at *The Advertiser*—all those people who are covered by employers who manage their own scheme as self-insured? I advise members that 36 per cent of the working men and women in this state work outside WorkCover; they work for self-insured employers—36 per cent. They happen to operate under the exact same legislation as those who operate within the WorkCover scheme—the Workers Rehabilitation and Compensation Act 1986. The exact same act applies to those employers as it applies to all those employers who come under WorkCover. One has to ask the question: where is the problem?

Ms Chapman: What is the difference?

Mr WILLIAMS: What is the difference? Where is the problem? How can the Treasurer claim that the problem is with the legislation when one group—the self-insured—can operate with that legislation, yet WorkCover cannot. That is the nub of the problem. It is at least 4½ years of denial; and I am reading the document that was leaked out of the caucus yesterday and the notes that were given to the backbenchers who, I understand, were not very happy with what they have been told. All the points that have been made here are points which I have been raising in this house and about which I asked the current minister at least 2½ years ago. I know that my predecessor in the role as the shadow spokesman for industrial relations some years ago asked similar questions about the return to work rates and the difference in the average levy rate in South Australia.

What has happened is that this government has been in denial for so long and it has just allowed this problem to grow, when the reality is that it was the Minister for Industrial Relations who gave the instructions to WorkCover that have caused most of the problems. It is this Minister for Industrial Relations who had WorkCover operating, and we have heard from the Treasurer today how wonderful the current CEO is.

WorkCover operated for about 12 months without a CEO, and the minister said, 'That's not a problem, it's all operating hunky-dory, it's all really good down there at WorkCover.' I am really looking forward to hearing what some of the backbenchers in the Labor ranks have to say about this. I wonder what the member for Florey will say. I am really looking forward to a contribution from the member for Reynell; and I am really looking forward to hearing what the member for Taylor will say, because she quite often takes me to task and tells the house that I am anti-unionist and anti-worker. I am looking forward to a contribution from the member for Taylor and other backbenchers on the government side of the house.

SOUTHERN SUBURBS

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:25): This is only the second time since I have been a minister that I have used the grievance time; and I thank my colleagues for allowing me to do so. Last week the member for Finniss in a debate on the Southern Expressway made some comments about me and my role as Minister for the Southern Suburbs. I did not have a chance to participate in that debate because, ironically, while he was attacking me for not doing enough in relation to the southern suburbs, I was conducting a seminar in another part of this building for members of this house on the government's intentions to help workers at Mitsubishi. I had experts from various government departments there to brief members. I was properly doing my job as Minister for the Southern Suburbs while he was in here playing petty politics with the role of the Minister for the Southern Suburbs.

Members interjecting:

The Hon. J.D. HILL: Members opposite will get their chance in a minute.

Mr Pisoni interjecting:

The Hon. J.D. HILL: Madam Deputy Speaker, my time is being taken up by the member for Unley.

The DEPUTY SPEAKER: Order, member for Unley! I remind the member for Unley that I have liberty to extend the time of the speaker if he continues to interrupt.

The Hon. J.D. HILL: Thank you, Madam Deputy Speaker. It is ironic that the matter before the house at the time the member for Finniss chose to attack me was the debate on the extension of the Southern Expressway—a project put in place by the former Liberal government as a one-way road; and then they criticise this government for not doubling the size of the road. I notice in the comments made by the honourable member that the Liberal Party did not make any commitment to doing such, if it was put into office. I do note from my colleague the Minister for Transport that to do so would cost something like $275 million.

Unlike the shadow minister for the southern suburbs (the member for Finniss) I actually live in the southern suburbs. I live at Seaford—the name of which members opposite fail to understand. In fact, the Leader of the Opposition referred to it as 'Seaforth' in a recent interview with the ABC. He is not aware that the name of the suburb is Seaford. I have lived at Seaford for 16 years. I agree with Peter Goers, who says that it is one of Adelaide's most beautiful suburbs, and I am very proud to be a Seaford resident.

Obviously, the opposition is trying to mount a campaign around the idea of the 'forgotten south'. It is a slogan that was used some 15 to 20 years ago. Unfortunately, the fact is that members opposite do not know where the south is. They do not live there and they do not know the names of the suburbs. The reality is that the south has forgotten them. Every single Liberal candidate for the south—state or federal—has been kicked out of office because they neglected the south when they had the chance.

The member for Finniss made one point which had some accuracy; that is, the people in the south are not getting as much information from me about the good work the government is doing as they should. I aim to remedy that situation, both in here and in the public arena in the south. Members will find out more and more about what we are doing in the south to make the south a better and happier place.

For the benefit of the house, let me say that since the ministry was established in 2002 unemployment in the south has fallen from 7.4 per cent in December 2001 to 4.7 per cent in September last year; and that is a greater rate of employment growth than the rest of Adelaide. Crime in the Onkaparinga council area has fallen—

Mr Pengilly interjecting:

The DEPUTY SPEAKER: Order! Member for Finniss, I remind you that you have been warned. I ask the table clerk to add 30 seconds to the minister's time.

The Hon. J.D. HILL: Thank you very much for your protection, Madam Deputy Speaker. Crime in the Onkaparinga council area has fallen by 19.74 per cent and by 6.8 per cent in the Marion council area between 2002-03 and 2004-05. Some $21.9 million has been invested in new business as part of the Structural Adjustment Fund, creating 640 new direct jobs. Four new children's centres, at a cost of over $7.5 million, at Hackham West, Woodcroft, Marion and Christies Beach have been constructed.

In health, $153.7 million has been committed for the Flinders Medical Centre and $31 million for the Noarlunga Hospital for expansion. We have a GP Plus Health Care Centre at Aldinga, and another one is planned for Marion and another at Noarlunga. In transport, $115 million has been put aside for resleepering the Noarlunga and Belair railway lines, which will be of great advantage to people in the south. The Seaford railway extension report has been published, which is generally supportive, and that will create a corridor of land to take that railway line to Aldinga in the future.

There has been a huge focus on roads in the south—for example, a $16.8 million upgrade of Commercial Road, a $5 million upgrade of Black Road at Flagstaff Hill, and initiatives for a whole range of other roads have been put in place. There is $250,000 for the Noarlunga to Marino green cycle path; $15 million has been put aside for the Marion State Aquatic Centre, and there are a whole lot of other matters, which I will bring to the attention of the house at some future time.

STREAKY BAY DISTRICT COUNCIL

The Hon. G.M. GUNN (Stuart) (15:31): I wish to raise an issue in relation to the foolish report that the Environment, Resources and Development Committee tabled in this house some time ago and some of the comments it made in relation to the District Council of Streaky Bay. I sincerely hope that the member for Giles and the member for Schubert read what I have to say. I want to quote from a letter to the Editor of the *West Coast Sentinel* of 14 February 2008, entitled 'We're not that group'. The letter states:

> I hope that this letter can help the public of Streaky Bay and surrounding district realise and understand that the FOSB (Friends of Sceale Bay) are not the residents of Sceale Bay, but are an environmentalist group completely on their own.
>
> The latest article that was published in February 7 Sentinel regarding the shooting of a white-bellied sea eagle—which I do not condone—has started the tongues wagging, once again, about the FOSB group. Fingers are being pointed at the 99.95 per cent of residents that are not in the group. The majority of residents do not even know any of the members from the FOSB group. To my knowledge, there is only one active member in Sceale Bay, with the rest of them spread out around the state and interstate.
>
> I have only resided in Sceale Bay for the past few years, and as a newcomer to the district I have heard more about the stranglehold they have on new development and not so much about the good work they have done in the area. More to the point, it is the FOSB group that try to stop any development from happening and not the residents of Sceale Bay.
>
> The local council of Streaky Bay was recently notified by the newly elected local committee president that the Sceale Bay community wishes to work with the council to help improve the town's overall appearance and to update development. The committee also would like to make clear that any misrepresentation of Sceale Bay's history of being in the FOSB group was going to be rectified.
>
> I do wish to make it clear, that some of the works the FOSB take on are of importance for the development and management of the area, and that it should be controlled properly. But, yes here is the but, they do come across as being hell-bent on stopping almost anything that may remotely sound like progression of any sort.

