HOUSE OF ASSEMBLY

Thursday 28 February 2008

The SPEAKER (Hon. J.J. Snelling) took the chair at 10:30 and read prayers.

CONSTITUTION (ELECTORAL REDISTRIBUTION) AMENDMENT BILL

The Hon. R.B. SUCH (Fisher) (10:30): Obtained leave and introduced a bill for an act to amend the Constitution Act 1934. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:31): I move:

That this bill be now read a second time.

Members may recall that I introduced an identical bill in 2006, the purpose of which was to change the current arrangement whereby after each election the electoral boundaries are redrawn. This bill seeks to redraw them after every second election. Members would appreciate that under the current arrangement you barely get time to adjust to an electorate, and people barely get time to adjust to you as the local member, when the boundaries are changed.

I do not think this proposal in any way takes away from the laudable effort that went into changing what was an unfair electoral system in this state. That change was made 10 or so years ago, and it was a desirable change because we had a system where we had what was, in effect, malapportionment, with some members representing a lot more electors than others. When I was elected in 1989, for example, I had twice the number of electors that the seat of Elizabeth had, and I think everyone could appreciate that there is an inherent unfairness in that. I recall approaching the Premier at the time, John Bannon, and asking whether there was any chance of getting some extra postage stamps. Well, we know John Bannon was very careful with money, and he politely declined my request.

That is not the reason for raising it now, of course, but I think after two elections is a reasonable time to bring on a redistribution. With the current arrangement the time frame is fairly short, and it is not as if our population is growing dramatically. I believe there is inherent sense in changing the law so that after the second election, after eight years, we change the boundaries to ensure they are fair and are committed to the principle of '50 per cent plus one' of the vote. I do not think there is any need to extend the argument, and I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

REFERENDUM (ELECTORAL REDISTRIBUTION) BILL

The Hon. R.B. SUCH (Fisher) (10:35): Obtained leave and introduced a bill for an act to provide for the submission of the Constitution (Electoral Redistribution) Amendment Bill 2008 to a referendum. Read a first time.

The Hon. R.B. SUCH (Fisher) (10:35): I move:

That this bill be now read a second time.

This is a companion bill that provides the technical mechanism to give effect to the earlier bill—that is, that it requires a referendum of the people of South Australia. I do not need to make an extensive speech in relation to that; it is consequential on the earlier bill. If that is adopted, then the matter has to go to the people. That is the way it is and the way it should be. I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

GOVERNMENT ADVERTISING (OBJECTIVITY, FAIRNESS AND ACCOUNTABILITY) BILL

Mr HANNA (Mitchell) (10:38): Obtained leave and introduced a bill for an act to require government advertising to meet minimum standards with respect to objectivity, fairness and accountability, and to prohibit the expenditure of taxpayers' money on advertising which promotes party political interests. Read a first time.

Mr HANNA (Mitchell) (10:38): I move:

That this bill be now read a second time.

I am indebted to the Hon. Nick Xenophon for first producing this legislation in the upper house. The bill is filled with principles that everyone in this place would agree with. The question for South

Australia is how to ensure that we can restrain governments in terms of their advertising so that they do not take advantage of the huge pool of taxpayers' money they have for improper purposes.

The bill sets out to achieve this in the following ways. The second clause imposes a substantial obligation on ministers who might authorise the use of public money for government advertising. It insists that any such advertising be carried out in accordance with the schedule, to which I will refer in a moment, and it imposes a maximum $100,000 fine upon a minister who misuses their position by improperly authorising advertising. Clause 2 of the bill also ensures that such a fine shall not be paid out of public funds. So, ministers will be very careful to adhere to that.

The third clause of the bill gives jurisdiction over these matters to the Supreme Court. Any voter would be able to go to the Supreme Court and complain that government advertising has not complied with the principles. Then there is schedule 1, which is a series of principles and guidelines for government advertising. Those principles are, first, that materials should be relevant to government responsibilities; secondly, that material should be presented in an objective and fair manner; thirdly, that material should not be party political; and, fourthly, that there should be judicious and economic use of government advertising.

The principles are ones with which we can all agree. I am not sure that everyone will agree with the legislation, but it is regularly something that irks members of the public when they receive government advertising. Quite often, it is a colourful brochure shouting about the budget or some government information campaign, invariably with a photograph of the Premier or appropriate minister, and lauding the government's efforts in whichever area it is. Most of it is unnecessary; some of it is genuinely for the purpose of conveying information.

The guidelines should be adhered to, and it seems that the only way one can do it is by implementing legislation to confine ministers and make them responsible for the expenditure of public money on government advertising. I commend the bill to the house.

Debate adjourned on motion of Mrs Geraghty.

INDEPENDENT COMMISSION AGAINST CRIME AND CORRUPTION BILL

Adjourned debate on second reading.

(Continued from 25 October 2007. Page 1415.)

The SPEAKER: If the member for Mitchell speaks, he closes the debate.

Members interjecting:

The SPEAKER: If the member for Mitchell speaks, he closes the debate. The member for Mitchell.

Mr HANNA (Mitchell) (10:43): Various members have spoken—

Mrs GERAGHTY: I am sorry, sir—

The SPEAKER: It is too late. I called twice, offering members an opportunity to speak. Now that the member for Mitchell has started, I cannot interrupt him. The member for Mitchell.

Mr HANNA: Thank you indeed, Mr Speaker. I thank honourable members for contributing to the debate on this legislation, in which there is considerable public interest. I have had a number of representations to my suburban electoral office indicating support for a commission against corruption. The only representations I have had from constituents, as opposed to other members of parliament, that have been against the measure raised the question (which has been raised in this place) about existing means of combating corruption. However, it can be seen from the legislation that the powers of such a commission, as envisaged by this bill, would not only be greater but they would be unified in one place, and I think there is a real advantage in that.

Although it is never pleasant for a government to consider an independent watchdog with considerable powers to scrutinise individual members' behaviour, it is something that this state needs, and now is the time to do it. I commend the bill to the house.

The house divided on the second reading:

AYES (11)

Chapman, V.A.	Goldsworthy, M.R.	Griffiths, S.P.
Hanna, K. (teller)	McFetridge, D.	Pederick, A.S.
Penfold, E.M.	Redmond, I.M.	Such, R.B.

Venning, I.H. Williams, M.R.

NOES (23)

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

PAIRS (8)

Hamilton-Smith, M.L.J.	Piccolo, T.
Evans, I.F.	McEwen, R.J.
Pengilly, M.	White, P.L.
Pisoni, D.G.	Conlon, P.F.

Majority of 12 for the noes.

Second reading thus negatived.

GRAFFITI CONTROL (SALE OF GRAFFITI IMPLEMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 February 2008. Page 2089.)

Mr VENNING (Schubert) (10:54): I commend the member for Fisher for this motion. It is deplorable to see our beautiful city being continually vandalised. Over the years, we have tried to do several things to try to stop, or at least discourage, people (usually young people) from vandalising and putting graffiti on many of our public assets. One thing we did many years ago was to restrict the use of spray cans. I think that we really need to clamp down in this respect, and people who are caught certainly need to be dealt with very harshly.

I agree with the member for Fisher that this is not a new issue for this parliament. I have to say that I do not think we are winning the war against graffiti. Last Monday, I travelled on public transport for the first time in quite a while, and I was quite horrified to see the amount of graffiti in the train. It is very distressing to see, and one wonders whether the authorities, after a while, just give up on not only the painted graffiti but also the scratched graffiti on windows.

It also upsets me to see windows scratched in new shopping centres. It is, of course, impossible to remove the scratches, so the panes of glass have to be replaced. I despair that this continues to happen. I do not know what the answer is to stop this from happening. If we catch these people, do we provide a deterrent by applying huge imposts? Do we gaol these people? What do we do with them? They are vandals and they are usually delinquent. They can often be homeless and they are usually in a distinct age group. This is an age-old problem. I understand and support the member for Fisher in his frustration in relation to this issue.

This bill talks about the sale of graffiti implements. Currently hardware shops that sell spray cans display them behind secure mesh shelving. You cannot get them off the shelf; you have to get an attendant with a key to get them out. I understand that the member for Fisher, in this particular instance, wants also to include felt pens and such things as that. I have a greater concern with that, because I use felt pens a lot. It is easy to mark anything with a felt pen, be it a piece of steel, or whatever, and a lot of farmers carry felt pens in their pockets. I am not sure exactly what the member for Fisher is trying to include in the list of graffiti implements, but certainly it is things that cause destruction.

Diamond-tip glass cutters should be included in this category because they mark glass very easily and they are small enough to fit in a pocket. I think that the sale of glass cutters ought to be controlled because some of the marks appearing on glass have obviously been made by a commercial instrument such as this, not just by a diamond ring as used to be the case. So, these things should not be available to the general public. A person purchasing such implements should

have a valid reason for doing so, whether it be a tradesperson or anyone else, and they should certainly be of a certain age.

I acknowledge that it is up to shop assistants as to whether they sell these implements or spray cans. In the past, I have often sent my children to the shop to buy spray cans for me, because I use them all the time. I am what you would call a painter of convenience. I do not have time to mix paint or wash the spray gun, so spray cans—even though they are quite expensive—are a way that I am able to do some quick paint and patch-up or repair jobs around the house and farm. I buy a lot of spray cans.

The Hon. R.G. Kerin interjecting:

Mr VENNING: I heard the comment from the member for Frome, but I will not repeat it. It is a sad situation, and I do not know what is in the mind of these young people. I know that we have taggers out there who want to leave their mark everywhere, and I am most concerned. My party has had discussions on this matter, particularly in the previous parliament. The then member for Bright was very passionate about the issue and we spent hours and hours discussing this problem. What motivates these young people—and they are usually (but not always) young people—to do this, I do not know, and I do not know whether a psychologist could provide the answer. If the minister would like to arrange a briefing on this matter, I would be happy to come along.

It sickens me when I take a ride on public transport and go through the Islington rail yards and see all the stationary trains vandalised and with graffiti on them. I just despair that this is happening, yet we seem to be sitting back and doing nothing about it. Is our inaction giving these people the ability to continue? I think that we should address it.

I commend the member for Fisher for raising this matter, not just on this occasion but also on other occasions. I hope that when he makes his final speech he will spell out quite clearly his definition of 'graffiti implement', because I am not quite sure what it is. I know that it is spray cans, and I know that it is probably glass cutters, but if he includes felt-tip pens I think that would be a difficulty. I support the member for Fisher and his bill.

The Hon. R.B. SUCH (Fisher) (11:01): I move:

That this order of the day be discharged.

Motion carried.

GRAFFITI CONTROL (ORDERS ON CONVICTION) AMENDMENT BILL

Second reading.

The Hon. R.B. SUCH (Fisher) (11:05): I move:

That this order of the day be discharged.

Motion carried.

TOBACCO PRODUCTS REGULATION (INDIRECT ORDERS) AMENDMENT BILL

Second reading.

The Hon. R.B. SUCH (Fisher) (11:08): I move:

That this order of the day be discharged.

Motion carried.

WESTERN MOUNT LOFTY RANGES WATER RESOURCES

Mr GOLDSWORTHY (Kavel) (11:09): I move:

That this house calls on the Rann government to ensure that the water allocation plan in relation to the prescription of the Western Mount Lofty water resources does not restrict primary producers and industry in maintaining and improving the viability of their businesses.

This is a most serious matter facing the future of an extremely unique region, not only in South Australia but around the whole country. The government has only one chance to get this right. The unique and individual character of the Adelaide Hills cannot be overstated. It is a beautiful region, with valleys filled with orchards and vineyards, open grazing paddocks or those where vegetable crops are grown, from stud cattle to alpaca properties, from flower growers to dairies.

It is also a very popular tourist destination, a short drive from Adelaide with attractions right across the district. It is a very liveable area. It is pleasurable to take in the environment: the rural aspect, the clean air, the charming townships and picturesque views. Once you drive up through the Heysen tunnel, you begin to feel refreshed and relaxed as you leave the stresses of the city behind. It is little wonder that so many people are choosing to make the Hills their home.

Importantly, however, this region has a long history as a food bowl for the state dating back to the earliest days of European settlement. Settlers grew produce and walked it to markets in the towns to sell what they had grown. The Hahndorf Pioneer Women's Trail Walk is a reminder of those days, as hard as it is to believe today, when people actually carried their produce from their farms around Hahndorf to the city.

That is hard to imagine today, but of course people also used drays and horses and carts in those days. The supply of fresh fruit and vegetables and other primary produce did not stop at supplying the local populations. As farms developed, so did their markets and the Hills have been exporters of their produce for many years, supplying countries all around the world with their produce.

An important consideration in the Hills is the significant pressure on land for development. The more land given for housing development, the more the Hills will be changed from that which makes them unique. Whilst there are planning laws in place to try to limit to this pressure, the situation remains ever present and very real.

In recent years, large tracts of land have been made over to residential development. Part of the reason given is that that land is no longer viable to sustain an agricultural enterprise. Some in the community may wish to argue that much of the Hills region is no longer viable, as larger-scale operations bring economies of scale and a level of viability that smaller-scale farming enterprises struggle to achieve, with many of the farms in the Hills considered small in comparison with other regions.

It would be totally devastating to this region to allow more land to be taken over with that argument. It also raises an essential issue. Hills-based primary producers require support to maintain their viability. By maintaining the viability of their businesses, we should protect this valuable region for its best purpose and that is as a food bowl for Adelaide and beyond. We cannot therefore be excused by taking away something that is vital, such as water.

Agriculture-based businesses are the same as any other businesses in that they are continually striving for improvement: some choose to expand their business as the markets develop; some find a niche market to target and develop. The principles are the same: it is a business. Costs must be covered and profit is the aim; continual investment is necessary. However, in agriculture one thing is essential, and that is water. You need water to grow crops or water stock. There is no way around that one essential element in agriculture.

The amount, the volume and the quality may vary, but agriculture-based production is not possible without water. That is why the process to prescribe the water resources in the Western Mount Lofty Ranges is critically important; it is important to the growers and it is important to the entire community. The department has taken a snapshot of water use over a very short period of time—only three years—to determine future water allocation. Great concern is being caused to many by the fact that their entire future will be determined by a snapshot—a very short period of time in the past—potentially restricting their business and stifling future growth.

Considerably more consultation is needed with primary producers and primary industry groups. Primary producers in the Adelaide Hills are calling for an improved level of consultation. They see no reason—and I agree with them on this and with all the issues that they raise—why each farming property cannot be visited and assessed individually, to ensure a thorough process is carried out. Time is a real issue in this matter.

The government has outlined its time frame. It wants the water allocation planning process completed by the end of 2008 and water licences to commence issuance to existing users in 2009. A draft water allocation plan is expected by June this year—in only three or so months' time—however if the work has not been finalised, if the consultation has been insufficient, or the data collection not completed, then the government must either extend the time frame or invest more resources into the process in order to meet the time lines.

I am confident I have correctly gauged the feeling amongst my constituents that, if more time is needed to carry out the work thoroughly, then no-one will complain about an extended time frame. They want the job done properly. The government will state that community consultation has

occurred. The quality of that consultation has been lacking, as many questions remain unanswered.

The Natural Resources Management Board did conduct community consultation meetings in October 2007. I attended the Gumeracha meeting at the town hall, which was full, with over 250 people attending. This obviously demonstrates the level of concern in the community. My colleague the member for Heysen attended the Hahndorf meeting, which had a similar number of people in attendance, and I believe the member for Finniss may have attended the meeting held at Victor Harbor. There were two other meetings held in Yankalilla and McLaren Vale.