The name and address is supplied. That accurately puts to the house the precise situation in relation to this group, which claims to be friends of the Sceale Bay area but which is really a group of malcontents who want to preserve a small area for their own activities at the expense of the overall community.

There is another matter that I want to speak about today. I was very concerned to hear on the news that a tourist bus ran out of fuel some 40 kilometres south of William Creek. If people from interstate are going to conduct tours in South Australia, that is a very good thing and we want tourists to come here. However, the people who operate these services have a responsibility to ensure that they properly look after their paying customers. If that was a person carrying a charter with an aircraft company, they would be in very serious trouble, because they have a duty of care to their passengers. To run out of diesel 40 kilometres south of William Creek is just unforgivable. When they went through Marree, I am told that, because they did not have an account there, they did not put in any fuel; they just drove on. They did not even have a UHF radio, and for some $320 or $330 you can have a UHF radio in these buses. There are repeater stations all along the way.

When they ran out of diesel, the people had to walk in. I have been reliably informed that they became somewhat disoriented and had to actually lie down on the road and have a sleep; they were wandering off the road! There were aged people and a lot of people who are not residents of this country. It is a dangerous situation, particularly this time of the year. I think we need to look at it very carefully.

I do not want to regulate people, but I think it ought to be conditional on coming into the state, so if people are going to go into that sort of country, they have a minimum of safety requirements. They should have a spare jerry can of diesel; a UHF radio; a satellite phone; and a few things like a second fan belt. They should have an understanding of what is required in the bush, and take adequate supplies of water and food for emergencies. If you are between Marree and William Creek at night, it is a pretty isolated part of the world.

Time expired.

LEHMAN, MS M.

Ms BEDFORD (Florey) (15:36): As Adelaide continues its celebration of the arts with the Fringe and the Festival, it is a good time to remember the important role our state has played and continues to play in film and television.

The world's biggest short film festival, Tropfest, was held in Sydney on Friday 17 February. Three South Australian filmmakers represented our state—William Allert with *Dusk*, Sara Crowest with *Looped*, and Michelle Lehman, whose short film *Marry Me* is the 2008 winner of the Sony Tropfest Short Film Festival. It is Michelle I particularly want to congratulate and pay tribute to today because she spent her childhood and teenage years growing up in the suburb of Modbury North, which is, of course, in the seat of Florey.

Michelle attended Modbury Primary School and The Heights High School. Her mother Sharon was my workmate in a video shop that we co-managed when Michelle was still at school. Along with her husband Bryan, Sharon was happy to use the public education system, as both remain excellent schools.

Michelle's love of film started with an interest in photography, and at an early age she decided photography would be her career. Michelle commuted to Banksia Park High School to complete year 12 photography. Travelling in her lunch break each week did not deter her as she was keen and determined and eventually achieved a perfect score of 20.

The next step on her journey was attending Croydon Park TAFE College. From 300 applications Michelle was successful and chosen amongst 15 students to attend a photography course. On completion of that course, Michelle commenced a full-time position with a national photographic portrait chain in the store at Myer Tea Tree Plaza. When 18, Michelle won that company's Australasian Photographer of the Year Award, and soon after was offered a position in Sydney. At the tender age of 19 she packed her bags and left home to make the trek to New South Wales.

Soon after, she commenced a job with another of Sydney's leading wedding and portrait studios, gaining valuable experience. After two years working for others, Michelle decided it was time to go out on her own, and at 21 years of age, working from home with a portable mini studio, she started her own business specialising in child photography.

Five years later, after achieving her goals in photography, Michelle decided to pursue her love of film, an interest in filmmaking and a desire to win an Oscar. She applied to do a degree in film with the Victorian College of the Arts, and, after an intensive application process, she was one of 12 successful candidates from a pool of 500. The course involved three years study in Melbourne where Michelle moved to attend the VCA while still commuting to Sydney to work to support her study.

Whilst in Melbourne, Michelle was involved in making short films, and her parents would drive over each year to cater for the film crew. It was during this time that they realised that filmmaking was a long, gruelling process involving dedicated filmmakers working long hours to fulfil their dreams. Also, it was during this time that Michelle realised that winning an Oscar was very far away.

After making many formula film school shorts, Michelle vowed to not make another film unless she loved it and loved making it. After working out what that would take, *Marry Me*, her short film, was born. Whenever Michelle gets the opportunity she returns to her home in Modbury North to catch up with family and friends. It was on one of these occasions a few years ago that Michelle penned her script for *Marry Me*. Sitting at the kitchen table with a laptop, she recalled a childhood memory as a five year old chasing a boy around the schoolyard in a pretend wedding dress, and many other happy memories of times playing in the streets.

Michelle scoured the streets of Sydney for a suburb that looked similar to Adelaide, and managed to find a location within an hour's drive. With a dedicated and committed film crew and child actors, who all worked for no fee, they worked two long weekends last September.

The final cost for their film was $5,000 and it is a credit to her and her artistic resolve. On behalf of Michelle, I take this opportunity to thank all her film crew and actors and to give a special thanks to her husband, Myles Conti, who edited the film; her brother-in-law and producer, Karl Conti; her cinematographer, Dan Freene, who is another South Australian; her costume designer, Karty; and her awesome parents, Sharon and Bryan, for always believing in her.

Michelle Lehman is a pocket dynamo with a huge future ahead of her in the film industry. Soon she will also become a mother, and we all wish her well in that most wonder-filled career as she combines that role with her film journey. Her film journey will always include her supportive husband and parents and it will require the enthusiasm and determination she has already demonstrated in achieving her goals so far. I am sure she deserves her success to date and that she will go on to make many more entertaining films for Australia. Along with all her supporters, I

wish her well and I have my fingers crossed that her Oscar dream, now well and truly on her horizon, will be achieved in the not too distant future.

WORKCOVER CORPORATION

Mr HANNA (Mitchell) (15:41): Today is an historic day in South Australian political history. The Labor members of parliament met and the Labor leadership enforced over the backbench its moves to cut payments to injured workers. Never before in the history of South Australia has a Labor government moved to do such a thing of its own free will. I make an exception of the period 1989 to 1993 when there was a hung parliament and, indeed, there were some cuts to workers' benefits forced upon the Labor government at that time. But this time it is different. How appalling, almost sacrilegious, for the Premier to call upon the memory of the Hon. Jack Wright and to suggest that he would be in favour of this legislation! How utterly callous and appalling that is! Jack Wright wanted a non-fault, generous statutory scheme for workers if they were injured at work, and that is what was achieved in the 1986-87 negotiations.

Gradually, the insurance scheme for workers has been watered down, and there has never been compensation for those cuts to workers' benefits. To compare to Victoria and New South Wales is illusory because, of course, in those jurisdictions, workers can sue if the employer has been wrongful. In this case, the Labor backbenchers were not even told of all of the details in the legislation. There is real devil in the detail. For example, the modification of assessment of lump sums for permanent disabilities was just glossed over in the caucus meeting this morning.

The government seems intent on blaming everyone but itself for the shortcomings of WorkCover. The one word that has not been mentioned by the government is management and that is management of the actual WorkCover Corporation, not just the board but the actual employees of the corporation, not to mention the claims agents over the years who have handled the claims. They have fallen short and left workers to suffer.

In my remaining time, I turn to another topic. Adelaide was graced with a visit from the world leader of the Uyghur community, Mrs Rebiya Kadeer, yesterday. I was pleased to host a briefing for parliamentarians in the Old Chamber of Parliament House. Mrs Kadeer is 60, the mother of 11 children. Many of her children are in prison in China. The Uyghurs are people of Turkic origin. They live in the Xinjiang Uyghur Autonomous Region in China which covers about one-sixth of the area of China. In 1949, that area had only 2 per cent ethnic Chinese, but since then a process of ethnic cleansing has sought to make it Chinese in every way.

First, they came for the land owners and arrested and took away those who owned property. Later, when the Cultural Revolution was going on in China, they came back for the intellectuals—the teachers, writers and so on. Later, in the 1980s, when the one-child policy was being implemented, they came forcibly and arrested pregnant women in the villages and took them to abortion clinics to enforce abortions upon them. Over the past 20 years, demonstrations have led to the arrest of young people—their friends, relatives and so on. Only about 5 per cent survive imprisonment in China. Some of the torture that is perpetrated on prisoners includes organ harvesting whereby prisoners are sedated, if they are lucky, and organs such as their liver or a kidney, or perhaps an eye, are taken out for use in surgery elsewhere.

China is the country that will host the 2008 Olympics, and while I send my absolute best wishes to the athletes who wish to compete, I would say to parliamentarians and other leaders in Australia, if they are going to visit the Olympics, spare a thought for the Uyghur people who have suffered and who seek independence and redress in the face of torture and ethnic cleansing from the Chinese government.

The Hon. M.J. Atkinson: Hear, hear!

ORGAN DONATION

The Hon. L. STEVENS (Little Para) (15:45): After the tragic death of a driver at last weekend's Clipsal event, I note that this morning's *Advertiser* reported that the organs of the deceased driver had been able to benefit seven different people. This series of events follows on from Organ Donation Awareness Week, which was last week. I want to spend a few minutes talking about this. I was delighted to receive an invitation to attend the launch at Lyell McEwin Health Service of its participation and ongoing participation in the National Organ Donor Collaborative in which the Lyell McEwin and a number of other hospitals in South Australia participate.

It is worth mentioning some of the issues in relation to organ donation in our country and the need for us to improve the rate of organ donation. Also last week, the parliamentary secretary to the federal Minister for Health and Ageing (Senator Jan McLucas) released a national clinical task force final report on organ and tissue donation. That report contains 51 recommendations to improve the donation and transplantation system in Australia. The parliamentary secretary made some very pertinent points about organ donation in Australia. Firstly, at any one time in Australia over 1,800 Australians are waiting for an organ transplant. Secondly, more than 90 per cent of Australians are reported to support the idea of organ and tissue donation, but even though that is the case, we have one of the lowest donation rates in the Western world.

At the Lyell McEwin Health Service launch, national donor statistics from 2005 from the International Registry of Organ Donation and Transplantation were put in front of us. The statistics were in terms of donors per million of population. The country with the highest donation rate is Spain with 35.1, and Australia is 15th after France, the US, Italy, the Czech Republic, Hungary, Ireland, Norway and others, including the UK. We are 15th, with 10 donors per million of population.

There certainly is a real gap for us to try to correct. We need to do two things. Firstly, we need to ensure that as many people as possible register their consent on the Australian Organ Donation Register, which is administered by Medicare and which is available everywhere, including on the internet and, importantly, ensure that people discuss their choice and their decision with their families. Secondly—and this is sometimes left out of these discussions—we have to ensure that procedures are in our hospitals to maximise the potential for donation to occur.

That is what the collaborative is about. It is about the hospitals involved, and there are over 20 hospitals in Australia participating in this collaborative. As I said, the Lyell McEwin is one of them, and they will be working—and the funding goes until June 2009—to improve procedures so that we can get the best possible results in very difficult circumstances and try to improve that massive gap between those wanting organs and the actual numbers that are donated.

LEGAL PROFESSION BILL

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

No. 1. Clause 301, page 155, after line 31—

Clause 301(4)—after paragraph (n)—Insert:

(na) the costs of exercising a right or remedy subrogated to the Society under section 322;

No. 2. Clause 301, page 156, lines 1 and 2—

Clause 301(7)—Delete subclause (7)

No. 3. Clause 313, page 161, line 10—

Clause 313(1)—Delete 'all claims to which the notice relates is—' and substitute:

any particular claim to which the notice relates is 30 per cent

No. 4. Clause 313, page 161, lines 11 and 12—

Clause 313(1)(a) and (b)—Delete paragraphs (a) and (b)

No. 5. Clause 313, page 161, line 15—

Clause 313(1)—Delete 'claims' and substitute:

claim

No. 6. Clause 319, page 163, lines 17 to 19—

Clause 319(1)—Delete ', unless the Society considers that special circumstances exist warranting a reduction in the amount of costs or warranting a determination that no amount should be paid for costs'

No. 7. Clause 319, page 163, line 23—

Clause 319(3)—After 'guarantee fund' insert:

on a party and party basis

No. 8. Clause 321, page 164, lines 1 to 5—

Clause 321(c) and (d)—Delete paragraphs (c) and (d)

No. 9. Clause 321, page 164, lines 7 to 9—

Clause 321(2)—Delete subclause (2)

No. 10. Clause 322, page 164, lines 19 to 21—

Clause 322(3)—Delete subclause (3)

No. 11. Clause 326, page 165, lines 30 to 36—

Clause 326(3)—Delete subclause (3)

No. 12. Clause 327, page 166, lines 17 to 23—

Clause 327(3)—Delete subclause (3)

No. 13. Clause 331, page 168, lines 8 to 10—

Clause 331(2)—Delete subclause (2) and substitute:

(2) A levy is to be of such amount as the Society determines and may differ according to factors determined by the Society.

No. 14. Clause 331, page 168, line 11—

Clause 331(3)—Delete 'Attorney General' and substitute:

Society

No. 15. Clause 331, page 168, after line 18—

Clause 331—After subclause (4) insert:

(5) However, a levy may not be imposed under this section without the written authorisation of the Attorney-General.

No. 16. New clause, page 249, after line 34—

After clause 513 insert:

513A—Rules of Supreme Court may assign functions or powers

(1) The Supreme Court may, by rules of court, assign to a specified person or body, or to a person occupying a specified office or position, any functions or powers conferred on or vested in it under—

(a) Chapter 2 Part 4 or 5; or

(b) Part 1 of this Chapter; or

(c) any other provision of this Act prescribed by regulation for the purposes of this section.

(2) The rules of the Supreme Court may specify that an assignment of functions or powers under this section is subject to conditions and limitations.

(3) A decision made by a person or body acting in accordance with an assignment of functions or powers under this section may, subject to the rules of the Supreme Court, be appealed against to the Supreme Court by the person in relation to whom the decision was made.

(4) On such an appeal, the Supreme Court—

(a) may confirm, vary or reverse the decision; and

(b) may make any consequential or ancillary order.

(5) If a person or body makes a decision in accordance with an assignment of functions or powers under this section that is adverse to the person in relation to whom the decision was made, the person or body must, as soon as practicable, give an information notice to the person.

No. 17. Schedule 1, page 253, lines 14 to 17—

Schedule 1, clause 13(1)(b)—Delete paragraph (b) and substitute:

(b) a claim in respect of a default (within the meaning of that Part) occurring before the commencement of this clause if the claim had not been determined under Part 5 of the repealed Act before the commencement of this clause.

Consideration in committee.

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

That the amendments be disagreed to.