The meeting I attended was chaired by the Adelaide and Mount Lofty Ranges NRM Board chairperson, Ms Anita Aspinall (a well-known and respected Adelaide Hills person) who did a good job of chairing the meeting and, to the board's credit, they did commit to holding a follow-up meeting to answer the large amount of questions which remained unanswered; however, that meeting is yet to be held. Most people who attended those meetings left with more questions than answers.

The local community is seeking a transparent process where questions are answered and all available information is presented. There is a feeling amongst some that limited information is being given; something that has been the case since the first day this process commenced. My office has received many phone calls and I have met with many people who have been concerned about this water prescription process since day one, and their concerns still remain extremely real today.

From the outset, this process has alarmed people: it has left them confused and worried about their future; and about their children's future. This highlights to me how important clear communication is but, sadly, the government has failed to communicate clearly with the community on this matter. This fact is true, and it is evidenced by the level of concern remaining in the community today.

I want to give some feedback on information regarding local landowners. Landowners and farmers are concerned about the approach of government bureaucrats. They fear these bureaucrats will take a 'one size fits all' approach, with a belief that the water resources in one region are the same as in another. We all know that this is nonsense. Do the officers know that what applies to the water basin in the South-East or Willunga does not apply to the fractured rock aquifers in the Adelaide Hills?

One landowner was visited by an employee of the department who made comparisons between the two regions. It must be clearly understood by the government and its officers that the Adelaide Hills is a unique area in many aspects, including the manner in which its ground water system is formed and actually functions. Fractured rock aquifers operate vastly differently from large basins of underground water. For example, one farmer in Kenton Valley could have very different water quality and quantity from a neighbour in, say, the Torrens valley, a few kilometres away; and similarly you might pump 90,000 litres an hour from a bore on Pfeiffer Road, Woodside and two kilometres away you may only pump 5,000 litres an hour. Quality and salinity levels can also vary greatly between the bores.

The fact that water trading is being considered by the government in the Adelaide Hills is causing great concern amongst many of my constituents, who do not understand how water from one underground aquifer can be traded to a property in a separate aquifer. How is this actually possible? I would be interested to hear the minister's view on this because it defies logic and if allowed could be the ruin of the Adelaide Hills as we know it. It could leave properties literally high and dry.

Information from the department has also been gained. I understand that many people working on this important task are well qualified and diligent in their work. In fact, I take this opportunity to acknowledge the members of the Adelaide and Mount Lofty Ranges Natural Resources Management Board and the officers of the Department of Water, Land and Biodiversity Conservation for their work; however, an enormous amount of work will need to continue to be undertaken and completed before it can be regarded as finished.

I wish to stress also how vital their work is. It is absolutely crucial they gather sufficient information on this region's water resources before final decisions are made. The future of this region depends on it and the future livelihood of many farming families relies on the accuracy and quality of their work.

The concern is so widespread that a district group has been formed to gather as much information as possible on the water resources of this region, independent from the work the government is doing. The Mount Lofty Ranges Rural Industry Water Users Group has called on landowners to register with it and provide information on water use to help it accurately gauge extraction levels with watertable recovery periods across the region. There was a recent article appearing in the local *Courier* newspaper, on 13 February this year, outlining the proposals of the users group and calling for landowners to provide that information.

I could go on and talk about the economic benefit that the Adelaide Hills provides to the state in its agriculturally diverse and horticultural nature; but in conclusion I want to send, on behalf of the Adelaide Hills community, a very strong message, a very strong warning on the catastrophic outcomes for the Adelaide Hills region if the government fails in its assessment and deprives farmers of satisfactory volumes of water for them to continue their farming operation.

The Hon. R.B. SUCH (Fisher) (11:25): I just want to make a brief contribution. I understand the member for Kavel's concern, but the bottom line with all of these issues relating to water is that we are increasingly aware that it is not an unlimited resource, certainly in the short term. We know nature replenishes over time, with a cycle of replenishment and, hopefully, we will be replenished here shortly. But the bottom line is that you cannot keep taking out more water, whether it is from the aquifer or a river, or whatever, without giving heed to the amount of water that is available. The days of doing what you like when you like how you like with water, those days are gone, and this applies to the Mount Lofty Ranges as much as anywhere else.

I think what primary producers and other water users want to know, and what they want, is certainty and some confidence. You can never guarantee water supplies in an absolute sense. But we found with the River Murray that people are taking out more water than that available, certainly in dry years. It is the very problem we have with the Victorian government at the moment. They want business as usual. They want their irrigators to keep taking out what they have been doing in the past. Well, you cannot do it, if you have been over-allocating water, and the same thing in areas of the Mount Lofty Ranges. People have been building dams. A lot of the creeks that used to run, even the whole year round, when I was a kid, have dried up.

We know that there is a drought and that has not helped; it does not help at all. But we have people with bores sucking out water, with very limited controls on what they take out. We have water being extracted without proper metering, without proper controls. As I said at the start, I can understand where the member for Kavel is coming from, but the days of endless water, unlimited water, without control in terms of extraction, those days are over. The reality is that we are going to have to manage water better, more effectively, more efficiently, and make sure everyone gets a fair allocation, a fair access, but that will ultimately depend on what water is available.

So, I do not support a sweeping condemnation of the government in relation to trying to control water usage. I think it is a prudent thing to do, and I would ask the question whether or not the government has gone far enough in terms of controlling water usage throughout the whole state. I make one other point, that the sooner—and this is no reflection on either of the two ministers, but I think it would be sensible to have one minister responsible for all water issues in South Australia, from under ground to above ground. I hope that when the Premier reshuffles his cabinet later this year he listens to that message, and has one minister for water—so important, whether it is under ground or above ground.

Mr PEDERICK (Hammond) (11:28): I rise to speak to this motion, because in the Mallee I have seen what can happen when you obviously get prescription wrong, and I speak about the Roby, Peake and Sherlock Wells area, which was an unprescribed resource. There was some irrigation opened up in the area. There are about four irrigators operating in the area at the moment. Previous to that the local area had extremely good levels of groundwater for extraction.

I am referring to what has happened under the prescription process—and I applaud the process, as I think prescription is the right way to go, but I think it should have happened a long time ago. But the issue with prescription is you have to get it right. It is obvious with what has gone on that it has not gone right. For a start, there has been a court case, where the government was beaten in court by an operator, and it has come out with a whole heap of other arrangements. So I have seen what has happened locally in Hammond when they get it wrong, and with two ministers this is where it does turn into a dog's breakfast, because, in relation to the groundwater in the Murray-Darling Basin, different parts of the allocation process come under each minister, the Minister for the River Murray and the Minister for the Environment. As I have seen in this place

many times before, they just handball it if they cannot or will not answer the question in question time or estimates by saying, 'It's not my responsibility; it's the other minister's.'

Prescription—yes, you have to take into account former and present use and have an idea of where it is going in the future. However, it needs to be much better managed so that we have the right outcomes for everyone—whether stock or domestic users or irrigators—and I call on the government to get it absolutely right in the western Mount Lofty catchment; otherwise it will end up in court again, costing the government hundreds of thousands of dollars, destroying the catchment and also the resource, and causing major unrest in the community. I commend the motion.

Debate adjourned on motion of Mrs Geraghty.

INDEPENDENT COMMISSION AGAINST CRIME AND CORRUPTION BILL

The SPEAKER: It has been brought to my attention that in the previous division the member for Hartley was present in the chamber and to the left of the chair, voting with the noes. Her name was not recorded and I will be directing that the records of the house be corrected.

FIRE HYDRANTS

Mr PEDERICK (Hammond) (11:32): I move:

That this house calls on the state government to commit to implementing:

(a) a fire hydrant identification system for country areas in this state; and

(b) a regular program of operational maintenance checks on fire hydrants throughout this state.

Since I first came into this place nearly two years ago, the issue of the lack of a thorough maintenance program for fireplugs in country areas has been one of my most constant concerns. Before I go on to explain the extent and seriousness of the problem, I must make two important points. First, I believe that, given the constraints within which they operate, the CFS does a fantastic job in dealing with fires and bushfires in country areas. Secondly, I wish to state my disappointment with what I suspect was a deliberate lack of assistance by SA Water staff in refusing my initial request for historical information on this subject, and in not returning subsequent information. This made my task in preparing this motion much more difficult than it needed to be, and I stress that I do not believe I was asking for any sensitive or confidential information.

I acknowledge that in mid-2007 the government announced a program to improve the identification of, and access to, fireplugs in regional townships—and note the reference to regional townships. This was an important step in assisting firefighters to perform their often dangerous and at times life-saving roles efficiently and effectively. However, as far as the country is concerned, the program goes only halfway to ensuring maximum effectiveness.

For one thing, many of the fireplugs around country South Australia are not in the townships, and they are the ones that are most often overgrown or inaccessible. There was no mention of these more remote fireplugs in the minister's letter to me of 27 November 2007 in response to my request for a thorough maintenance program. Moreover, my motion today calls on the government to finish the job properly and ensure that all fireplugs are operable as well as accessible. In other words, it is all very well to know where the fire engine is parked and have the keys, but if it does not start when you need it, it is not much use to you.

I have repeatedly raised this matter in this place, and repeatedly it has been ignored. I first raised it in June 2006, when I described in some detail a personal experience I had as a CFS volunteer with the local brigade at Coomandook. In January that year I attended a fire so large that brigades were called in from all over South Australia—from places like Lucindale and Clayton. Well trained and with capable crews, but people who were unfamiliar with the area, they were attempting to respond quickly to headquarter demands but were having to phone around for help to locate fireplugs. At a time of urgency this is a source of frustration and delay.

I am pleased that the search and find program will overcome that problem with some, but not all, country fireplugs; however, it does little or nothing to promptly ensure the serviceability of the fireplug itself. Minister Maywald's announcement of 31 July included the following statement:

> Quick access to water is obviously essential in combating fires and so this project will be a boost to our state's fire-fighting efforts.

Well, minister, that overlooks an obvious point: quick access to water is not just about location, it is also about availability. It is like getting directions to a public toilet only to find that the door is locked; it leaves you in the proverbial.

In estimates on 3 July 2007, I asked the Minister for Emergency Services which agency was responsible for maintenance of fireplugs, and whether the CFS and MFS were of the view that plugs were adequately maintained. I was advised that SA Water was considering its position with regard to a memorandum of undertaking signed in October 2005 between the South Australian CFS and SA Water. Within weeks of this came minister Maywald's announcement of 31 July 2007 which, as I have said, only goes halfway.

Also present at that budget estimates session was Euan Ferguson, Chief Officer of SACFS. Mr Ferguson stated that brigades pass on to SA Water regular reports, for action, on fireplugs in need of attention. The information I have is that it can take a couple of months before a maintenance crew deals with the problem. Mr Ferguson added that he was not able to say whether SA Water required additional resources. Is that because he does not know, or is it because he has been told not to say?

In her response to my written request for action on this matter last September, minister Maywald stated that a concentrated program to locate and identify country fireplugs would 'include checking for accessibility and, if necessary, clearing debris. Any faults will be reported to SA Water for maintenance action.' As I have just explained, that alone will not fix the problem promptly. There is no reference to the plug being tested, and it leaves us guessing as to just which faults will be identified in the program as announced. Certain equipment and expertise are needed to physically test the operation of the fireplugs. Is this part of the program announced and, if not, why not? Interestingly, in the estimates committees, Mr Ferguson commented:

> Fire services acknowledge that it is partly a fire service responsibility to practise setting up hydrants and fireplugs so there is an element of sharing and making sure that the fireplugs are operational.

I take it from this comment that Mr Ferguson is referring to the country volunteer crews' training activities, which occasionally involve attending and activating a fireplug as part of their training. However, this does not systematically ensure, by any means, that all fireplugs in a region are checked for serviceability.

Furthermore, when the original fireplug maintenance program ceased some time ago, local crews were expected to take on the task—unofficially, I suspect. CFS crews initially did take on that extra task in their own volunteer time. Their endeavours as volunteers, usually at a cost to themselves and their families, were already well consumed with general training, fundraising and attending public events, as well as fires. I know for a fact that, during this time and through the following years, many of them asked repeatedly for a maintenance program to be reintroduced, all to no avail. These selfless, community-minded volunteers were pleased to hear of the identification project. One story related to me told of a time when a CFS crew searched in vain for a fireplug, only to later discover that it had been buried under three inches of road metal.

Given the current problem with dwindling numbers of volunteers, perhaps part of the problem lies with this issue. How much are we asking our volunteer firefighters to do? Does it turn some of them off that they are expected to perform for free a task that the community has already paid for: the supply of functioning fire hydrants? In part 4 of the Fire and Emergency Services Act 2005, under 'Functions and Powers', appear the following points in relation to the SACFS:

> 1(a) to provide services with a view to preventing the outbreak of fires, or reducing the impact of fires in the country;
>
> 1(b) to provide efficient and responsive services in the country for the purpose of fighting fires..

It also states:

> 3(c) provide and maintain appliances and equipment for SACFS organisations.

I cannot see how the proper maintenance of fireplugs does not fall under the requirements of these functions. Readily serviceable equipment will reduce the impact of fires and provide efficient responsive services in the country. Presumably, fireplugs are not classified as equipment because they belong to SA Water. Here, I must reiterate the point that I do not blame the CFS for this shortcoming. This equipment is clearly not theirs, but the government has an undeniable responsibility to ensure the serviceability of this equipment. In legal terms, it must be 'fit for purpose'.

We have heard a great deal from this government and others recently urging householders and landowners to be bushfire ready. We have even seen photographs of the Premier, in full CFS garb, clearing gutters. The Premier is a volunteer with the Salisbury CFS, and I applaud him for that. However, I wonder how his fellow crew members would feel if, in responding to an

emergency, they were to turn up at a fireplug and discover that it did not work. Of course, that cannot happen in the city and suburbs, where plugs are fully maintained; it is only in the country, where volunteers are expected to give even more of their own time to do the job. The Premier was reported in the *Murray Pioneer* of 18 January 2008 as saying:

> Our volunteers have been sorely tested recently by a number of fires...they have demonstrated their commitment in spades and now property owners should do the same.

Mr Rann, commitment and preparation is a three-way deal. The volunteers are ready, and we trust householders are responding to your urging and that of the fire services. But what about the government? Should it not also commit to planning and preparation? Your best laid plans with the identification system will come to nothing if the fireplug does not work, no matter how quickly it is located. In the same article from which I quoted earlier that showed Mr Rann cleaning gutters, it states:

> The last thing our firefighters need is to have to rescue people who have made an ill-thought-out decision.

Well, Premier, let me add to your statement: the second to last thing firefighters need is to find that a vital fireplug does not work because of your ill thought out decision not to reinstate a proper fireplug maintenance program.

Here are some more quotes that show the government's one-way attitude to commitment. These come from the CFS website and are sound advice. Under 'General housekeeping for fire safety', the public is implored to 'remove rubbish', keep relevant things in 'good repair', have garden hoses that reach the extremities of the garden and, most ironically, make sure equipment is 'cleaned and checked'. They are all excellent suggestions. However, for the government it is a case of 'Do as I say, not as I do.'

Businesses are required not only to have appropriate fire extinguishers on station and accessible, but also to have them checked for operation regularly, at their own cost. More of this 'Do as I say, not as I do' syndrome! Premier, how about some real leadership on this issue and showing the same commitment you demand of others! In a document entitled 'Safety in the public sector', dated 18 August 2004, to launch the 'Zero harm vision', the Premier proudly proclaimed the following:

> As the government of South Australia, we have a responsibility to set a best practice example in safety performance that will influence and encourage others.