These amendments were foreshadowed by the member for Heysen during debate on the Legal Profession Bill in this place. The effect of them is to take hostage the national uniform Legal Profession Bill (because, as the member for Heysen claimed, there was nothing in it for suburban lawyers) and to graft onto it retrospective amendments to affect the outcome of the Magarey Farlam defalcation. I have every sympathy for people who have lost money in the Magarey Farlam defalcation.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: The member for Heysen says, 'Let them have their money back.' Who is going to pay? Who is going to be Father Christmas?

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: The member for Heysen and the Liberal Party are happy for the fund—if not the fund, then the taxpayers of South Australia and the lawyers of South Australia—to pay out people who have lost money owing to the Magarey Farlam defalcation. The Liberal Party position is that the people who might be held responsible for the theft (the crime) should be left free: whether it be the auditors; whether it be the partners of Magarey Farlam; whether it be the partners' insurers; or whether it be the banks who accepted very dubious instruments and paid out on them. The Labor Party, the Labor government, is prepared to make amendments, even retrospective amendments, whereby the burden is cast on the Law Society to show that a reasonable, prudent, self-funded litigant would chase the partners, their insurers, the auditors and the banks.

We are offering this as part of the Legal Profession Bill. But let me be quite plain. If these Father Christmas amendments prevail then I will simply lay aside the Legal Profession Bill and we will remain a legal backwater in South Australia, and that is just what the member for Heysen wants. Magarey Farlam is a way, a pretext, for the member for Heysen to defeat a bill that she would not otherwise have had the numbers to defeat. By tacking on the Magarey Farlam business to the Legal Profession Bill, the member for Heysen achieves what would not have been achievable before her object, and that is the laying aside of the Legal Profession Bill.

I will be writing to lawyers who work for all the major firms in South Australia, those who have interstate branches and affiliates, and showing them exactly what the member for Heysen is trying to do and what she has said about this bill. But make no mistake: if these amendments prevail I will lay the bill aside.

Mrs REDMOND: I utterly reject what the Attorney has just asserted, that I have some secondary agenda about defeating this bill. I recognise that the Law Society, and therefore the profession, wants the introduction of multi-disciplinary partnerships and incorporated legal practices. And so in spite of any personal misgivings I might have about it I am happy for that part of the bill to progress. That is, after all, the major thrust and intention of this bill. What I am concerned about is the nonsense in relation to the guarantee fund, that was set up many years ago. That guarantee fund was clearly set up because solicitors had in their individual trust accounts moneys that they held on behalf of clients.

Notionally, of course, interest earned on that money would belong to those clients, but because of the pooling of the money into the trust account held by the solicitor it was impossible for solicitors to actually pay the clients the money that they would otherwise have been entitled to. So, a system was developed whereby, instead of the banks simply not paying interest on trust accounts, the funds would be concentrated into a combined trust account and that would earn interest that could be put to good purpose.

In particular what it could do was create the guarantee fund. What was the guarantee fund created for? Precisely to address the sort of problem that the Magarey Farlam clients now face, that is, that if there is a defalcation against the trust account by someone in a firm, more commonly, I would have thought, a solicitor, but in the Magarey Farlam case an accountant, but if there is a defalcation then there is a guarantee fund, a nice pool of money created out of the interest earned on clients' money, and that was going to be available to make good the defalcation.

That was set up so long ago that no doubt at the time they set it up it would have appeared to be a ridiculous amount of money to put into the guarantee fund, to allow it to grow, with all of the interest simply accumulating over year after year after year into the guarantee fund. It would have meant that the guarantee fund was so big that it would never be called upon. In fact, if he looks at these comments made by the Hon. Robert Lawson in the other place, the Attorney will see that, year after year, amounts like $10,000 and $30,000 were all taken out of the fund.

So, what did they do to address this? Rather than let it sit there and simply accumulate into a vast pool that clearly was not going to be used, they put a limit on it, which at the time would have seemed like amazing amounts of money. For example, $20 million back when they put that limit on it would have seemed like an extraordinary amount of money, far more than anyone could ever contemplate was going to be needed to meet any possible defalcations against the fund. They also put a 5 per cent limit on the amount so that any one claim would have been limited to $1 million—which, again at the time, would have seemed a massive amount. At the time those things were put in place, that would have been fine. All these years later, we now have a situation where the clients of Magarey Farlam have had this defalcation perpetrated against them.

Anyone in the community would expect that if their money is in a solicitor's trust account it is in just about the safest place it could be; but what the Attorney proposes is that it not be so safe. The people in Magarey Farlam, or indeed any subsequent defalcation, are faced with a situation whereby instead of being able to go to the guarantee fund and make good their loss and be done with it (as should be the case), the Attorney wants the poor victims (who are just innocent people whose money is held in trust in a solicitor's trust account) to be forced to spend sometimes hundreds of thousands of dollars and wait years—potentially the rest of their lives—trying to get money back which is clearly their own money. That is simply unreasonable. I make no complaint about the fact that there will be a new system, national registration, multidisciplinary practices and incorporated legal practices.

The Hon. M.J. Atkinson: You told us you didn't like it.

Mrs REDMOND: I have no qualms about saying that I do not like it. I do not like the idea of Woolworths law and, pardon the pun, Coles law. I have no problem about the concept, but I really have a difficulty, and I am bemused as to why the legal profession, of all professions, would be inviting that in when all the other professions, such as the optometrists and pharmacists, are agitating with members of parliament to prevent Woolworths and Coles taking over their particular occupations. We already have the supermarkets, the petrol stations, the liquor stores and inevitably other things rolling in, but, no, that is fine. If the legal profession wants to invite them in, that is fine; it is not up to me to try to stop them. That is not my agenda. The Attorney keeps asserting that it is my agenda. It is absolutely not my agenda.

I accept that if that is what the profession wants and it is inviting it in, fine, let it have it, but we need to have a sensible outcome in relation to this guarantee fund. The guarantee fund is precisely set up for the benefit of the people who have a fraud perpetrated against them by a law firm. It is for that exact purpose. The common sense of it is, surely, that anyone who is the victim of such a fraud should be able to go to that guarantee fund, satisfy the fund as to the amount they have lost, have that repaid and the guarantee fund can go and chase whoever is responsible. The Attorney's assertion that in some way I want to let those people go free is a nonsense, but it should not be up to the innocent victims to chase them any more than it should up to the victims of a crime to prosecute the offender: it should be up to the guarantee fund to go after them.

That is where the Attorney completely misrepresents what I am saying. I do not for one moment say that those people should be left free, but if one looks at the Magarey Farlam situation one can see that what we already have are people in their 80s whose life savings have been taken by a fraud perpetrated by an accountant to a law firm and who have already spent over $100,000 and several years of their lives trying to get their own money back having to fight the Attorney-General for the right even to recover the costs (in addition to what they have already lost), and they are still at least three years away from a trial of their matter. They may well be dead by the time they get their matter resolved. That is simply unfair. The purpose of the guarantee fund is precisely what I am trying to reinstitute by making these amendments.

I put it to the Attorney that it is simply unreasonable of him to assert that, in some way, there is an agenda of getting rid of the whole bill. There simply is not. The case is clear that the guarantee fund is not operating fairly; it is not doing what it was put in place to do. As the Attorney is aware, the way in which it is structured is that we have two-thirds of the moneys from the trust accounts of individual lawyers put into the combined trust account. That money clearly cannot be touched because it belongs to the clients. The interest earned on that combined amount is a significant amount of money, but what we have done is to structure it so that once the bucket of the guarantee fund reaches the limit it is now at (which is about $20 million), any money paid into it every year actually ends up going to the Legal Services Commission.

The Hon. M.J. Atkinson: And what is wrong with that?