He goes on to state:

> The government takes responsibility for ensuring all risks to public sector employees' health and safety arising from work activities are, as far as reasonably practicable, eliminated or properly controlled.

Premier, are the 11,000 active CFS volunteer firefighters excluded from this promise? I suggest that the potential failure of a remote fireplug—or any fireplug—places the firefighters at substantially increased risk.

The ability of the CFS CO Euan Ferguson to deliver on his promise, as stated in his Strategic Directions document of 2007-09, that he is fully committed to achieving the Premier's Zero Harm Vision is no doubt hobbled by the government's refusal to immediately reintroduce a proper fireplug maintenance program. A review required under section 149 of the Fire and Emergency Services Act 2005 is currently under way, as I was advised in a letter from minister Zollo's office last September. The following requirement for the review appears in that section of the act. It provides that the review:

> ...include an assessment of the extent to which the enactment of this act has led to...increased efficiencies and effectiveness in the provision of fire and emergency services within the community.

In the terms of reference there is a requirement to assess whether there have been improvements in the provision of services in terms of, among other things, 'preparedness and response'. I suggest that the government has seen fit to excuse itself from the same scrutiny.

This review is due by 1 April 2008—April Fool's Day! It is hoped that this government does not make a fool of itself and ignore this most obvious fact: knowing where the fireplug is does not necessarily give quick access to water. In terms of my motion, I acknowledge the government's fireplug identification project, and now call on the government to commit to a regular program of operational maintenance checks on all fire hydrants throughout the state. I commend the motion.

Mr GRIFFITHS (Goyder) (11:47): It is my pleasure to rise to speak briefly in support of the motion from the member for Hammond. It is obvious from the research that he has done that this is a passionate issue for him. I am aware that he has spoken on this matter several times in this

house in our relatively short careers here, and I have no doubt that the member for Hammond will continue to make sure that the government is held accountable in this area.

Within the Goyder community there are 70 towns, 54 of which have access to a potable reticulated water supply; so, presumably, those 54 communities also have fireplugs, involving maintenance issues that need to be taken care of. It might seem an insignificant matter to people, but the reality is that, in time of an emergency, when a fire occurs the last thing anybody wants is to be unable to access water supply once the first tank-load of water has been used to combat the fire. It is important that the government, and we on this side, recognise the importance of this motion and ensure that we do something about it.

We are very lucky, though, that in most areas the instance of fires is quite low. Certainly, in my electorate I cannot remember a house fire within the past few years. Whilst I was growing up in Yorketown I lived down the street from a house that burnt down, which was exciting for a seven year old to go down and watch the fire. But now I respect the fact that, all of a sudden, it put a family at risk and it very much put at risk the people who were fighting the fire. I have a different perspective on it now, after seeing it as a seven year old, and it is important that we are able to do something about this problem.

There was quite a large fire on the outskirts of Edithburgh in early December last year at about the same time as we had the fires near Warooka and on Kangaroo Island. I am aware that, certainly, the fire teams that went to the Edithburgh fire were not just from the Edithburgh Brigade; other brigades responded. An issue for them would have been ensuring that they were able to identify the location of the fireplugs and to ensure that they could get water, because they certainly would have needed more than one tank-load of water.

I have noticed, though, driving around my electorate, particularly in the Mallala area, that a lot of work seems to have been undertaken. The work being done by SA Water and the government is now evident. When I am driving around these unsealed road networks, I see that there are quite a few plugs identified with blue plastic—so it must be working a bit. You drive past and think, 'Okay; there's a fireplug', so you remember that for future use, but that is the only area in which I have noticed this. I have tens of thousands of kilometres of unsealed road network in my electorate, but it is only in that small, confined area, which probably makes up about 15 per cent of the electorate, that I have noticed that the program of maintenance must be working.

The Hon. R.G. Kerin interjecting:

Mr GRIFFITHS: The member for Frome indicates that it might be one dedicated volunteer. That is another thing that I want to talk about. It seems that in the past 25 years there has been an enormous reduction in the number of people within SA Water who work in the regions. Obviously, the fewer people there are and the increasing delays in responding to not only breaks in the mains but issues such as important maintenance work on fireplugs means that we need more staff to come out to do these jobs.

The Hon. R.B. Such interjecting:

Mr GRIFFITHS: The member for Fisher mentions that we could use trusted prisoners; that would be a very good employment program. Yes; community work orders could be implemented. Let's be innovative about it; let's actually get people out there who can do these things. They are a part of the government system; let's make sure that we use them. In driving around, it is obvious that the mains network is suffering also. There is the fireplug issue with which the member for Hammond has dealt very well in connection with this bill, but there is also, for me, the greater concern of mains network maintenance. It all comes down to a lack of staff and resources provided to ensure that the network of mains, which supplies the water that feeds into the fireplugs, is also operable.

For hundreds of kilometres of the mains network in the Goyder electorate, we have the above-ground pipes, and you can easily see as you drive past that they are in a poor state of repair; they are very rusted in many places. I know that leaks occur, and it takes far longer than we would all like to get maintenance staff out there to do that work and to patch up or replace that section of pipe.

A person from Paskeville came to me, probably two months ago, and we went out and took some photos. We drove around and he showed me some badly rusted main pipes just waiting to burst. At Port Vincent in early 2000, as a result of a mains burst, the community did not have a water supply for two days in January—the peak time. I commend the member for Hammond for bringing this motion before the house. While it might not be in a lot of people's thought processes,

this motion certainly identifies an important issue, because being able to identify the location of fire hydrants and getting water out of them quickly in an emergency will save lives and property.

Mr VENNING (Schubert) (11:52): I rise to support and congratulate the member for Hammond on a very good, commonsense motion, as has been this member's wont since he has been here. I commend him for the work he has done and the way he has presented it here this morning. I think it is a very important issue. Being a country person and a property owner, and having gone to many hundreds of fires during my life, I have a fair bit of personal interest in this matter. The member highlighted the search and find programs that are underway. I think that the motion he has moved this morning is common sense, and most of us would assume that it had already been done, but, obviously, we have a problem.

I think that the fire hydrant identification system for country areas in the state is the most important part of this motion. I assumed that all this information would have been documented but, apparently, that is not so.

Mr Pederick: Not for release.

Mr VENNING: It is not for release. I think it ought to be public knowledge so that everybody who knows where these fire hydrants are can get access to them in times of emergency. I cannot understand why, particularly with the technology that we have today, this list is not published. Also published with the list should be the GPS coordinates of the hydrants so that, if you have the list in your fire truck or fire utility, you can quickly put in the coordinates and, bang, you know where the hydrant is—in the middle of a forest or on a dirt road with smoke and haze.

Many vehicles in rural areas now have GPS and I think most fire trucks would have GPS systems. That is a commonsense thing to do. Why would we want to keep these things a secret? Why is it not published? Why is it not available as part of our journal for fire preparedness? We are all told that we need to have fire plans. I have done several press releases in the last few weeks urging people to do their fire plans, asking 'What happens if you have a fire? What have you done about it; are you ready? It is too late when the fire is coming. You should have done all this.' Is it not critical that we furnish a list of the location of hydrants in zones and put in the coordinates, too? It is common sense.

The second part of the member for Hammond's motion relates to operational maintenance checks on hydrants throughout the state. I am quite horrified, because often when you rock up to the hydrant you find that it cannot be turned on because it is jammed and it will not work. If it does work, you have water going everywhere because the tap is leaking—the washer has had it because it has never been replaced and also the flange around the hose has usually perished or it is not there. Also, when people come to the hydrant they need to have the relevant gear. Some hydrants have different fittings.

Adding to what the member for Hammond said, the identification should say whether the hydrant has a standard CFS fitting, but some of them do not. Some have quite different fittings. The old-style ones have a different fitting, a different flange and a different size. If that is the case, it should be identified or, at least, a simple PVC adapter should be supplied to enable any hose to fit on that particular hydrant. I think it is a very commonsense move in an emergency situation, as well as in relation to efficiency of our services because, after all, we are talking about saving lives and property.

I join the members for Hammond and Goyder in saying that our volunteers and CFS do a fantastic job. It is all very well for us to stand here and commend them, but you leave your work and go out to the fire front on a hot day. We congratulate them but, gosh, do we congratulate them enough? Do we really understand and appreciate their commitment?

As I said, this is very much a commonsense matter. Yes, we do need to have fire extinguishers checked regularly. Fire extinguishers are already checked regularly in government buildings such as schools and hospitals. They are regularly checked and tags are placed on them. We have all seen that. Why don't they do the same with fire hydrants? As I said, periodical checks can be done by a local person by simply checking that it works and replacing the tap washer or the flange. Also, as I have said, I cannot see any problem with checks being done by low risk detained citizens—which is a nice way of putting it. It would be a nice annual drive for them to come and check the hydrants and tick off whether or not they work. I believe that the washers in hydrants should be changed whether or not they are worn. What is the cost of a washer—40¢? They should be changed irrespective of whether or not they are worn so that you know they will work at any time of the year.

I pay particular tribute to the CFS and the volunteers in my electorate, and there are many. I have the lot in my electorate: not only the plains around the Barossa Valley and Mid Murray councils—that includes Mannum, plains and river—but also the number one premium fire areas of Gumeracha, Birdwood and Kersbrook (the Adelaide Hills area) where it is certainly dangerous to fight fires. These are the people you really want to take your hat off to. I have fought a lot of fires but it has usually been on plains country. It is dangerous in the hills, and we need to do everything possible to help these people, particularly as access to water is so critical.

Many volunteers make huge commitments for our safety. I will name just one out of hundreds I know: Mr Jim Mitchell. Not only does he head up the Angaston brigade and the local region, but, most importantly, he always gives me very good, sound advice and, sometimes, it is not exactly what I want to hear. When we were in government, he was very good to me, and I was able to give the then minister excellent advice. I am sure all members would have people like Jim in their electorate. I have more than one, but I cite Mr Mitchell because he gives me very good advice. It is not just about being a mate: it is about telling your local member how it is and what to do. He is the man between us (the legislators) and the volunteers who are out there, and he has to try to keep the peace. They get pretty frustrated with the system. It is up to him to let us know what we can do to make sure that our volunteers are kept in the loop and kept involved. We should appreciate them. I commend the member for Hammond on the motion, and I hope that the house will as well.

Mr GOLDSWORTHY (Kavel) (12:00): I, too, am happy to speak in support of the motion the member for Hammond has brought to the house in relation to the state government's committing to implement an identification system for fire hydrants around the state and a regular program of operational maintenance on these fire hydrants.

I represent an electorate that, arguably, takes in part of the highest bushfire risk area in South Australia, namely, part of the Adelaide Hills region. We have just heard the member for Schubert describe how serious the bushfire risk is each and every year, as the driest seasons approach through summertime and well into the new year, particularly the high bushfire risk that is ever present in the Adelaide Hills region.

With climate change upon us (and I know there are varying opinions on the rate at which the change in our climatic conditions is occurring), and with the expected periods of dry seasons to increase, the level of bushfire risk will increase, too. So, it is vitally important that the government acts on the member for Hammond's concerns.

To my knowledge at least, this issue goes back 18 months, when I had the responsibility of representing emergency services on behalf of the Liberal opposition. The member for Hammond raised this specific issue with me some 18 months ago, not terribly long after the March 2006 election. I undertook some work, made some inquiries and got some reasonable media coverage on these rural and regional issues.

What came to the fore was the significant confusion within government agencies about whose responsibility it was to maintain and check on fireplugs and hydrants in rural and regional areas. Someone told me that it was the responsibility of the CFS. It is all very well to point the finger at the CFS, but we must understand that the vast majority of the CFS is made up of volunteers, those men and women within our community who selflessly and tirelessly give their time and effort for the benefit of the community. So, I think it is a bit rich for the government to say that it is the responsibility of the volunteers.

I think it is the responsibility of the Minister for Emergency Services in the other place (Hon. Carmel Zollo) to act on this issue and make a decision on whose area this is. If the truth be known, it is probably SA Water's. If it is underresourced for the carrying out of regular checks and maintenance, it is the responsibility of the minister to ensure that satisfactory resources are applied to this area.

Sadly, we commemorated the 25th anniversary of Ash Wednesday just the other weekend, I attended a ceremony at the Mount Lofty Botanic Garden along with a number of my parliamentary colleagues, including the member for Morialta, the Hon. Stephen Wade, the Leader of the Opposition, the Premier, past premiers, the Governor and a whole range of dignitaries, as well as community members and representatives of the community.

It was a timely reminder that we need every resource available to us at those crucial times when a bushfire or a wild fire erupts. CFS volunteers need to hold accurate information on where fire hydrants are because, if they arrive at a hydrant or a fire plug that is not operational and if they

have that information in an emergency situation, they can go off to the next point to draw water. In an emergency situation that could mean the difference between life and death. People might say that I am overdramatising the situation, but I can tell you that I am not. Where fire is involved, in an emergency situation the difference between life and death can amount to minutes.

If a CFS unit arrives at a location that is under extreme threat and has to go from one fire plug that has not been maintained properly to another to fill up the truck and then get back to the fire, that could be the difference between life and death. This is not a trivial issue. The member for Hammond does not bring trivial issues before the house—

Mr Venning: Never has.

Mr GOLDSWORTHY: He never has and he never will. This is a most serious issue to which the government must pay attention. The member for Hammond has written to the Minister for Emergency Services. What has he received? A totally nebulous response, with no information, no direction and no plan for action—no nothing. When I have written to ministers on various issues of late, it has been my experience that that has been the normal response—a nebulous response, with no action and no plan for the future; nothing has been proposed. What will happen in this case is that there will be a tragedy resulting from the lack of attention the government is paying to this issue.

We have just had the devastating fires on Kangaroo Island where a young person lost his life. Thousands upon thousands of hectares of bushland country were destroyed. Those fires raged for days and days; they basically had to burn themselves out down to the sea. The fires had to go through the native vegetation until they got to the sea before they burnt themselves out. What sort of a situation is that? The member for Finniss has brought that issue to the fore in the house with the motion that he has moved in relation to the Native Vegetation Council.

The government has the responsibility of getting hold of these issues and acting on them, not just sweeping them under the carpet, not ignoring them and hoping they will go away, because they will not go away. The government is putting the lives of community members at risk and also the lives of CFS volunteers by not paying attention to this particularly important issue. I commend the member for Hammond for bringing this motion to the house and I support it.

Debate adjourned on motion of Mrs Geraghty.

FOOD LABELLING LAWS

The Hon. R.B. SUCH (Fisher) (12:09): I move:

That this house calls on the state government to support, via Food Standards Australia and New Zealand, more comprehensive food labelling laws.

This has been a passion of mine for a while because in Australia, sadly, in my view, we have inadequate food labelling laws, which work to the disadvantage of primary producers and consumers. I will refer to a few examples. Trans fats (trans fatty acids) are usually palm oil or coconut oil which has been hydrogenated, zapped and turned into a solidified form.

In the United States, from 1 January 2006 food manufacturers must list trans fats on their food products. In Australia, it is not mandatory, not comprehensive, to provide that labelling. Many of our vegetable shortenings, margarines, biscuits, cookies, crackers, muffins, lollies, crisps, and the deep fried take-away food industry use trans fats extensively.

The answer that often comes back when I have written about this is, 'Well, most people don't eat a lot of foods containing trans fats.' The reality is that people on low incomes do, whereas more affluent people will buy the more expensive margarines and are probably less likely to eat take-away food.

The fundamental point about food labelling is that consumers are entitled to know what they are eating and what they are purchasing, and that is not the case at the moment. In fact, we have various labels: Product of Australia, Manufactured in Australia, Australian-made. The reality of those labels is that the manufacturer can claim the container as part of the Australian component. For instance, if you buy jam, it might be that the ingredients, including the strawberries that made the jam, probably came from Denmark or somewhere like that. However it can be claimed that the jam originated in large part from Australia because the glass jar and the lid and so on were made in Australia.

We had a case recently where pork meat imported from overseas was actually pressed onto Australian ham bones to be sold to people as ham on the bone. I suppose it is ham on the

bone but it is imported ham on an Australian ham bone. The company doing that has been requested to desist. What it was doing is probably not technically illegal but it is quite inappropriate and a great disadvantage to our pork producers who are under a lot of pressure anyhow.

It might not surprise members to know that companies involved in the process of manufacturing pork products here have put in an application to the food authority to get rid of labelling which tells people that the pork meat has come from overseas. Their argument is that it is expensive and difficult and that consumers do not really want to know whether the pork that they are eating is from Canada, the United States, Denmark or Australia. I totally disagree with that. In fact, I have made a submission to the Australian-New Zealand Food Authority arguing against that request to take away the labelling requirement for pork, and pork producers have put forward a similar argument.

There is a move afoot to allow food products to carry health claims on the basis that they have less salt, sugar and fat. I do not support that. What we need is proper labelling that tells people how much sugar, salt, fat and so on is in a product and let the consumer decide. I do not think manufacturers should be able to say that a food is healthy simply because they may have cut back on the salt, sugar or fat levels.

At the moment, baked beans sold by one manufacturer have the Heart Foundation's tick of approval for being desirable in terms of low salt and so on, when they actually have more salt than a competitor's brand which does not have the tick of approval. So, what we have in relation to food labelling in Australia is, in my view, unsatisfactory.

It is claimed that food in supermarkets is 'fresh daily', or 'super fresh', or 'natural'. No-one has been able to define any of those terms. I have asked for a definition and cannot get one. When you buy something that says 'fresh daily', it does not mean that you are buying something that came in that day; it just means that they receive additional supplies each day. It does not mean that you are buying the fresh one; you might be buying an old product.

I have made a suggestion to the minister regarding the takeaway food industry. I must say that our Minister for Health is very progressive in his thinking, but he has not agreed with my suggestion, which is to encourage fast food outlets to make their products healthier by reducing the fat, salt and sugar content, because I think people are still going to eat them whether or not we want them to. As with all these things, in moderation there is probably no great harm in doing so, but if you buy from a fast food outlet you have no idea what is in the product. You do not know whether it is cooked in trans fat or whether it contains particular ingredients sourced from overseas. Recently I have seen so-called butterfish—which people here associate with mulloway—actually coming in from China, but they do not have to tell you that in a fast food outlet; they do not have to tell you where it came from.

When people talk about 'organic production', in China that often means using human waste as a fertiliser, but people do not know that and they are not told that. Recently, 300 tonnes of prawns from overseas were returned because they did not meet the quarantine standards. To some extent that demonstrates that AQIS is doing its job as the quarantine service. I come back to the fundamental point that, as consumers, we are entitled to know what we are consuming. In fast food outlets there should at least be information on the wall, on a noticeboard or somewhere, to tell you what is in your hamburger or yiros, or whatever.

As I said previously, the current system works against primary producers. I was in the supermarket recently—because I do the grocery shopping; I always have—and this lady said, 'Oh, I'm going to buy this brand, it's an Australian brand of dried fruit', and she said, 'I always buy Australian.' And I said 'As a matter of fact, that brand imports a lot of their dried fruit from South Africa.' 'Oh, no', she said, but that is the reality and sometimes that may be unavoidable. If people want to buy something that is purely Australian, they should be able to.

I am aware that the local Rotary group was selling dried fruit from the Riverland. I tell you what, it is a thousand times better than any of the imported material, and there is a baker in the Adelaide Hills who uses Riverland dried fruit and his products are fantastic. But the average person shopping in a supermarket would not realise that companies using traditional names here (that people have associated with local production) are not actually locally produced at all. In fact, as I said earlier, they can claim the container as part of their Australian product, and I think that is a nonsense.

All in all, I am encouraging the minister (Hon. John Hill) to really push this issue. I know he is trying to do a lot in conjunction with the Minister for Education in terms of healthy eating in

schools, but through the ministerial council and Food Standards Australia New Zealand, to which he is entitled to have significant input, I am urging him to really push hard on this issue and to have things like trans fats properly labelled, and to have proper information available through fast food outlets, so that people can make an informed choice. Likewise, I do not have a problem with eating genetically modified food, I am quite relaxed about it, but if people do not want to eat it they should be able to know what is in the product they are buying.

I commend the bill to the house and I urge the minister, in particular, to push this issue through Food Standards Australia New Zealand, so that as part of our democracy we can know what we are purchasing and ultimately what we are eating.

Mr PEDERICK (Hammond) (12:19): I commend the motion of the member for Fisher. I believe it is vital that we understand where our food comes from. It is difficult when you are purchasing food anywhere (whether it be from a small shop or a large retail chain) to know what you are buying. We recently had the issue of GM food and GM crops not being permitted to be grown in South Australia. I believe this will cause issues down the track when the Eastern States will be able to produce canola that has gone through genetic modification breeding, which essentially is just fast-track breeding processes. So, it will cause upsets in the export of food.

Be that as it may, the issue is that people can be very emotional about genetically modified food, but I think they would be horrified to think that up to 80 per cent of canned food in stores is already genetically modified. I can think of soy products, but there would be countless other products and you cannot readily identify them in stores. That is an issue in itself, so it makes a bit of a farce of the whole GM canola debate, as far as I am concerned.

As far as using food labelling to show that you support your state or country of origin is concerned, I think that is also vitally important. There have been too many confusing ideas and labelling laws on whether a product is produced in Australia, made in Australia, or packaged in Australia, and the consumer really does not know where it has come from. On the *Sunrise* program this morning they were saying that the kangaroo (I think) inside the green triangle means that the food is produced and packaged in Australia. It may be owned by an overseas corporation, for example, Vegemite, which used to be totally Australian owned but not any more. At least the money in the first instance goes to workers in Australia who then pay taxes, and the money goes around. I commend the bill of the member for Fisher. I think it is an excellent bill to bring to the house.

Mr RAU (Enfield) (12:22): I want to say a few words about this. I know the member for Fisher has been very passionate about this issue for some time and, indeed, I have heard him addressing this issue more than once on the radio and in this place. It seems to me that the fundamental underlying issue here is giving the consumer choice, and choice is not simply a factor of having multiple products sitting on a shelf and your being able to pick out one product from a number, because if all those products were identically packaged in a brown paper bag, you would still have a choice. You would have a choice of which identical brown paper bag to lift from the shelf, without having any idea whatsoever about the consequences of the choice that you were making.

Choice of itself is meaningless, utterly meaningless. What is not meaningless is informed choice, and informed choice involves the consumer who takes the trouble to inform themselves being placed in a position to make an informed choice. The question that follows from that is: if a consumer wishes to be an informed consumer, do the present laws enable them to be an informed consumer by reading the labelling on most packages? The answer to that question, I think, as the member for Fisher suggests, is almost invariably no. If we as members of this parliament think that it would be a good thing to empower South Australian consumers to make informed choices should they have the wit or inclination to do so, then there is quite a bit of merit in the proposal being put forward by the member for Fisher.

We have to remember, of course, that not all consumers wish to be informed. Many consumers find packaging more interesting than the information on it. I have three children who fit into that category. I can assure members (who I am sure have had this experience themselves) that, as you walk through the supermarket, if a product has Shrek, Ronald McDonald, or something else on it, that is a more attractive product than one which might have a slightly blander presentation but one which might be far more nutritious. Without wishing to compare all consumers with my children, I have to say that there are people who really do not care about these issues.

I think the member for Fisher needs to bear in mind that, even if all the information in the world was on these packages, some people will take no advantage of that situation whatsoever

and will continue to buy rubbish containing transfats and various other obnoxious things, and continue to buy products from overseas completely ignorant of what they are doing and with no concern whatsoever for what they are doing. We are really talking about that group in the middle, not the ignorant person who does not care, the person who is too busy to care, or the person who just does not care for whatever reason—they are a happy person and nothing worries them.

We are not talking about those people. We are talking about the person who is prepared to make the effort and the inquiry and do something about the product. Again, when is information too much information? If the prescription is too detailed, the whole packet will contain print that will require a magnifying glass and a great deal of time to understand what is in a packet of biscuits—and that is not very helpful either, because the information though there is in a form that is completely indigestible. I personally favour something which has food labelling standards that are accompanied by a logo of some description which necessarily must contain some degree of latitude. For instance, if it is 100 per cent Australian owned and 100 per cent Australian product, then you have one logo.

If it is packed in Australia, maybe you have another logo. Maybe at the entrance to the supermarket there should be a big sign with a glossary explaining what all the logos mean, so that, as you walk down the aisles and pick up a product, if it has a green logo, a red logo and a blue logo, you can see what they means—made here, grown here, no GM.

Mr Bignell: Eat it here!

Mr RAU: Then you eat it here. That may be the way to go. The point the member for Fisher makes is a good point. I think the translation of his point into a practical solution which will work in a supermarket is not without its difficulties. I think that those who will benefit from this are not necessarily the people to whom the member for Fisher referred and who presently are the high consumers of trans fats, for example. But all that said, I think the idea does warrant some further consideration and I will be very interested to see what other members think of it.

Debate adjourned on motion of Mrs Geraghty.

GRAFFITI VANDALISM

The Hon. R.B. SUCH (Fisher) (12:29): I move:

That this house notes the slow progress in dealing with graffiti vandalism and calls on the state government to be more active in dealing with this blight on our community.

As members would know, this has been an issue of concern as far as my involvement for a long time. I had only been in this parliament a short time when I attended the world conference on graffiti vandalism in Melbourne in 1990. I am not sure that things have improved, in fact I think they have become worse—not as a result of that conference or my attendance. I think the genie was allowed to escape from the bottle and it should have been then that it was jumped on—that is, the genie of graffiti vandalism.

It amazes me that the current and previous governments (and I was a member of the previous government in the earlier stages) have not done much about graffiti vandalism; and it amazes me because of the costings that I have regularly obtained from councils: in the order of $570,000 per annum for the City of Onkaparinga for graffiti vandalism; $320,000 for the City of Marion; $486,000 for the City of Holdfast Bay; $227,000 for the City of Port Adelaide Enfield; and $315,000 for the City of Salisbury (I have rounded off those figures). The list goes on, and when you add it all up, and include the other areas afflicted with graffiti vandalism, you are looking at somewhere between $15 million and $20 million a year in South Australia to clean off graffiti vandalism and deal with the damage it causes.

The Attorney-General recently wrote to me saying that no-one around the world has really been able to deal with this problem. I argue that you will probably never get rid of it totally, but you could do a lot more than what is currently being done. I have tried in this place to introduce clean-off laws or restrict accessibility but I do not seem able to get the government or opposition interested in dealing with this serious problem. Yet there would be outrage, as there should be, if someone went around smashing $20 million worth of windows.

People who come into this city on interstate trains such as the Overland, the Indian Pacific and the Ghan (and I am a frequent user of those) see a side of Adelaide which is pretty ugly. I am not talking about aerosol art—and I distinguish between graffiti vandals and those who have an artistic talent, and I do not have a problem if they legally do murals using aerosols. I am talking about illegal, unauthorised defacing of public and private property. Those people coming into

Adelaide on the interstate trains must think, 'Well, some people here don't take much pride in their surroundings', because all the interstate rail lines coming into and going out of Adelaide have been subject to significant graffiti vandalism.

I give the government credit for conducting a trial down south where people were involved in cleaning off graffiti, but whenever there is any suggestion of expanding that program it is always claimed that it is dangerous or, for instance, that people might get hurt. I do not accept that at all. We are not saying—and I have never said—that people should necessarily clean off their own graffiti, because it could be in a dangerous location. However, they could be involved—on a weekend or during their holidays—in cleaning off graffiti; in broad daylight, under supervision, and wearing protective clothing and so on. It is not rocket science to organise that, and it is what the public tell me they want to happen; they want the people who do it to be involved in cleaning off graffiti—preferably in their own time on a weekend or during their holidays.

We seem to have gone to a system (and this does not just apply to graffiti) where there is little accountability for one's actions or behaviour. Everyone wants to blame someone else. We see it in relation to road safety; people want to blame the roads. Most of our roads are fine if you stick to the speed limit. I digress for a moment, but I was reading one of the Victorian papers last night, and someone was saying that the problem with road safety was that people coming off the road hit things. Well, as my late grandfather used to say, the tree or the post never jumped out at any motorist.

We have this mindset now that says if someone is doing graffiti vandalism, for example, it is the fault of the system or it is because they are not achieving at school. I have heard some parents say, 'Well, it's better than them bashing up people.' They are just pathetic excuses that are being offered for this sort of behaviour. Look at the penalties dished out. I know that the Attorney used to cite the one and only graffiti vandal offender who was ordered to clean it off—I think it was in Millicent, and the magistrate that day must have been pretty enlightened.

If you look at the statistics for the five-year period up until 2005—and we could update them, but they have not changed in any significant way—of the 623 cases where graffiti was the major offence and the person was found guilty, only three were ordered to serve a period of detention of any kind, at home or anywhere else; 249 received a fine averaging between $150 and $200; and 95 received no punishment at all. That is hardly any significant punishment.

I accept some of these characters have problems. Some are probably non-achievers; they can only achieve or get notoriety by going out at night and vandalising property because they do not achieve much at any other time. They should get some assistance and help to deal with whatever their problem is, whether it be a learning disability or whatever. However, that is no excuse to avoid any punishment. People need to be accountable for their actions, and our society is far too soft on people who vandalise. I do not agree with people stealing, but I can understand why people steal; I cannot understand why people smash things and vandalise with graffiti.

The argument that is sometimes put forward that these vandals are little kiddies aged 10, 11, 12 and 13 is only partly true; in fact, it is generally untrue. Most of the significant vandals are adults—that has been shown time and again—and, in many cases, they are not people without resources. They have digital cameras to record their vandalism; they carry rope ladders; they carry all sorts of equipment. You will often see them getting around on their little BMX bike late at night, no helmet, backpack full of aerosol cans, going about their business. They wear gloves. Many of them are in their late 20s.

One character convicted recently in Victoria was sent to prison, and there was a big outcry by all the tissue box brigade. I thought the magistrate did a good job in sending him to gaol, because he, along with some mates who had flown in from interstate, had done about $300,000 damage to the rail network. So, they are not the poorest people. They had flown in from interstate and they did at least $300,000 damage to Connex Rail Network with graffiti, plus other damage to other property. The magistrate sentenced one of them to three months' gaol, I think it was. Then, on appeal, some judge, after picking up the tissue box, reduced it to a much shorter period of detention.

So, here is a company trying to run a transport system in Melbourne and $300,000 damage is done to its property, and the person who was responsible for the damage ended up with a small penalty. The argument used for not detaining this person was that he wanted to go overseas to further his career.