Mrs REDMOND: Because it spills over so that the fund is not allowed to grow in terms of where our current finances are, and therein lies the difficulty. The fund should have been allowed to grow, and one of our amendments is to allow the fund to grow to a more appropriate level. The limit on people's claims should have been allowed to grow into something more commensurate with today's financial circumstances. It should clearly be a fund of first resort.

Finally, I make the point that the fund would be less debilitated by a claim operating under the system that I propose because of the enormous costs that are involved in the way it is being run at the moment. The Law Society has spent a fortune trying to stop these people getting their own money back, and, now that there is case law asserting their right to get the money by way of costs, as well as the money they are owed, that means that the fund—which could have paid out $4.5 million to settle the whole thing straight away—faces having to pay out $8 million to settle the whole thing straight away. That is a nonsense.

Pretty soon the costs will outweigh the amount that would have been in issue in the first place. For those reasons, I assert quite strongly that, first, the Attorney has misrepresented my position in relation to this matter; but, more importantly, it is imperative upon this parliament to correct the problem and make appropriate arrangements for the guarantee fund for the future of the legal profession in this state.

Mr HANNA: I am indebted to my parliamentary colleague, the member for Heysen, for setting out the facts surrounding the creation of the guarantee fund and the way in which it has been used over the years. This issue, of course, came up when the bill was originally being debated in the House of Assembly. I was disappointed then and, upon thinking about it more, I am even more disappointed now that the opportunity has been forgone to resolve completely a series of anomalies surrounding the guarantee fund. I am a little disappointed that the Law Society has been so quick to go along with the national agenda for this legal profession reform and the government's agenda for reform that it has overlooked the possibility of reforming this area of its concerns.

The guarantee fund, as the member for Heysen said, is there to protect those who have been the subject of defalcation of some kind. The Magarey Farlam example, in my mind, is the perfect case where the fund should pay out. It is a unique set of circumstances in that it is such a large claim upon the fund, but, nonetheless, the principle is that those people should be paid out because the money they deposited in the trust account should be returned to them. They are without fault. I might also add that the solicitors of the firm at the time, including the managing solicitor Mr Mark Mudri, were without fault.

The Hon. M.J. Atkinson: How do you know that?

Mr HANNA: The firm has an honourable history. The defalcation occurred as a result of the actions of an employee of the firm who was not a solicitor. The opportunity forgone relates to cleaning up the funding arrangements of the guarantee fund and also of the Legal Services Commission. It seems to me that that money, which in a real sense is the clients' money, ought to go for some purpose directly to their benefit or the benefit of clients, particularly if they are the subject of a defalcation. Indirectly this benefits the profession because it means that if people do put their money into a solicitor's trust account they can be extremely confident that, if there is a problem not of their own making, they eventually will get that money back.

The Legal Services Commission is a separate issue and it should be the subject of adequate government funding. It should be funded out of Treasury in the same way that the bulk of state and commonwealth Treasury funds the Legal Services Commission; for that matter, I would add that the Aboriginal Legal Rights Movement should be put in the same lot as well and adequately funded.

One could debate that the amounts spent on education for lawyers and the investigation of trust accounts, and so on, should be paid by the Law Society; in other words, ultimately coming from the pockets of lawyers themselves. There is a degree of client benefit perhaps in that, and perhaps there is a case for some of that money to come out of the guarantee fund, but the point is that the deliberations that took place when the fund was set up could not have foreseen how the fund would have grown and how a case such as Magarey Farlam would have arisen.

The occasion of a review of the legal profession and its rules, in my mind, is the perfect opportunity to review the guarantee fund, its purpose and where the interest money from trust accounts should go. It is disappointing that the government has seen fit to ignore that for the sake of national uniformity. In my mind, other states could learn from our example if we were to pursue this issue.

In a sense that is background, because the battle on that front was lost when the bill was debated in the House of Assembly, but we do have this specific set of provisions relating to the guarantee fund, which, if passed, would be of benefit to Magarey Farlam clients. Having said that, it is easy to understand that I support the amendments made by the Legislative Council. I am only too happy to agree to them so far as they apply to the guarantee fund and the provision of an opportunity for Magarey Farlam clients to get their money back in an efficacious manner.

The Hon. M.J. ATKINSON: It is telling that the member for Mitchell says that the partners of Magarey Farlam were not at fault. That is a very interesting remark.

Mr Hanna: You know better, do you?

The Hon. M.J. ATKINSON: Well, the member for Mitchell is saying, 'There is no need to test it. Trust me, they are innocent. They are without fault.' That is an interesting remark to make, because it is of a piece with the position that the member for Mitchell is taking; that is, the guarantee fund should play Father Christmas and there is no point going after anyone else because they did not do anything wrong.

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: But the member for Mitchell has already prejudged whether or not they are at fault. The whole idea is: let the collective fund bear the 100 per cent burden. Let me ask the members for Mitchell and Heysen a question: is there an authority in the guarantee fund—in the rules that establish it—to allow it to take litigation against other people? Have they in their amendments addressed their mind to whether the guarantee fund has authority to do what they say? Since it was the members for Mitchell and Heysen who designed this particular camel, I would have thought they would turn their mind to that.

Mr Hanna: We welcome your improvement.

The Hon. M.J. ATKINSON: Thank you; you are most gracious. I ask the member for Heysen: how many victims of theft can recover from a fund? Is this a new principle?

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: What, their stolen car? Their stolen cash?

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: No, that is right; it does not. Thank you. The member for Heysen says the purpose of the guarantee fund is what I am trying to reinstate. If it was the purpose of the guarantee fund, you would not have to reinstate it; it would be there already. It is a logical fallacy.

When this was last debated in the house, the members for Davenport and Enfield, one on either side of the house, asked me whether I would be willing to support the principle that, if a reasonable, prudent, self-funded litigant would not pursue the partners, their insurers, the auditors or the banks because it would take too long, because it would cost too much, because the amount of money involved would be disproportionately low compared to the cost of recovery, it would be all right for me to change the rules so that they could access the guarantee fund, and I went away and I said yes.

However, as soon as I said yes, the member for Heysen decided to up the ante and, instead of accepting that sensible compromise that I accepted and offered in another place, the member for Heysen wants a 100 per cent victory. What the member for Heysen says is that, in all circumstances, even if a reasonable, prudent, self-funded litigant would bring action to recover their money against the partners, their insurers, the auditors and the banks, 'No, take it out of the collective fund. Let's play Father Christmas.'

Mr Hanna: Let the fund chase them later.

The Hon. M.J. ATKINSON: That is right—and when the fund runs out, let's chase the lawyers who were not involved, and then let's chase the taxpayers. When you are in opposition, like the member for Heysen, or when you are an Independent, a crossbencher, like the member for Mitchell, you can play merry hell with taxpayers' funds: it is one of the pleasures of the job. You can play merry hell with a guarantee fund, and you can bring in rules that will make sure that it is dissipated within a few short years.

I have offered a more than reasonable compromise, a more than reasonable ransom, in response to the member for Heysen's taking the Legal Profession Bill hostage. I have made a reasonable offer, which we are willing to backdate for the benefit of Magarey Farlam claimants. But let the world know that the member for Heysen has thrown this back in my face and said, 'You will do it my way or the highway,' with the result that the Legal Profession Bill will be withdrawn—laid aside—and the Magarey Farlam claimants will not get the improvements that the parliamentary Labor Party has designed for them.

Mr HANNA: The Attorney seems to overlook today how the Victims of Crime Fund works. If people are bashed and are going to receive compensation, they do not have to go and sue the accused person directly. They can wait for the prosecution to go to trial. That will lead to a conviction and, at that point, the state will assist the injured person to recover from the fund. The fund, of course, can then recover from the accused person. Why can it not work in this way too?