Today I withdrew two of my bills on graffiti because the government indicated that it would not support them My plea to the government is that, if I cannot put up the right measures, I

encourage the government to put up a better, improved measure; likewise, the opposition. I cannot understand why the government has been inactive on this issue in a way which also puzzles the community and a lot of other commentators. We need a double-barrelled approach that tackles the root cause of some of these issues.

If these people are not achieving at school, then help them to achieve at school and with other problems in their personal life, but deal with the problem. Jeff Tate, the CEO of my council (City of Onkaparinga), says:

> Both private property owners and council continue to spend hundreds of thousands of dollars on graffiti vandalism.

He goes on to say:

> If apprehended, offenders know from experience that more than likely they will only receive a small amount of community service or a minimal fine, this often being the case even if they have re-offended.

He states:

> We do not therefore believe that such penalties constitute an adequate deterrent to prospective and repeat offenders...Penalties need to be stronger to ensure that offenders are made accountable for their actions.

I am not the only one who is concerned about this issue; councils are concerned about it. If you look at how much TransAdelaide spends on graffiti vandalism, I think it is approaching $1 million a year. My plea to the government is to get cracking on this, come up with some answers. The New South Wales government is currently examining a proposition to ban aerosol cans. I think you can restrict them, and make people who have a genuine use for them have a permit.

At the moment, the cans are either stolen, which is an issue partly addressed by locking them up, or, because these characters are not necessarily poverty stricken, they can also buy cans. There is a shop in town just off Rundle Mall which has a thriving business. The police check it out, but they say that people are buying it legitimately. What happens is that, if people are under age, they get their mates to buy them, and then out they go to commit more vandalism.

I move this motion, and I hope the government will deal with this issue. It is an issue that really annoys the community. There are thousands and thousands of volunteer hours going into cleaning off graffiti vandalism and millions of dollars going into graffiti vandalism programs—cleaning off, and so on—which could go into useful things in the community, including providing better services and facilities for young people. I commend the motion to the house.

Mr GRIFFITHS (Goyder) (12:41): It is my pleasure to rise in support of the member for Fisher and his motion in regard to graffiti vandalism. I was quite shocked to learn from his speech not only of the hundreds of thousands of dollars that are being expended by the councils and the electorate that he serves but also of the approximate value of between $15 million and $20 million per year to this state in ensuring that the graffiti vandalism is cleaned up and repaired.

Prior to coming to this place I worked in local government; so every day, seemingly, issues of graffiti vandalism were also brought to my attention in the communities that I served. It was a big problem, particularly in the coastal community of Ardrossan. Even with a dry zone declared in some areas where younger members of the community tended to congregate, the temptation was always, seemingly, to vandalise the public toilets by smashing things and also by using aerosol cans, and it just makes it disgusting. For communities that rely very strongly upon attracting people to improve their economic well being with tourism, seeing those sorts of things is really a turnoff. It makes people not want to come to those areas, and it is an important issue for all of society to deal with.

I know that the Yorke Peninsula District Council, out of complete frustration with the excessive amount of graffiti vandalism that is happening, has decided to issue a reward for information that will lead to the apprehension of these offenders. This council has decided to make $1,000 available. The council does not want to have to make these funds available; it would prefer to use these dollars on providing services and infrastructure to its community, but it is costing them so much per year to repair the damage and to clean up the graffiti vandalism in that area, that it has made a last resort decision in the hope of actually trying to convince the young people who are doing it that the council is serious about it, and that it is about time that they stop doing it, because they will be caught and something will happen.

Too often, as I drive around I see examples of graffiti vandalism—on large advertising signs, where it amazes me how these young people manage to get up there and paint their

particular inscriptions. This must cost a fortune to the people who are trying to advertise their businesses and services—

The Hon. R.B. Such: They get up with rope ladders.

Mr GRIFFITHS: Rope ladders, the member for Fisher confirms. But, all of a sudden, their efforts to make sure that they have a product out there that people can see are destroyed by vandalism, often wiping out all of the sign, or at least the half of it that they can reach. As you drive and walk around communities you see examples where fences, windows and walls are vandalised.

The Hon. R.B. Such: Trees.

Mr GRIFFITHS: Trees also. We see it on buses, trains and cars. Even in the community in which I live, there is a person who operates a sand and metal business. Three times he has suffered from young people—known to the police—who have broken in and stolen the yellow line marking paint from his business, and have proceeded to repaint his red utility yellow.

The second time it happened this man came to see me and I could see tears welling up in his eyes. He prides himself on the way he keeps all his vehicles and he had only just had this vehicle returned from being cleaned after the first time, and suddenly it happened again. It is just not good enough. He comes to see me and I talk to the police; we all get frustrated because we know the young people who are doing it, but they still get away with it.

Even while walking in Northgate (which is the suburb in Adelaide in which I stay when parliament is sitting) early yesterday morning, I walked down a different street and came across a roller door on a house that had graffiti painted all over it. The young person who did that might have got their quick fix out of it and thought, 'I've had my 15 seconds of fun for the night,' but they do not think about what they are doing to the people who live in those homes. Those people suddenly might not feel safe in their homes any more. It is a bit like being broken into. When your property is damaged you start to have doubts about the safety of the community in which you live and you think, 'Do I really want to stay here?' That is not what we in South Australia want. We want people to live in their homes safely.

So, I think it is important that the government does whatever it can. I respect the fact that it is not government's role to be all things to all people—I know that—but the government does have a role in providing support and programs that are about educating people on the negatives attached to graffiti vandalism. Certainly the community has a very strong role to play in this regard, and it involves every parent. Parents have to be aware of where their child is. Let us get some controls and reintroduce attitudes to ensure that parents want to know where their kids are, that those kids are doing things that are legally permissible, and that they are not out there with spray paint cans ruining public and private property. What has been happening in this regard is not good enough.

These young people who are committing these crimes know what they are doing. It is a crime; they are making a conscious decision to do this. How society has allowed this to occur is a great frustration for me. Sometimes I think I am such a boring person I should have been born in the 1920s or 1930s when different attitudes to life existed. I am not sure that I am well suited to the modern age.

An honourable member interjecting:

Mr GRIFFITHS: I do not know about that. But it frustrates the life out of me—

Mr Pederick interjecting:

Mr GRIFFITHS: The member for Hammond said a foreign word that he should never say again. It frustrates the life out of me to see vandalism occurring everywhere, and it should not be occurring. We all want to live in a safe place, so let us see something done about it. Offenders have to be held responsible. As a minimum, they should be made to clean up the results of their vandalism efforts. Let us get them out there scrubbing with the slowest reacting agent possible so they have to be there for a long time to clean it up. Let us ensure that the people who own these properties get some satisfaction from the fact that when an offender is caught the person concerned has to do something about it. I commend the member for Fisher for his motion, and I certainly hope the house supports it.

Mr PEDERICK (Hammond) (14:48): I rise to commend the member for Fisher for putting forward this motion, because graffiti is a blight on our state—on public and private facilities. I recall

several years ago that a volunteer group ran a tourist train in the seat of Goyder from Wallaroo to Bute, and I guess they still do so.

Mr Griffiths: They still do.

Mr PEDERICK: They do, I am advised by the member for Goyder, of whom I will not speak unkindly again. It was very disappointing for the volunteers who operate that train because, when we got there to take our trip on the Saturday, I think it was, we found out that the railcars had all been vandalised by graffiti. The police were on the scene and had a very difficult task rounding up the offenders. It certainly knocks the volunteers in the community who are actually doing something they have a real attraction to. A lot of these people are retired railway people. The train has to operate on a low speed line, and it is quite an enjoyable trip.

Apart from that, you notice graffiti every day in rural areas on grain wagons and passenger railcars and throughout council areas, on pavements, buildings, concrete walls, etc. Perhaps these people could have their energy channelled somewhere else. I know councils spend hundreds of thousands of dollars on this problem. The Rural City of Murray Bridge has just installed a skate park which, hopefully, might eat up the energy of some people. I am not saying that skaters are all graffiti vandals, but it will certainly give them the opportunity for more recreation in utilising this additional facility in Murray Bridge. People certainly need to find ways to keep busy. Under the Graffiti Control Act 2001 you can be fined up to $2,500 or six months in gaol for carrying a graffiti implement or for marking graffiti.

The Hon. R.B. Such: You have to catch them first.

Mr PEDERICK: The member interjects that you have to catch them first. The member for Fisher had a list of hundreds of people who had been fined with basically a slap on the wrist. And here we have the state government that is tough on crime. It will have all the bikies out of this state by Christmas, I would assume, with its tough on crime laws.

Members interjecting:

Mr PEDERICK: There is a little bit of jocularity on the other side. I am sure that they are all worried about graffiti. The only way that we can dissuade anyone from doing illegal acts is to fine them appropriately. Hundreds of people have been caught and, obviously, they are not being fined appropriately and the situation is not being addressed.

I commend the work of some volunteers in Murray Bridge. There is a group led by Bob Weir, who has been commended for his action locally. This group goes around cleaning up graffiti. It has all the ideas on how to get rid of unwanted graffiti. Only last Monday morning I flew into my office in Murray Bridge where someone had obviously decided to leave a message for me on the door of my office—I think it had something to do with sex and travel.

Mr Griffiths: Please explain.

Mr PEDERICK: No, that will do for *Hansard*, I think. My trusty PA advised me—and this may be of assistance for other members in this house; I am sure that members on the other side have been told where to go and how far—that, if you use a bit of Aerogard, it comes off woodwork brilliantly. I have been advised that it does not work as well on concrete. So, keep the Aerogard handy.

I appreciate the assistance of the government in setting up my new office. I have a lovely heritage office in Murray Bridge, and, when these vandals give me unwanted advice, I know where I need to go and I know how far to travel. I commend the motion.

Mr VENNING (Schubert) (12:53): I commend the motion of the Hon. Bob Such. I also commend the member for Goyder and the member for Hammond whom I congratulate for bringing some humour and jocularity to this motion. We do smile about this, but it is a pretty serious matter. Earlier in the day, I spoke to another motion that has now been withdrawn, so this is another opportunity. I know the member will not withdraw this motion.

Graffiti does affect us all in many aspects of our lives. I do not believe that we should ever have to get used to living with it, but it certainly seems to be a modern way of life, particularly in the last 10 to 15 years. It has been an issue during the whole time that I have been here. Several members of parliament have campaigned against graffiti, and the member for Fisher is just one. The previous member for Bright was a very strong campaigner. All this, and we still have a serious problem that really gets under our skin.

Why are the offenders doing it? This motion asks the government to do more. The government needs to do more and it needs to be seen to be doing more. Why are these young people—and they are usually young, but not always—doing it? Who are they and how old are they? To solve a problem you need to go right back to the source of the problem; that is, the offenders.

Where do they get the paint from? I buy spray packs (and I am not a graffiti artist, and I never have been, although my son would say that some of the things I paint look like it) because they are a very handy tool to have, particularly when your time is limited and you do a lot of touch-ups and repairs like I do, not only in the house but also on the farm. How do they get these spray packs? In the supermarket, they are kept locked behind a gate. You see them through the mesh and, if you want one, you go to the attendant, they unlock it, take the can out and lock the gate again.

So, what is happening? Is somebody buying the paint for these people and supplying them? There ought to be a trace-back system in this situation. The cans ought to be marked so that, when they are seen in the trash, we know where they come from and who sold the packs to them. That way, we might actually start to solve the problem.

The second way this affects everybody's life is people's private assets, whether it be their homes, their fences, their cars or their boats. It also affects commercial premises. There is nothing worse than seeing a beautiful new office with all its plate glass across the front scratched with a glass cutter, a diamond cutter or even a diamond ring. It is just ridiculous and defies anybody's logic. What sort of homes do they come from? Why are they doing this?

As members have just said, spray painting on a roller door is extremely difficult to get off because it is not a hard surface. It can cause so much damage, particularly when a car is spray-painted. I know that we are becoming very much a society of haves and have-nots, but I am afraid that the have-nots use this way to express their frustration of why they have not been so fortunate to own this smart BMW motor car or Harley motorbike. Yes, they love them, but is this their way of saying, 'Hang on; remember me. What about us?' It is a problem for society, and we need to address it.

I think that what mainly affects us is the graffiti on community and government assets, particularly schools in our northern and north-eastern suburbs, where the amount of graffiti, scratched and broken windows and painted fences, is a disgrace. What sort of example is the government showing to students at these schools when it leaves the graffiti there? What sort of example is that? It tells them that it is okay, that it is a way of expressing themselves and that they can have a message and paint it on somebody's fence.

I believe that it should be government policy instantly to remove all graffiti from all government assets, particularly schools. It should be removed the day after it has been put there. I am sure that if more were done to remove graffiti, or at least paint it out if it cannot be removed, it would nullify a lot of the effects these young ones have in putting it there in the first place.

What happens when the police catch these people? I am sure that the police know who they are. You do not paint a graffiti mural in five seconds. People must see them and know that they are doing it. I am sure that, out of frustration, the police think, 'What is the use? We know who it is. Hello, Jimmy, are you are at it again? Why are you doing this?' What do they do? What happens? Hit him with a feather or make a threat. What else happens? Nothing, because they know that Jimmy comes from a dysfunctional home (incidentally, Jimmy is a fictional person). We really have to empower our police force to—

The Hon. J.M. Rankine: Is Jimmy your friend?

Mr VENNING: Jimmy is always my friend. I have lots of Jimmys who are friends. I am lucky that I come from a privileged past but, if I had been in another life, I could have been like that. It is all very well for us to cast aspersions on anybody else. I can often say, 'There but for the grace of God go I.' It is all very well for us in this place to ask why they are doing it but, if we were living in those sorts of conditions, we might be there, too. The problem of graffiti is much wider than we have discussed today.

I am particularly annoyed about our trains. I travelled on the train last Monday. For the first time, I travelled to my electorate on a train. I got on an express train to Gawler, and a member of my staff picked me up in Gawler and took me onto Tanunda. What a shame I could not catch the train all the way, because the line goes on, but that is another debate for another day.

I was there in half an hour, and it was good. Everything was positive. I read the paper on the train, and I thought, 'This is good. I should do it more often,' but you could not see out of the window. The ones that were not covered over with a heavy film were deeply scratched and etched. It really breaks my heart.

Debate adjourned.

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

SHARED SERVICES

Mr GRIFFITHS (Goyder): Presented a petition signed by 82 residents of regional South Australia requesting the house to urge the government to reconsider its policy of shared services which will negatively impact on regional communities by the removal of jobs to Adelaide.

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*.

NETBALL STADIUM

In reply to **Mr HAMILTON-SMITH (Waite—Leader of the Opposition)** (20 November 2007).

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations): I have been advised that on 12 December 1996, the Minister for Recreation, Sport and Racing, the South Australian Netball Association Incorporated (SANA) and the Treasurer entered into a development and funding deed for the construction of a netball stadium at Mile End known as ETSA Park stadium.

The development and funding deed included a bill facility of $3.5 million from National Australia Bank Limited (NAB) to SANA to be applied, along with government funding, toward the stadium's construction.

The Treasurer also entered into a deed of guarantee with the NAB for the loan it provided to SANA (i.e. the loan to SANA by NAB is underwritten by the government).

The Treasurer's guarantee to NAB is a limited guarantee, limited to all moneys payable or remaining unpaid by SANA to the NAB, including accrued interest, default interest, costs, fees, charges, expenses and the bank's costs and expenses of enforcing the loan contract.

SANA's loan balance to the NAB as at 30 September 2007 was $1,775,047.

Under the development and funding deed, SANA has certain responsibilities such as maintaining a bank account with the NAB for the exclusive purpose of depositing facility income and paying authorised expenses and applying any moneys collected as facility income exclusively for the purpose of the payment of the loan.

The government has control over the facility income of SANA by way of a charge over the money, from time to time deposited or credited to the facility account maintained by SANA with the NAB (including all present and future legal or beneficial rights or interests of SANA in respect of that bank account).

As at the end of November 2007, there was no indication that the government would have to pay all or part of the balance outstanding by SANA to NAB and all appeared to be in order in relation to the Treasurer's guarantee.

MOBILONG PRISON

In reply to **Mr PEDERICK (Hammond)** (7 June 2007).

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs): The Hon. Carmel Zollo MLC, Minister for Correctional Services, has provided this advice:

Reference has been made in the House to an attempted escape from custody at Mobilong Prison.

On 2 May 2007, a prisoner was discovered during routine search and inspection procedures hiding in a contractor's vehicle.

The prisoner was apprehended without incident and transferred to Yatala Labour Prison the next day.

The Department's Senior Investigations Officer and Police Liaison attended the prison on 7 May, 2007 and conducted a review of the precinct. They also interviewed the prisoner at Yatala Labour Prison about the incident.

Additionally, a review of local procedures was initiated to include a complete assessment of the incident and a local-review report was submitted accordingly.

The report determined that all existing procedures and protocols had been observed by prison staff, which resulted in the detection and apprehension of the prisoner.

MOTOR VEHICLE INDUSTRY FUNDING

21 Dr McFETRIDGE (Morphett) (9 May 2007). How much of the $3.4 million funding for the provision of export support to the motor vehicle industry over the next two years has been allocated to the Mitsubishi and General Motors Holden manufacturing plants, respectively, and what are the details of this program funding?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations): The Department of Trade and Economic Development has advised the following:

General Motors Holden, the state's largest manufacturer, sought financial assistance from the commonwealth, Victorian and South Australian governments in October 2006 for a combined total of $13.5 million to undertake a safety enhancement project consisting of research and development, training and re-engineering to improve the safety and fuel efficiency of their passenger vehicle range.

The South Australian and Victorian governments each agreed to provide $3.4 million and the Commonwealth Government committed $6.7 million.

The safety enhancement project will facilitate the introduction of technological improvements in safety and fuel management systems, and achieve improvements in greenhouse gas emissions to General Motors Holden's locally manufactured passenger vehicles.

General Motors Holden is attempting to establish its Australian operations as a credible global niche manufacturer to General Motors' operations around the world, building product that fills export market gaps for a short-term while domestic product in these markets is brought on stream.

General Motors Holden announced in February 2007 that it had won a contract to export around 30,000 Commodores a year to the United States to be sold as the Pontiac G8.

The South Australian Government is currently working to finalise the terms, conditions and timing of payments in respect of General Motors Holden's safety enhancement project.

None of the $3.4 million in funding was allocated to Mitsubishi.

INITIATIVE SPENDING

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

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy):

I provide the following information:

(a) The $3.5 million variation within 2006-07 relating to 'supplies and services' is primarily a result of a proportion of Corporate overhead charges originally budgeted to 'supplies and services' being allocated to 'employee benefits and costs'.

(b) The $8.9 million budgeted for 'supplies and services' in 2007-08 is for:

(i) Functions and associated costs transferred to Program 10 'Service SA'.

(ii) A proportion of Corporate overhead charges originally budgeted to 'supplies and services' being allocated to 'employee benefits and costs'.

APY LANDS INQUIRY

57 Mrs REDMOND (Heysen) (31 July 2007). How will the Commission's Inquiry into the APY Lands be funded given that there will be a significant budget reduction for the Children in State Care Commission of Inquiry in 2007-08, and where does it appear in the latest Budget?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs): The budget reduction for the Children in State Care Commission of Inquiry is due to finish during the 2007-08 financial year.

Funding for the Inquiry into the APY Lands was not included in the original 2007-08 Budget for the Attorney-General's Department. After the 2007-08 Budget, budget adjustments were made to reflect the receipt of $1.6 million in Commonwealth funding in 2007-08 for this purpose.

PENALTY MANAGEMENT SERVICES

58 Mrs REDMOND (Heysen) (31 July 2007). Why has the funding allocated to the Penalty Management Services been reduced in 2007-08?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs): The funding allocated to the Penalty Management Services has not been reduced in 2007-08. As reported in the 2007-08 Portfolio Statements, the Expenditure Budget for the Penalty Management Services for the 2007-08 financial year is $9,940,000 which is an increase on the budget for the 2006-07 financial year, which was $9,840,000.

There has been a decrease in the net cost of providing services from 2006-07 to 2007-08 but this is a result of a budgeted increase in income.

PUBLIC TRUSTEE OFFICE

59 Mrs REDMOND (Heysen) (31 July 2007).

1. How will the Office of the Public Trustee achieve an expected $1.6 million dividend for the Government in 2007 08?

2. How are complaints against the operations of the Office managed?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs): I have been advised:

1. For the year ended 30 June, 2008, the proposed dividend payable by the Public Trustee is $1.479 million, which is lower than the State Budget figure in 2007-08 of $1.636 million.

Each financial year, Public Trustee pays the dividend from retained earnings after payment of tax equivalents to Treasury.

The method used to calculate the dividend payment is set out in accordance with Section 48 of the *Public Trustee Act 1995*.

The Public Trustee consults the Attorney-General as to whether a dividend should be paid to the Treasurer and if so, the amount of the dividend. The agreed dividend takes into account the capital adequacy needs of the Public Trustee. Capital adequacy is a guiding ratio that reflects the total equity of the Public Trustee relative to the total funds under administration.

Public Trustee expects that it will be able to meet the proposed dividend payment for the 2007-08 year.

2. The Public Trustee's Resolution of Disputes Policy is available to clients, Members of Parliament and any person seeking this information.

It is provided to clients as part of the Public Trustee's Standards of Service brochure. It is also available from the Public Trustee website:

http://www.publictrustee.sa.on.net/pdf/FactSheets/StandardsofServiceFactSheet.pdf

Public Trustee has Complaint Management Principles and an internal standard on handling complaints and commendations, which is attached.

GENERAL LEDGER EXPENDITURE

78 Dr McFETRIDGE (Morphett) (31 July 2007). Is all expenditure on leasehold improvements now capitalised and reconciled to the General Ledger rather than the Fixed Asset Register, as recommended by the Auditor-General and if not, why not?

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

Capital contributions cannot be specifically identified against a capital project. They are a generalised funding source aimed at funding capital works outside of legislated funds such as the Highways Fund.

The amount of $16.7 million represents the additional contribution required within the capital program after consideration of the available cash balances carried forward from 2005-06 within the department's operating account and direct appropriations from Treasury.

SPEEDING FINES

128 Dr McFETRIDGE (Morphett) (31 July 2007). What is the total dollar revenue expected to be raised from speeding fines and transferred to the Community Safety Fund in 2007-08?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): The Minister for Road Safety has provided the following information:

The Community Road Safety Fund was established on 1 July 2003 and since then has funded a wide range of key road safety initiatives including infrastructure, education and enforcement programs. Total revenue allocated to the Community Road Safety Fund in 2007-08 is $72.8 million.

All revenue from anti-speeding devices goes into the Community Road Safety Fund

BLACK SPOT PROGRAM

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

1. Why has State Black Spot Program funding decreased by $499,000 in the 2007-08 Budget?

2. Is the State Government relying upon National State Black Spot Funding to subsidise this work?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): The Minister for Road Safety advised that:

The State Black Spot program and the Auslink Black Spot program consist of both investing projects and operating projects. The relative mix of these projects changes each year depending on the priority projects selected.

Overall the funding for the State Black Spot program has increased from $7.0 million in 2006-07 to $7.2 million in 2007-08.

The State Black Spot funding is more than double the Commonwealth funding for the National Black Spot program in South Australia, which remains at $3.349 million per annum under Auslink 1 arrangements

PATAWALONGA BARRAGE UPGRADE

166 Dr McFETRIDGE (Morphett) (31 July 2007). Does the Government have any plans to upgrade the narrow walkway over the Patawalonga barrage?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): The Minister for Environment and Conservation has advised that:

The Government is currently assessing the need for future rehabilitation or replacement of some components of the Patawalonga barrages. Upgrading of the walkway will be considered as part of this assessment

PENALTY MANAGEMENT SERVICES

198 Mrs REDMOND (Heysen) (31 July 2007). How will the increase in income derived from 'fees, fines and penalties' under the Penalty Management Services Program be achieved in 2007-08?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs): I have been advised:

The increase in income derived from fees, fines and penalties under the Penalty Management Services program will be achieved through the annual indexation of fees and charges.

In addition, there is an increase of $11 for the fee for the commencement of summary proceedings in the Magistrates Court and for making an enforcement order under the *Expiation of Offences Act 1996.*

OLIPHANT CENTRE

277 Dr McFETRIDGE (Morphett) (23 October 2007).

1. Will the Task Force recommendations and proposal for a regional specialist centre for science, technology and Innovation to be known as the Oliphant Centre be adopted?

2. How much funding has or will be allocated to create the Oliphant Centre at Mawson Lakes?

3. Will a similar science centre be built in the southern suburbs?

4. How does the government envisage the centre working closely with the former Investigator Science and Technology Centre?

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

1. The proposal has been considered within the context of a number of other state government initiatives for promoting the importance of science and innovation, and the government is not planning to adopt the recommendations.

The state government remains committed to developing the science, engineering and technology skills of our workforce and has implemented a number of statewide initiatives with this goal.

For example, the state government is providing over $228,000 per annum for the next three years to the CSIRO's science education centre here in Adelaide, to enable it to expand its science education programs in our primary and secondary schools.

Cabinet has also approved the establishment of the Royal Institution Australia Centre at an initial cost of $5 million in 2006-07 to enhance both public debate and awareness of scientific issues as well as inspire interest and participation in science.

These initiatives are in addition to those of the Bragg Initiative, which includes establishment of the Australian Science Media Centre here in Adelaide, the Science Outside the Square program and its series of science-themed promotion events, and the successful Twinning Teachers and Scientists program which has influenced the rollout of a similar program nationally entitled 'Scientists in Schools'.

2. No funding has been allocated to create the Oliphant Centre at Mawson Lakes.

3. There already exists the Australian Science and Mathematics School in the southern suburbs. Moreover, collaboration between the South Australian Government and Flinders University has also provided a base for the new Flinders Centre for Science Education with the objective of becoming an internationally known centre of excellence in research into science education. The State Government (via DFEEST, DTED and DECS) has allocated $300,000 over three years, from 2007-08 to 2009-10 for this purpose

4. The Investigator Science and Technology Centre ceased trading in December 2006.

ROAD MAINTENANCE

279 Dr McFETRIDGE (Morphett) (23 October 2007).

1. Has any State Government funding been allocated for the maintenance of the road between William Creek and the Oodnadatta Track and if not, why not?

2. What consideration has been given to the re-aligning and re-sheeting of the road between William Creek and the Oodnadatta Track?

3. Has the any State Government funding been allocated for the maintenance of the road between Beltana Roadhouse and Beltana Station and if not, why not?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy):

i. & ii. William Creek is on the Oodnadatta Track and there is no road between William Creek and the Oodnadatta Track. In the past six years, State Government expenditure on the Oodnadatta Track has totalled approximately $6.5 million in major upgrade works plus routine maintenance expenditure of a further $1.2 million.

iii. On average, $5000 per year is allocated for the maintenance of the road between Beltana Roadhouse and the Beltana Station. The road was last fully graded in April 2007.

iv. The Mount Serle to Umberatana Homestead Access Road is maintained by DTEI and is graded once a year. The road from Umberatana to Arkaroola is station track and is not a public road maintained by DTEI.

Flood damage repairs were undertaken on the Mount Serle to Umberatana Homestead Access Road in July 2006, January 2007 and May 2007.

v. As at 23 October 2007 there were 13 routine maintenance gangs, one contract gang, two re-sheeting gangs and one construction gang operating in the far north region of South Australia.

vi. For the 2007-08 financial year, $13.3 million has been allocated to road gangs operating in the far north for routine maintenance and minor works. In addition, the State Government has allocated $23.5 million for flood damage recovery and $3.1 million to the roads to recovery program to further improve road conditions in the far north.

Projects that are currently being undertaken by the Department include re-sheeting of the Birdsville Track—Lake Harry to Frome Creek, re-sheeting of the Oodnadatta Track—Coward Springs to Bopeechee and targeted re-sheeting of the Merty Merty—Cameron Corner Road.

The Strzelecki Track upgrade, Blinman—Wilpena Road upgrade, Marree—Lyndhurst Road upgrade and Road Condition Sign Automation projects, with a total cost of $23.4 million, will all be completed by 2010. These projects will be cost shared through a 50:50 contribution between the State and Australian Governments, under the Auslink Strategic Regional Roads Program.

In addition, the State Government has committed funding of $2 million under the Rural Road Improvement Program to upgrade the Oodnadatta—Hamilton Road.

The Department will continue to undertake its routine maintenance activities (patrol grading) across the 10 000 kilometre unsealed road network.

vii. Gang and staff numbers working in the far north region at any one time may vary according to work demands and project scheduling.

ROADSIDE REST AREAS

286 Dr McFETRIDGE (Morphett) (23 October 2007). How many roadside rest areas have been created on South Australian roads, funded by the State or Federal Governments but installed by State or Local Government organisations, what is the policy concerning roadside rest areas, what is the key function of roadside rest areas and will more rest areas be provided?

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

There are approximately 400 rest areas along the major routes in South Australia, including the primary freight network and key long distance tourist routes.

Roadside rest areas are provided on other roads within South Australia, however accurate figures are not currently kept on these roads.

The policy concerning roadside rest areas is to provide appropriate rest opportunities for long distance travellers. Roadside rest areas are positioned to create a network of rest opportunities that includes townships and commercial operations. Roadside rest areas provide short term rest opportunities for all road users and act as a tool for the management of driver fatigue. Rest areas are of particular importance to heavy vehicle drivers who must comply with regulatory requirements for fatigue management.

As part of the Government's commitment to improving road safety, in particular in addressing the issue of heavy vehicle driver fatigue, an improvement program for rest areas of $10 million over 4 years (commencing 2007-08) is currently being undertaken.

As part of this improvement program, it is proposed to create in excess of 50 new rest areas at various locations on our key highways in order to address known spacing deficiencies. It is desirable to have a rest opportunity no greater than 50km apart or every half an hour of driving.

The program will also see the improvement of the facilities in a majority of existing rest areas.

ROAD TRANSPORT REQUIREMENTS

288 Dr McFETRIDGE (Morphett) (23 October 2007).

1. What assurances are there that Departmental enforcement officers will act in accordance with the Minister's undertaking given in the House during the debate on the new requirements in road transport?

2. How will reasonable tolerances and commonsense by these enforcement officers be enforced?

3. What instructions have been given to enforcement officers in relation to issuing on-the-spot fines and is it the aim to issue as many as possible?

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

1. Transport Safety Compliance Officers (TSCOs) and South Australia Police Officers (SAPOL) will exercise discretion with the aim to assist those operators who are genuinely attempting to meet their responsibilities under the compliance and enforcement legislation.