The committee divided on the motion:

AYES (26)

Atkinson, M.J. (teller)	Bedford, F.E.	Bignell, L.W.
Caica, P.	Ciccarello, V.	Conlon, P.F.
Foley, K.O.	Fox, C.C.	Geraghty, R.K.
Hill, J.D.	Kenyon, T.R.	Key, S.W.
Koutsantonis, T.	Lomax-Smith, J.D.	Maywald, K.A.
McEwen, R.J.	O'Brien, M.F.	Rankine, J.M.
Rann, M.D.	Rau, J.R.	Simmons, L.A.
Snelling, J.J.	Stevens, L.	Weatherill, J.W.
White, P.L.	Wright, M.J.	

NOES (14)

Chapman, V.A.	Evans, I.F.	Goldsworthy, M.R.
Griffiths, S.P.	Gunn, G.M.	Hanna, K.
McFetridge, D.	Pederick, A.S.	Penfold, E.M.
Pengilly, M.	Pisoni, D.G.	Redmond, I.M. (teller)
Venning, I.H.	Williams, M.R.	

PAIRS (4)

Portolesi, G.	Kerin, R.G.
Piccolo, T.	Hamilton-Smith, M.L.J.

Majority of 12 for the ayes.

Motion thus carried.

STATUTES AMENDMENT (EVIDENCE AND PROCEDURE) BILL

Adjourned debate in committee (resumed on motion).

(Continued from page 2218.)

Clause 10.

Mrs REDMOND: I have one other question about clause 10. At the very bottom of the amending section is the definition of 'vulnerable witness', and it goes through people such as persons under 16, someone with a mental disability, and so on; we were exploring that before the lunch break. Paragraph (d) provides that a vulnerable witness means:

(d) a witness who—

(i) has been subjected to threats of violence or retribution in connection with the proceedings; or

(ii) has reasonable grounds to fear violence or retribution in connection with the proceedings;

Given the inclusion of blackmail into the serious offences category, does the wording of that paragraph mean that any person who was in a proceeding for blackmail would by virtue of that be classified as a vulnerable witness?

The Hon. M.J. ATKINSON: It would be a very rare case where a person who is alleged to be a victim of blackmail was not subject to a threat of violence or retribution. I think it is a wholly appropriate inclusion.

Mrs REDMOND: Is the Attorney saying that the expectation from these amendments is that, if there is a prosecution of an alleged blackmailer, the subject of it or any other person who was a relevant witness to the proceedings is likely to be classified as a vulnerable witness and thereby entitled to the protections given to vulnerable witnesses?

The Hon. M.J. ATKINSON: No, not a probability; they can be.

Clause passed.

Clause 11 passed.

Clause 12.

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

Page 7, lines 5 to 7 (inclusive)—

Clause 12, inserted section 12A(1)—delete 'If, in a criminal trial, a child gives sworn evidence that is not corroborated, the judge must not warn the jury that it is unsafe to convict on the' and substitute:

In a criminal trial, a judge must not warn the jury that it is unsafe to convict on a

I introduce this amendment on the advice of the Chief Justice to clarify the application of section 12A. Section 12A describes the warnings that may be given to juries in criminal trials when sworn evidence is given by a child and that evidence is not corroborated by other evidence.

The section prevents a judge warning the jury that it is dangerous to convict the accused on the uncorroborated sworn evidence of the child simply because the witness is a child. It requires the child's evidence to be treated in the same way as the evidence of an adult—that is, to be subject to a warning only if there are cogent reasons, apart from the witness's being a child, to doubt the reliability of his or her evidence. It also prohibits such warnings suggesting that children's evidence is inherently less reliable or credible than the evidence of adults.

The Chief Justice pointed out that the first part of section 12A(1) wrongly assumes that the judge will know whether the jury has decided whether the child's evidence is corroborated when he or she comes to direct the jury about that evidence. I agree that there is no need for any such requirement; the section was not intended to say this, and my amendment removes it.

Mrs REDMOND: I am sorry. I did not quite follow that because when I read the original section 12A inserted by the bill I could not see what in essence was the difference except for the removal of a phrase, being a semantic change by removing 'If, in a criminal trial, a child gives sworn evidence that is not corroborated, the judge must not warn the jury that it is unsafe to convict on the child's uncorroborated evidence'. All that seemed to happen was that the amendment removed the reference to a child giving sworn evidence that is not corroborated at the beginning of the sentence but it left it in at the end. So, it seemed to me to be just a semantic, minimalist approach to the wording rather than an actual change. I would appreciate it if the Attorney could give me a bit more of an explanation on what, if any, is the reality of the difference between what was originally proposed and what this new amendment proposes.

The Hon. M.J. ATKINSON: The member for Heysen is right to think it is a grammatical amendment because the words are wrong the first time they are used and they are correct the second time they are used, for reasons that the member for Heysen now understands and that I understand.

Mr HANNA: I am wondering what the point of the new section 12A(1) is if it includes paragraph (b). The new section is suggesting that a judge must not warn a jury that it is unsafe to convict on a child's uncorroborated evidence, but there is an exception where a party asks that the warning be given. Wouldn't we all expect that defence counsel in every case will ask for such a warning because it cannot do any harm to their client's case and it could only help by planting a seed of doubt in the jury's mind? If that be so, I would have thought you either do not have anything about that or you delete paragraph (b) dealing with that possibility of an exemption arising when 'a party asks that the warning be given' because then it would have some meat to it.

The Hon. M.J. ATKINSON: If the member for Mitchell were to read the law reports of cases before the Court of Criminal Appeal, he would see this kind of appeal being made by

defence counsel regularly where the point has not been taken at the trial. We are trying to turn the minds of defence counsel to this, and say, 'Please, if you want to take this point, take it at the trial.'

The second point to take is that if you read paragraph (a) you will see that defence counsel, if it is to succeed in its application, must have cogent reasons. That is why taking the application will not succeed in every case.

Amendment carried.

Mrs REDMOND: I have a couple of questions. First, in relation to the new section 13, I am curious about the assessment of subsection(1)(a). This subsection deals with special arrangements for protecting witnesses from embarrassment and distress when giving evidence. I am curious about the assessment of embarrassment and distress, in that what one person finds embarrassing or distressing may be quite different from another. I wonder where the threshold is set. Is it a subjective assessment, or does the judge make an assessment as to the likelihood of embarrassment or distress?

Secondly, I note just down below that, it indicates that, if that is likely, that is, if it is desirable to make special arrangements because someone is likely to be embarrassed or distressed, the court should 'on its own initiative' do certain things. I was puzzled about the use of that terminology in the section. So, it is not on the application of a party seeking those special arrangements; rather, the court apparently makes the assessment without any application 'on its own initiative' and determines in some way the likelihood of the occurrence of embarrassment or distress for that particular witness. I just wonder whether the Attorney could clarify the intention.

The Hon. M.J. ATKINSON: It is a two-part answer. The first part of the answer is that it is on the court's own initiative. The reason for that is that, if there is an application and the court goes into an examination of the reasons for the application and its merits, that in itself might be just as embarrassing or distressing as the main event. There is encouragement here for the court to get on the front foot and for the judge to say, 'Well, we are just doing it this way' without the need for an application from the alleged victim or the prosecution. Indeed, there is a similar provision—albeit not quite as explicit—in the existing act. I think, like the member for Heysen, I do not believe there is such a thing as objective embarrassment and distress; it will always be subjective.

Mrs REDMOND: Turning to section 13(6), as I read the requirement, basically you have a witness and the witness has a right, if they are a vulnerable witness particularly, to be accompanied by a relative or friend to give emotional support. Subsection (6) provides that that person must be visible to the judge and, if there is a jury, also to the jury. But I was puzzled about what then follows. If the consequence of having that person visible to the judge and the jury is that a party is prevented from seeing the person directly while the witness gives evidence, then the court has to ensure that that party is able to observe that person in another way. I am having trouble understanding the point of all that. I take it that when you refer to 'a party' you are not referring to the witness, you are probably intending the defence. Could you just explain what is the intention of subsection (6)?

The Hon. M.J. ATKINSON: The purpose is to ensure that the relative or friend is not impermissibly coaching the witness.

Mrs REDMOND: I will move on to new section 13A, which provides for special arrangements for protecting vulnerable witnesses when giving evidence in criminal proceedings. Subsection (6) provides that if you are going to do that there has to be an application and it must be made in writing and obviously well in advance of the trial. It goes on to provide that the application must be filed in court and, within 14 days of being filed in court, it must be served on the other party specifying why you are claiming that this person should be treated as a vulnerable witness.

All that is fine, but I cannot see any particular provision that then addresses a problem that occurred to me that could arise. What if no application is made prior to the commencement of a trial but it becomes evident to counsel as they approach or even begin the trial that such an application is necessary? I would assume that, therefore, in the interests of justice an application would then be allowed. Has any thought been given to how one would address the problem if there has not been an application in writing to the court, filed at the registry, served on the other side, with a chance for them to respond, particularly with children where there could be changes in the nature of their ability to give evidence? They may have seemed fine in counsel's chambers when they were being proofed and then fallen apart when they got to trial and so on. How does one address that under this provision?

The Hon. M.J. ATKINSON: I think the provision is in that section at the request of the court so as to make the procedure efficient and able to be expedited. If a witness fell apart in the way that the member for Heysen provides in her example, I have no doubt that the court would adjourn so that an application could be made.

Clause as amended passed.

Clause 13 passed.

Clause 14.

Mrs REDMOND: Clause 14 inserts a new section dealing with the court's being able to disallow improper questions. I want to clarify the very last subsection of that. Subsection (1) identifies or defines what is an improper question. Subsection (2) says that a question is not improper only because it challenges the truthfulness of the witness or deals with matters that the witness might find distasteful. Subsection (3) provides that if an improper question is put the court must disallow the question and inform the witness that the question need not be answered. Subsection (4) sets out the considerations which a court will apply in determining whether a question is improper. The disallowance is a discretion which would be exercised by the court. All that said, subsection (5) then goes on to provide:

> The failure to exercise the discretion in relation to a question does not affect the admissibility of any answer given in response to the question.

I take it that, if the court, for instance, is not quick enough to say, 'Well, hang on a minute, that is an improper question', and the witness answers—notwithstanding that the court might well say that it falls fairly and squarely in the definitions—the answer will still be accepted in evidence. I want to clarify that that is the intention and the effect of that change.

The Hon. M.J. ATKINSON: The answer is yes, but bear in mind the distinction between the admissibility of evidence and the weight of the evidence, and it may be that the court gives the answer to the impermissible question little weight.

Clause passed.

Clause 15 passed.

Clause 16.

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

Page 16—

Line 10—Delete 'hearsay'

Line 21—Delete 'hearsay'

Line 26—Delete 'hearsay'

Line 27—Delete 'hearsay'

Line 30—Delete 'hearsay'

Line 31—Delete 'hearsay'

I introduce this amendment on the advice of the Chief Justice. It is again a clarifying amendment that does not change the intended purpose of the section. Section 34CA governs the admission of evidence of an out-of-court statement made by a protected witness. A protected witness is a young child or a person whose mental disability severely affects the person's capacity to give a coherent account of his or her experiences or to respond rationally to questions. One of the purposes of section 34CA is to allow evidence of that out-of-court statement to be admitted to establish the truth of what the witness actually said by way of exception to the hearsay rule.

The Chief Justice points out that the description of this evidence as hearsay evidence might suggest otherwise, because hearsay evidence may not be admitted for such a purpose. I agree, and the above amendments remove the word 'hearsay' wherever it appears in section 34CA.

Mrs REDMOND: I utterly concur with the reasoning of the Chief Justice and therefore support the amendments.

Amendments carried.

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

Page 16, line 14—After 'made' insert:

and any other relevant factors

The Chief Justice suggests new section 34CA should require a court when satisfying itself that a statement made outside of court by a protected witness has sufficient probative value to justify its admission to take into account not only the circumstances in which the statement was made but also the manner in which it was made. I agree that the manner in which the statement is made is relevant to that determination and, indeed, the current section 34CA would allow the court to have regard to it in referring to the circumstances in which the statement was made and any other relevant factors. The amendment inserts the phrase 'and any other relevant factors' into the new section 34CA(1)(a) to give the court the same purview that it has now.

Mrs REDMOND: Again I concur with the reasoning expressed by the Chief Justice and will support the amendment.

Amendment carried.

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

Page 16, after line 26—After subsection (2) insert:

(2a) Evidence that is admitted in a trial under this section of the nature and contents of a statement made outside the court by a protected witness may be used to prove the truth of the facts asserted in the statement.

The current section 34CA permits evidence of an out-of-court statement to be admitted to establish the truth of the factors contained in it, although it does not say so in so many words. The authority for this is R v Corkin. In a more recent case (R v Mill), Justice Duggan said that section 34CA provides the court with a discretion in the case of an alleged sexual offence against a young child to allow evidence of a complaint to be admitted to prove the truth of the facts stated in the complaint. The proposed section is intended to have the same effect, albeit on a larger scale, because it will apply to any out-of-court statement, not just a complaint, and to young children and significantly mentally disabled people who are the alleged victims of any offence, not just a sexual offence.

Like the section it replaces, the proposed section 34CA does not expressly say that it permits evidence of an out-of-court statement to be admitted to establish the truth of the facts contained in it. I propose by this amendment to confirm the common law position explicitly in the legislation. The amendment will not change the intended effect of the section.

Mrs REDMOND: In reliance on the Attorney as an honourable man and his statement that what this amendment does is simply reflect what the current law is in any event, but makes it quite explicit, then we will support the amendment.

Amendment carried; clause as amended passed.

Clause 17 passed.

Clause 18.

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

Page 19, lines 10 to 22 (inclusive)—

Clause 18, inserted section 34M(4)—Delete subsection (4) and insert:

(4) If evidence referred to in subsection (3) is admitted in a trial, the judge must direct the jury that—

(a) it is admitted—

(i) to inform the jury as to how the allegation first came to light; and

(ii) as evidence of the consistency of conduct of the alleged victim; and

(b) it is not admitted as evidence of the truth of what was alleged; and

(c) there may be varied reasons why the alleged victim of a sexual offence has made a complaint of the offence at a particular time or to a particular person,

but that, otherwise, it is a matter for the jury to determine the significance (if any) of the evidence in the circumstances of the particular case.

Proposed section 34M deals with evidence relating to complaint in sexual cases. The Chief Justice has made some suggestions about subsection (4), which governs the directions a judge may give the jury when that evidence is admitted in a trial. He says that there is no need for the judge to say to the jury that this evidence is hearsay evidence as required in subsection (4)(a).

He says that, without an explanation of what hearsay evidence is, at the risk of confusing the jury unnecessarily this direction will not help the jury because the other directions, particularly the one in subsection (4)(b), make it clear how the evidence is to be treated without having to explain that it is hearsay evidence. I agree that this direction is superfluous and has the potential to confuse rather than assist the jury. The amendment substitutes a revised section 34M, which removes the requirement for the judge to direct the jury in this way. It does not change the substance of the section.