TSCOs have recently completed a nationally recognised Certificate IV in Statutory Compliance including Road Transport Compliance, which included training on compliance and enforcement legislation. This particular training module included a full understanding of the intent of the legislation and was also attended by SAPOL, Attorney-General's Department and Safework SA.

2. TSCOs are provided with a higher level of discretion when determining the course of enforcement action, which allows them to caution for offences that fall into the minor and substantive risk category breaches. The Department has received favourable feedback from industry on TSCO's approach to enforcement and use of discretion to date.

3. TSCOs have been instructed to continue applying discretion. TSCO performance is not measured by the number of the on the spot fines issued.

ROAD MAINTENANCE, DAVENPORT ELECTORATE

296 The Hon. I.F. EVANS (Davenport) (30 October 2007).

1. What is the most current cost estimate to construct one more lanes on Taylors Road between Blythewood Roundabout and Fullarton Road?

2. What is the most current cost estimate to construct a pedestrian crossing across Main Road, Blackwood?

3. What is the most current cost estimate to construct a one lane bypass road, between Blackwood Railway Crossing and Glenalta Railway Crossing, adjacent to the railway line?

4. What proposals are being considered to improve the Blackwood Roundabout and for each proposal what is the correct cost estimate?

5. What proposals are being considered to improve the junction of Old Belair Road and James Road, Belair and for each proposal what is the current cost estimate?

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

i. The Department for Transport, Energy and Infrastructure has advised me that no cost estimates have been developed or are currently being undertaken into this option at this time.

ii. The installation of a pedestrian actuated crossing on Main Road at Blackwood was considered as part of The Road Management Plan for Main Road from Belair to Blackwood (RMP)

but was not a recommendation, therefore a design has not been prepared and consequently a current cost estimate is not available.

iii. Some very preliminary costing was undertaken that indicated a potential cost in the order of $25 to $30 million (2005 dollars). A detailed estimation was not pursued due to the unfeasible nature of the project.

iv. Improvements being considered at the Blackwood roundabout as part of the Road Management Plan include:

- A minor increase in the size of the roundabout.
- Closing entry to the roundabout from Station Road.
- A parking ban in front of the Post Office.
- A parking ban on Main Road on the southern approach to the roundabout.
- Widening the median on Main Road on the southern approach to the roundabout.
- Upgrade of directional signage.

Detailed design for these improvements has not been completed at this stage. There is therefore no current detailed cost estimates available.

v. There are no projects being considered.

VISITORS

The SPEAKER: I advise members of the presence in the gallery today of students from Charles Campbell Secondary School (guests of the member for Morialta).

STANDING ORDERS SUSPENSION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:01): I move:

That standing order 398 be so far suspended as to enable me make a statement to the house indicating the opposition's views in regard to WorkCover, given that it is a most important matter.

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

An honourable member: Yes, sir.

The SPEAKER: Does the Leader of the Opposition wish to speak to the motion?

Mr HAMILTON-SMITH: Yes, sir.

The SPEAKER: I point out that, in speaking to the motion, the leader will just be moving the suspension.

Mr HAMILTON-SMITH: I understand that, sir. The most important matter to come before the parliament so far this year has been the WorkCover crisis.

The Hon. K.O. Foley: I said that yesterday!

The SPEAKER: Order!

Mr HAMILTON-SMITH: Yesterday the government repeatedly sought to know the opposition's view on that crisis, on the Clayton report, and what the opposition would do. There being a most important matter before us, it is essential that standing orders be suspended so that we can state that view now at this early opportunity. The government wanted to know the opposition's view; it has had unbridled freedom to put its view and I am seeking to put the opposition's view. I think in the interests of good government that the Premier and the government should support hearing from the opposition on this crucial issue forthwith.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:03): The Leader of the Opposition came over to the Premier and me 10 seconds before—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —question time and said, 'Can we suspend standing orders because I want to make a statement?' Yesterday I repeatedly asked the leader to put forward the

opposition's position and, on media last night, from memory, he said that he wanted to wait for the bill. On their free-kick program in the mornings, the opposition was given an opportunity, and stated that they would wait and see the bill, take submissions, and make up their mind in April.

The opposition has had since 10.30 this morning. It could have come into this place prior to question time and requested a suspension of standing orders. It did not do that and at the—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The Leader of the Opposition thinks that he runs this place and thinks that he can walk in here and totally upturn tradition.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The Leader of the Opposition—and I am sure those on our side—would have no problem in ensuring that he has the first five-minute grievance right at the end of question time, and he can say all he likes. He just said then, 'It's only a five-minute statement,' and he can do it straight after question time.

Mr Hamilton-Smith: Why not now?

The SPEAKER: Order!

The Hon. K.O. FOLEY: Why not now?

Mr Hamilton-Smith: Why not now?

The SPEAKER: Order!

The Hon. K.O. FOLEY: Because you are in opposition, we are in government, and there is a procedure.

Members interjecting:

The SPEAKER: Order!

An honourable member: How arrogant!

The Hon. K.O. FOLEY: I think if anyone wants to be talking about arrogant, let's look at the bloke who calls himself the alternate premier.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: If the Leader of the Opposition was sincere about wanting to make a statement, he would have approached me or the Premier an hour before question time and asked us: he would not have walked up five seconds before and dropped it on us. The opposition knows that, if you want an urgency motion, there is a precedent: you give the government an hour's notice. It is a stunt. Let's see it for what it is.

The house divided on the motion:

AYES (12)

Chapman, V.A.	Evans, I.F.	Griffiths, S.P.
Gunn, G.M.	Hamilton-Smith, M.L.J. (teller)	McFetridge, D.
Penfold, E.M.	Pengilly, M.	Pisoni, D.G.
Redmond, I.M.	Venning, I.H.	Williams, M.R.

NOES (26)

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

White, P.L. Wright, M.J.

PAIRS (6)

Goldsworthy, M.R.	Conlon, P.F.
Pederick, A.S.	McEwen, R.J.
Kerin, R.G.	Piccolo, T.

Majority of 14 for the noes.

Motion thus negatived.

QUESTION TIME

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:12): Does the Premier now accept that changes made to the operation, management structures and administration of WorkCover Corporation by him and his ministers after coming to government in 2002 caused the debt, levy and benefits crisis presently before the state? Under the same legislative arrangements that exist today, the former Liberal government delivered, to quote the Clayton report precisely, 'claim payments which were very well controlled, reducing in real terms throughout the five-year period'. Clayton-Walsh observe on page 8 of their report that, under the former Liberal government, 'The scheme began in the 2000s in an apparently healthy position with respect to both financial stability and reputation for forward thinking.'

Members interjecting:

The Hon. P.F. Conlon: You've asked your question.

The SPEAKER: Order!

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:14): The critical word in that is 'apparently'. The legislation that we are dealing with, as it sits in its current form today, is the same legislation that was in place when the former Liberal government left office. What then occurred was that we replaced the board and the board replaced management.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: The Leader of the Opposition has just said, 'Oh, well, that was successful.' The Leader of the Opposition continues to criticise and cast aspersions at the—

Mr Hamilton-Smith: Whose fault was it?

The SPEAKER: Order!

The Hon. K.O. FOLEY: —board and management of WorkCover.

An honourable member interjecting:

The Hon. K.O. FOLEY: All right. In this chamber—

Mr Williams interjecting:

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

The Hon. K.O. FOLEY: —the theatre of politics and the Westminster system can be used to create, or attempt to make, a political point. Obviously, the minister of the day and the cabinet of the day are responsible—and the Treasurer—for financial performance of publicly-owned corporations. Absolutely—there has never been an argument about that—but because we have a structural system, a corporatised system, where we put in place boards of management, we devolve the day-to-day management and the day-to-day administration of these organisations to boards and management.

Members interjecting:

The SPEAKER: Order! The Deputy Premier has the floor.

The Hon. K.O. FOLEY: The government has never walked away from its responsibility; quite the opposite in fact. What we are doing now is accepting our responsibility as a government to fix legislation that is clearly structurally unsound in terms of its ability to support the organisation.

The board itself a year or so ago came to government and released publicly a set of recommendations that it believed were appropriate changes in large part—well, you can shake your head all you like, Mitch.

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The board itself put forward a set of recommendations that it believed needed to be made to ensure that the scheme was financially sound going forward. Many of those changes have been picked up by the Clayton review.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The essence of what both the board and Clayton have put forward is the level of benefits available to workers in other jurisdictions of Australia, other states and territories of Australia. It cannot be argued that this is other than the truth: that is, that benefits under this state government's scheme, the statutory scheme approved by this parliament, are far more generous than benefits available in other states. It is a simple equation of mathematics that the scheme has been paying out more than it is able to earn to offset its liabilities. It is a simple equation. The board came to government 12 or 18 months ago with its concerns about this matter.

We did not accept those recommendations. We wanted to put them to an independent assessment. That independent assessment has been undertaken. I stand by the board of WorkCover. You may not; I do. I have absolute faith—and I know the minister does and the government does—in all the members of the board.

I note that Janet Giles has recently resigned. Janet Giles has been a very good member of that board. She herself is fully aware of the problems of the organisation. I understand the political need for her now to resign from the board. Janet and all the board members have been fully briefed, fully aware, fully consulted and obviously have been doing their best to ensure that, apart from the legislative reform that is needed, they have reformed every part of the organisation that they can to make it a more efficient organisation.

They have changed the management. They have outsourced—as much as I am sure this will annoy lawyers perhaps not just on that side—so that instead of a number of law firms getting contracts they bulked them all up and put them out to one tender which brought significant savings to the scheme.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The Hon. K.O. FOLEY: Yes, I do. What, you wouldn't have done that? You wouldn't let them do that?

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop has already been warned.

The Hon. K.O. FOLEY: Another good move of the board was to consolidate and change the providers to EML and service providers. It is hoped that that itself will bring significant savings to the organisation. What cannot be argued—unless people are simply playing politics—is that the structural shape of the legislation—

Mr Williams interjecting:

The SPEAKER: The member for MacKillop is warned a second time.

The Hon. K.O. FOLEY: —means that we need to have reform. One thing this government has been prepared to do is consult.

An honourable member interjecting:

The Hon. K.O. FOLEY: Everyone was asked to consult and invited to put in submissions to the Clayton review. I notice the opposition did not—did not. My understanding is that Clayton spoke to a large number of people during this process to ensure that he heard the ideas, views and opinions of other people. We think that has been a good process, but we do not walk away from

the fact that, especially for the Labor Party, this is a very difficult and emotional issue. This is not something we like to do or, quite frankly, want to have to do, and it does come with a degree of pain.

It is due to the great strength of the Labor Party that we have the ability to make a hard decision, even when we know that, if we had alternatives, we would much rather have taken them. What I said yesterday was that the time will come for the opposition to articulate its position, and I look forward to that. I only the hope that the media of this state will ensure that the leader is held accountable for—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —his position and not given the free kicks, like he was this morning.

Members interjecting:

The SPEAKER: Order! It is now debate.

PRIME MINISTERIAL VISIT

The Hon. P.L. WHITE (Taylor) (14:21): My question is to the Premier: Can the Premier detail to the house his discussions with the Prime Minister earlier this afternoon?

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) (14:21): I am delighted to discuss my conversation with the Prime Minister. I met with him for more than an hour earlier this afternoon. Obviously top of the agenda was the water situation and the River Murray. As to the River Murray, I was able to inform him about my visits both to the Riverland prior to Christmas with the Minister for the River Murray and also, of course, more recently, with the Minister for the River Murray and the Minister for Agriculture, Food and Fisheries to the Lower Lakes. I was able to tell him about the dire situation facing people in the Lower Lakes. Obviously that visit recently showed both the deteriorating quality of water and quantity of water in the lakes, and I explained to him the perilous situation facing communities in the Lower Lakes.

I have to say that the Prime Minister was particularly well apprised of the situation. Obviously this is very central to his agenda. I know there has been a series of discussions between Penny Wong and a number of the people involved in this, including both with me and also Premier Brumby. Our position remains as it was over a year ago; that is, we fundamentally believe that central to any long-term, medium-term solution for the River Murray are two things: first of all, rain. It is absolutely essential we get some rain in the basin. That is something for which we cannot have responsibility; but, secondly and most importantly, there should be one commission—not a River Murray Authority with veto powers by various states and then a River Murray Commission. There needs to be one independent commission running the River Murray which is empowered to make all the hard decisions. Not just the day-to-day running of the River Murray, but also covering everything from entitlement flows, to environmental flows, to buy-backs right across the system.

So, my belief, right from the start, remains the same; that is, the absolute key to fixing the River Murray in terms of its management is to have a single commission that has independence with real power running the River Murray. That is something that is the same position as the federal Rudd government, as it was with John Howard. I am pleased that there have been discussions and progress with Premier Brumby. From a joint statement issued by Premier Brumby and Penny Wong in recent days, I understand that they have made significant progress in terms of having a single commission running the River Murray. So all power to Penny Wong.

Let us remember that Kevin Rudd and Penny Wong have done a damn sight more in 11½ weeks than the former government did in 11½ years—and that is the difference. I saw various statements being made. You did not hear it from that side of the house. Eleven and a half years—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —of inaction by the former federal government. Compare the progress in 11½ weeks to 11½ years of the Liberals doing nothing except talk about the River Murray, and that is the difference. It was all about spin, spin, spin. Other issues discussed were

climate change. Obviously this is an area on which I was able to brief him as I did the Council of the—

An honourable member interjecting:

The Hon. M.D. RANN: Is that right? Let me just explain a few parliamentary procedures for those in the house that might not know. Can I just say that the parliament was sitting all this morning? The Leader of the Opposition did not seek to give a speech. He knows that under the rules of this parliament—probably for the last 100 years—you have to give an hour's notice to make a speech.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: So what we saw was a stunt.

The SPEAKER: Order! The Premier will come to order and return to the question.

The Hon. M.D. RANN: I should not respond to his interjections, inane as they are. On climate change, I was able to brief the Prime Minister that I expected that, during 2009, South Australia would reach a target of 20 per cent of our power coming from renewable energy, which would put us into a world leadership position and bring us ahead of the national target of achieving it by 2020. Our target is to achieve it by 2014, but I believe we will reach it in 2009. I also briefed him about the feed-in laws which, of course, were passed in this parliament just a couple of weeks ago, as well as a range of other initiatives that we are doing on the climate change front.

I was also able to brief the Prime Minister about last week's Council of the Federation meeting that was held here in Adelaide, partly as a joint exercise with the Canadians but also a very substantive agenda of the Council of the Federation. We talked about Mitsubishi and about the very strong collaboration between the federal and state governments in terms of a package of measures to assist workers as well as a package of measures designed to pool our resources (federally and at the state level) to get industry into the south. I am delighted with the outcome of the negotiations on a package, which I understand has been accepted by Mitsubishi workers. That is terrific; it is a good package. I am also delighted with the take-up of industries from around the country—particularly here in South Australia—who want to offer jobs to Mitsubishi workers. Ultimately, that is what it is all about.

A range of issues were discussed: mining, defence, water, the River Murray, climate change, the Council of the Federation, obviously COAG issues and Mitsubishi. It was a very strong meeting with the Prime Minister, and I thought that the house deserved at least a briefing on what just occurred.