The Chief Justice also says that there is a tension between the requirement for the judge to direct that the evidence is not to be used as evidence of the truth of what was alleged in subsection (4)(b) and for the judge to direct that it is a matter for the jury to determine the significance, if any, of the evidence in the circumstances of the particular case (subsection (4)(e)). He thinks that these directions given together may confuse a jury.

The Chief Justice also suggests that section 4 includes a requirement that the judge direct that the evidence is admitted to establish consistency because that is the main reason for admitting evidence of a complaint. He also wonders whether subsection (4), in the way it distinguishes between the evidence as to the complaint and as to the circumstances in which it was made, may give rise to difficulty. In this amendment, section 34M is reconstructed to solve these problems (we hope), and by doing so justify the removal of a direction that the evidence is hearsay.

The substituted section 34M requires the judge to direct that the evidence is admitted to establish the alleged victim's consistency of conduct. It also says that, although it is a matter for a jury to determine the significance, if any, of the evidence in the circumstances in which it was made, that determination is to be made subject to the preceding directions. I hope that is clear.

Mrs REDMOND: In fact, having read through the amendment it seemed to me to be a clearer way of expressing what was intended. So, I am happy with the amendment. I do have another question on section 34M, which is the precise part of clause 18 with which we are dealing. However, I am happy to leave it until after we have dealt with the amendment, if that is more suitable.

The CHAIR: Yes, that would be convenient.

Amendment carried.

The CHAIR: Does the member for Heysen have further questions on clause 18?

Mrs REDMOND: I have two questions, the first of which relates to new section 34L (evidence in sexual cases generally), and in particular subsection (5) of that section, which provides:

> In a trial of a charge of a sexual offence, the judge is not required by any rule of law or practice to warn the jury that it is unsafe to convict the accused on the uncorroborated evidence of the alleged victim of the offence.

My question relates to the use of the term 'not required'. On a straightforward reading of that, am I correct in assuming that, were he minded to, the judge is able to warn the jury that it is unsafe to convict the accused on the uncorroborated evidence of the alleged victim, but because it is worded as 'not required' he does not have to but he could? I want to clarify that, in fact, that is the effect of the proposed clause.

The Hon. M.J. ATKINSON: The answer is yes, but it is just a replacement of an existing provision. It does not change anything. It does not change the law.

Mrs REDMOND: Moving to new clause 34M (evidence relating to complaint in sexual cases), subsection (2) provides:

> In a trial of a charge of a sexual offence, no suggestion or statement may be made to the jury that a failure to make, or a delay in making, a complaint is of itself of probative value...

Is the direction contained in subsection (2) about no suggestion or statement being made to the jury a direction that applies only to a judge or does that apply to counsel in their submissions, arguments, summing up and so on?

The Hon. M.J. ATKINSON: Yes, it applies to counsel.

Mrs REDMOND: At the end of the new section 34L there is, I suppose, a part definition. The words 'sexual activities' includes sexual experience or lack of sexual experience. New section 34N(1)(c) provides:

> the person was not physically injured in the course of, or in connection with, the sexual activity;

I wonder whether there is a consistent definition of 'sexual activity' appearing anywhere in this legislation and whether the same definition applies throughout all these sections.

The Hon. M.J. ATKINSON: The answer is no.

Mrs REDMOND: What is the definition of 'sexual activity', as it appears in new section 34N(1)(c)?

The Hon. M.J. ATKINSON: At the end of new sections 34L and 34M it states what 'sexual activity' includes, and the definitions are different for the different sections.

Mrs REDMOND: I saw both those definitions, but I am puzzled as to why they are different, and also I am puzzled about 'sexual activity'. At the end of new section 34N it simply states that it includes sexual intercourse within the meaning of the Criminal Law Consolidation Act. Therefore, that is not an exhaustive definition of the sexual activity meant to be covered by this section but merely a statement that it does include sexual intercourse. I am curious as to the intention of the section in terms of what sexual activity is meant to be covered by this.

The Hon. M.J. ATKINSON: The first statement of what is included in 'sexual activity'—new section 34L (as the member for Heysen says)—is for the purposes of prior sexual history, the alleged victim's experience, but the statement of what is included in 'sexual activity' in terms of new section 34M is for the purposes of the case before the court.

Clause as amended passed.

Clauses 19 to 22 passed.

Clause 23.

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

Page 24, line 17—Before 'victim' insert 'alleged'.

The reasons for this amendment are the same as for amendment No. 1.

Amendment carried; clause as amended passed.

Clauses 24 to 26 passed.

Clause 27.

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

Page 26, line 7—Before 'victim' insert 'alleged'.

The reasons for this amendment are the same as for amendments Nos 1 and 12.

Amendment carried; clause as amended passed.

Clause 28 passed.

Title passed.

Bill reported with amendment.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs) (17:14): I move:

That this bill be now read a third time.

From time to time I criticise the Liberal opposition for not being prepared for our legislation; and that was so in the first week of sitting this year. On this occasion I thank the member for Heysen for being able to deal without much staff support with a very substantial bill. Having completed the bikie bill yesterday, we look forward to completing the public order offences bill tomorrow.

This week the member for Heysen has shown her versatility and application to duty. One of the virtues of the state parliament compared with the federal parliament—and I had occasion to study the federal parliament closely when I worked for three years for the federal minister for immigration—is that there is genuine legislative scrutiny in the state parliament that does not occur in the federal parliament. Also, some state parliamentarians have great skills in scrutinising legislation that most of their federal counterparts do not have. It is one of the unsung virtues and pleasures of this parliament that on many occasions legislation is very carefully scrutinised. I think that, when the meaning of our legislation becomes conjectural in court, the judges, their associates, counsel and the solicitors, by reference to the debates in the House of Assembly, see that our

legislation has often been the subject of very careful deliberation. I thank the member for Heysen for her most thorough scrutiny of the bill, and I look forward to her scrutiny of the bill tomorrow.

Mr VENNING (Schubert) (17:16): I thank the Attorney. As the Opposition Whip, I support what he said. It is rather daunting to sit here for three days and see most of the business in this house being handled by one person. I am very pleased that we have such a capable person in the member for Heysen to do that. As lay people, we think that a lot of the discussion is above our heads, and some of us could even be accused of saying, 'What is she doing down there? Is she just keeping this house sitting?' However, the member for Heysen certainly has our confidence. I commend the Attorney for his comments, because we are here to do a job. As Opposition Whip, I am very pleased that the member for Heysen is as dedicated as she is, and I note the amount of work that she has put in this week. Let us hope that she gets a rest next week. I commend the member for Heysen.

Mrs REDMOND (Heysen) (17:17): After those kind words, I feel that I have to respond. I thank both the Attorney and the member for Schubert for their compliments. It has often occurred to me that one of the most useful things I think we could do for new members of parliament would be to give them some more training, in terms of reading and dissecting legislation and being able to question it. Happily for me, all those years ago when I started work—

The Hon. M.J. Atkinson: It was 37, was it not?

Mrs REDMOND: Yes—36 years ago, I think. I may have said it incorrectly as 38 years when I mentioned that it was 14 February 1972 when I started in the Crown Solicitor's Office. I have had the benefit of working with the other Wran government in New South Wales and, therefore, I had the pleasure of working with parliamentary counsel and drafting changes to various pieces of legislation. The committee stage of our bills is something that I really enjoy, and I try not to hold the house too long. However, I think it is a worthwhile exercise, and I am pleased to hear the Attorney's comments about the fact that we probably do it a little better than our federal counterparts. I am pleased that we have managed to get through this bill with reasonable haste but, at the same time, giving it a thorough enough examination to be satisfied that we know exactly what it is we are putting through the house.

Bill read a third time and passed.

At 17:19 the house adjourned until 28 February 2008 at 10:30.