STATE FINANCES

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:28): Does the Treasurer stand by the formula used in his 2003-04 budget to express risks to the integrity of the budget and government investments posed by equity market falls on government investments? Budget papers reveal a risk to state finances where there is a 1 per cent fall in equity markets equal to a loss of income for WorkCover of $2 million, $12 million for the Motor Accident Commission, and $30 million for Funds SA superannuation liabilities. The domestic equity market has fallen 18.3 per cent since the Mid-Year Budget Review and, using the Treasurer's own formula, that equates to a loss of income for WorkCover of $64.1 million, $29.6 million for the Motor Accident Commission and $549 million for Funds SA superannuation liabilities, losses potentially totalling $832 million.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:29): The Leader of the Opposition's superannuation is safe because he has parliamentary super, so he does not need to worry.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: What a silly question.

Members interjecting:

The SPEAKER: Order! I ask members on my left—

The Hon. K.O. FOLEY: Is the—

The SPEAKER: Order! Deputy Premier, I have not finished. Members on my left must not interject. I asked the Treasurer not to make comment. He does not assist the chair in maintaining control of the chamber when he makes commentary about the questions.

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

The SPEAKER: The question stands, and I ask the minister to answer it to the best of his ability. The Treasurer.

The Hon. K.O. FOLEY: Sir, I assume the inference of the question is that we should not invest in equities. Is that what you are saying?

Mr Hamilton-Smith: What losses have you made?

The Hon. K.O. FOLEY: What losses have I made? So I am to blame for the equities market fall?

Mr Hamilton-Smith: It is your budget.

The SPEAKER: Order!

The Hon. K.O. FOLEY: Mr Speaker, yes, I stand by what was in the first budget, obviously. And I say this to the house: in the first two budgets of the Labor government the equities markets crashed. We had two years in a row when there were negative returns to the stock market. I was briefed by Funds SA people that we forecast and plan for two negative years in every eight years. I copped two such years right upfront, and I was pretty happy with that. Yet, three or four years later, the performance of our funds management (I think in the last two or three years—certainly in two of the last three years) has been such that we have had double digit equity returns.

The government has invested $16 billion, from memory, in funds—the majority being from Funds SA, and about $800 or $900 million, from memory, from the Motor Accident Commission. WorkCover invests its funds separately from Funds SA. Also, we have some other pockets of investments. That is the nature of investment markets. The nature of the investment markets is that when the stock market goes down the value of your investments goes down. When the stock market goes up the value of your investments goes up. I would have thought as a business person you would fully understand that.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I just don't know what else they want me to do.

Ms Chapman: Answer the question.

The SPEAKER: Order!

The Hon. K.O. FOLEY: Is the opposition suggesting we should put all of the $16 billion we have in superannuation in the bank? Are you suggesting we should put it all in the bank?

Mr Hamilton-Smith: We are asking the questions. An answer would be nice.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I do not think the PSA and public servants would be rapt if we had put the $16 billion, safe as houses, into a bank and it earned on average about 5 or 6 per cent over the last eight years. My guess is that over the last eight years their contributions have doubled, given the strength of the equities market.

Mr Hamilton-Smith interjecting:

The SPEAKER: I warn the Leader of the Opposition.

The Hon. K.O. FOLEY: Revelations, sir! If the stock market has crashed the value of the government's investments has decreased. Blind Freddie can see that. So what? Mr Speaker, the figure that I look at is the end of year result; and it may well be, given the nature of the stock market, that we have had a negative return from Funds SA. We do not know that yet. It is too early. There was a very strong six months.

Mr Hamilton-Smith: What about WorkCover?

The SPEAKER: Order!

The Hon. K.O. FOLEY: WorkCover is in the same position. It does not put it all into equities markets. It also put it into—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: —fixed interest, bonds and cash, like any other organisation. Look at your own superannuation accounts and you will get a fair idea of what is happening in the marketplace today. If the leader is trying to scaremonger, it is a very sad indictment on the care and concern the Leader of the Opposition has for the investment funds of government.

WATER RESEARCH

The Hon. P.L. WHITE (Taylor) (14:34): My question is directed to the Minister for Water Security. Can the minister advise the house on new initiatives for water research in South Australia?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (14:34): I am pleased to advise the house that Adelaide will soon be home to two new water centres. One is a learning hub dedicated to educating South Australians about water, and the other is a new national headquarters for water quality research. The two new facilities will be housed in SA Water's six green star headquarters in Victoria Square, which will be completed in September. The state government will invest $800,000 in building the water education centre and will offer $350,000 a year in support to host the national research centre that will be known as Water Quality Research Australia.

State government support for these two centres will ensure that South Australia maintains a creative and innovative approach to the challenges of a secure water future for the state, as well as providing for South Australians an education centre of excellence. The Water Education Centre will include information on our water supply network and displays for all the community, from customers and schoolchildren through to water industry experts.

The facility will be a place for people to share, learn, debate and discuss water and environmental issues, while improving understanding of water issues and South Australia's plans for water security. Water Quality Research Australia will conduct vital research for the water industry and consumers, such as:

- The health and acceptability aspects of drinking water.
- Management of toxic algal blooms.
- Improving drinking water treatment technologies.
- Water recycling.
- Wastewater treatment.
- Alternative water supplies.

The centre will carry on the work of the Cooperative Research Centre for Water Quality and Treatment, which has been based in Adelaide for the last 13 years. It brings together major Australian water utilities, research members such as the Australian Water Quality Centre, and universities around Australia, including the University of Adelaide, the University of South Australia and Flinders University.

I am pleased to advise that SA Water was successful in its bid to host the centre because of the excellent water research facilities in Adelaide and the high level of collaboration between the government, the private sector and the South Australian universities and water sciences. The new centre will ensure that South Australia continues to have a proud history of pioneering new water technologies and will further reinforce the state's credentials as a leader in science, technology and innovation.

Our place at the end of the River Murray and our diverse water sources have posed many water quality challenges in the past 150 years, and our creative, innovative approach to these challenges has been recognised nationally with the establishment of the new research centre, Water Quality Research Australia, right here in Adelaide.

FINANCIAL MARKET INVESTMENTS

Mr GRIFFITHS (Goyder) (14:37): My question is to the Treasurer—

Mr Koutsantonis: Is it grubby?

Mr GRIFFITHS: No, it's a good one.

The SPEAKER: Order! I warn the member for West Torrens. And I have to say that I am a bit tired of these accusations of grubby from one side of the chamber to the other. The member for Goyder.

Mr GRIFFITHS: Can the Treasurer rule out any increases in motor registration and compulsory third party insurance premiums, reduced superannuation pensions or other cuts to government services as a result of the impact of the financial market shakeout on government investments?

Queensland Premier, Anna Bligh, last week confirmed that the Queensland government had investments that were exposed to the fallout from the subprime market. The Queensland Premier went on to warn that 'it will be a year of belt tightening', and warned Queenslanders that 'no new services would be funded across a range of departments in this year's budget'.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:38): We will have to see what is in the budget, but what I can say is this: as to the effect, and I have said this previously to the house, my advice has been that we have not suffered any losses as a direct result of investments in the subprime market. So let's put that furphy to bed—which I have done before, but I will do it again. That was at the initial point. I was advised by Funds SA as a normal matter of business they may take advantage of the subprime collapse by entering the subprime market at collapsed prices. There may well be opportunities there, whereby any diligently run fund would look for opportunities—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: How are you, member for Mitchell?

Members interjecting:

The Hon. K.O. FOLEY: Economics 101! I said 'direct'. It is important that we distinguish between direct investments in subprime products, as against the effect, the contagion effect, of the subprime crisis as it affects world financial markets. I do not know whether the Leader of the Opposition has any ABC child care centre shares in his massive portfolio. I think he sold his business to his good friend at ABC. Do you have any shares in ABC?

The SPEAKER: Order! The Treasurer will return to the substance of the question.

The Hon. K.O. FOLEY: Sorry, sir. But that's the markets—

Members interjecting:

The Hon. K.O. FOLEY: Sold out at the right time. But the matter is that markets are volatile at present. Losses are being incurred in some part, but, equally, in other investment products we are—

Mr Griffiths interjecting:

The Hon. K.O. FOLEY: Do you want me to answer the question or do you—

Members interjecting:

The Hon. K.O. FOLEY: Some investment classes are performing well. We will see—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Sir, I have no intention of trying to talk over them; either they want to hear the answer or I will not bother. The end year result for Funds SA will see whether we had a positive or a negative return for the year. I will not pick a particular period now because we had a very strong period leading into the current contagion effect of the subprime market, and it may well be that the strong period leading into the current financial difficulty was sufficient to ensure that we

were in positive territory for an end year result. I would hazard a guess that we probably will be in positive territory, but I will not say that until we see the final results.

As it relates to the Motor Accident Commission, and as members opposite know, the only years I can remember when there was a decrease in compulsory third party insurance was under this government. I think at least twice—I could be wrong, but I think in at least two years of the last two or three—we actually reduced the real value of compulsory third party because of the performance of the equity markets and the performance of the management, and the outcomes of the Motor Accident Commission saw us decrease CTP premiums. If the question now is whether we will have to increase CTP premiums, my guess is yes—just as they were increased under each year of this government until we were able to decrease them, and just as they were increased in most years under the former Liberal government. However, what that increase will be is a factor to be determined and I do not have that information to hand.

TOUR DOWN UNDER

Mr BIGNELL (Mawson) (14:42): My question is to the Minister for Tourism. How has South Australia benefited from the Tour Down Under gaining Pro Tour status?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (14:42): I thank the member for Mawson for his question; he is, of course, the best educated cycling enthusiast in this room. He knows so much about cycling events and, with the member for Norwood, has campaigned to have Pro Tour status in South Australia. The decision by the South Australian government to pursue Pro Tour status for our Tour Down Under was both bold and audacious, but depended on the state government's commitment and absolute confidence in the events division of the SATC, plus our confidence in race director Mike Turtur and the UCI to deliver this high quality event on time, following a decision made only three or four months before.

What started as the first UCI Pro Tour out of Europe ended as one of the most successful sporting events ever staged in this state's history. Whilst the vast majority of South Australians—and, indeed, the visiting media—embraced the Pro Tour Down Under, it is really disappointing that the member for Morphett chose to denigrate this wonderful event in a way that can only do damage to our state, the tourism industry and the cycling fraternity. In the current 2008 edition of *Bicycling Australia* magazine there is an article written by Greg Griffiths, a well-known UCI commissaire, cycling identity and writer, who was in Adelaide and who witnessed an extraordinary Pro Tour event. I will not read the article, but I am very happy to provide a copy for the member for Morphett should he care to read what the cycling fraternity made of his ill-informed attack on the tour event.

South Australia's Tour Down Under set new records this year. Over its six days of racing, it was estimated that a crowd of 545,000 people turned up to see the event. In addition, many thousands of people attended the number of street parties, community events and other associated elements of this festival of cycling, with a record 4,207 people taking part in the Škoda Breakaway Series. Preliminary economic impact and research figures demonstrate that the 2008 Pro Tour Down Under has increased economic impact, visitor numbers, participation, spectator numbers and media coverage, and I am delighted to inform the house that, overall, 21,000 interstate and overseas visitors attended the event, including 4,900 people from overseas. Of these 15,100 were event-specific and came to South Australia specifically to see the event, and that is 43.8 per cent more than in 2007. This injected $17.3 million into the state's economy, a 50.4 per cent increase over 2007.

The media coverage was incredible, with 202 accredited media covering the event, and that is a 44 per cent increase over 2007. The Tour Down Under has generated 550 online media articles in 25 countries so far, and they are still being published. To date, editorial media coverage generated is valued at $41.7 million; that is more than 76 hours of broadcast television going to our key tourism markets around the world—places such as the UK, Italy, France, Belgium, India and New Zealand. As the Premier has said over and over again, this is not showing an event in a stadium or an indoor circuit: this is actually taking the television cameras through the most picturesque and attractive parts of South Australia.

The government is very proud to have brought Pro Tour cycling to South Australia. It is not only exciting but it encourages fitness, promotes Australian elite cycling and, more than anything else, it showcases our regions and has an enormous benefit to the economy. It is a tragedy that those opposite single out this event for denigration. I am most disappointed, and I say shame on the member for Morphett. He not only talked down this event but he did so when the facts were

being given to him by experts. Furthermore, he insulted not only our own Olympic track and road stars but also those from around the world.

TRAM DERAILMENT

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:47): My question is to the Premier. Before approving the Minister for Transport's absence today to attend a dinner, did he satisfy himself that the minister's statements to the house on 14 November 2007 about the Melbourne Cup Day derailment were accurate and truthful? On that day, the Minister for Transport told parliament the following:

> There is no doubt that there is no fault in infrastructure. There is absolutely no doubt that the derailment was caused by human error.

But, yesterday, the minister tabled a report which states that a range of factors caused the derailment, including layout of signalling and signage which allowed for the signal to be obscured from the driver's vision; that the signal was located in a position as to be easily obscured by the driver's cabin sun visor; that the driver had been on leave for three weeks and had minimal exposure to and training in the new operating system; and that a higher level of trams running late than had been the norm for the tram service had placed extra stress on operational staff.

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) (14:49): I find it extraordinary that there was an attempt to reflect on the Minister for Transport's absence. He is actually meeting with the federal Minister for Transport, which I would have thought—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: It is quite extraordinary if you are now saying that, if there are ministerial council meetings, it is not appropriate for ministers to attend.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order! The Leader of the Opposition will come to order.

The Hon. M.D. RANN: You know what this means? It means that you have a Leader of the Opposition who, if the Minister of Transport had not gone today, would be criticising the Minister for Transport.

The Hon. K.O. Foley: You agreed to the pair. You agreed to him going.

The SPEAKER: Order!

The Hon. M.D. RANN: 'Pair agreed by Ivan Venning MP.' He is attending the Australian Transport Council, and he will be meeting with the federal Minister for Transport. I just find it extraordinary that you would try in any way to prevent that from happening. Of course, your form would be that, if he were sitting here today, you would be attacking him for not being in Canberra, because that is how shallow it all runs. I will get a report for the honourable member sine die.

TRAM DERAILMENT

Dr McFETRIDGE (Morphett) (14:49): Is the Premier satisfied that the Minister for Transport did not unfairly blame the tram driver for the Melbourne Cup Day tram derailment in an effort to escape responsibility and to divert attention from systemic and infrastructure failures linked to the government's new tram service? If the minister's statements were incorrect, what action does he intend to take? This morning on ABC Radio, Ashley Waddell of the Rail, Tram and Bus Union told radio listeners:

> It is unfair to single out the driver...the report shows the transport department should also take some responsibility for what went wrong.

Mr Waddell went on to say:

> The system is being operated before fully operational...We ended up with a derailment but you can't just point the finger at one person.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:50): It really is an unfair question to ask in the absence of the minister—

Mr Hamilton-Smith: Well, he should be here.

The SPEAKER: Order!

The Hon. K.O. FOLEY: Why did you give him a pair?

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Is he paired tomorrow or today?

Mr Hamilton-Smith: He's paired tomorrow.

The Hon. K.O. FOLEY: Is he paired now?

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: He is paired for Thursday, I am advised by the letter. You might just need to check with your party whip, right behind you.

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Shouldn't have made the request! Apparently we should not have made the request for a pair, but it was okay for them to approve it. Can I suggest to the Leader of the Opposition that if you want a minister to stay here, you do not approve the pair.

Dr McFETRIDGE: Point of order, sir. Relevance.

An honourable member interjecting:

The SPEAKER: Order! I do not uphold the point of order but I do encourage the Deputy Premier to refrain from responding to interjections.

The Hon. K.O. FOLEY: As part of the answer, I can confirm that information that I am given is that we have documented advice that the opposition paired the—

Members interjecting:

The Hon. K.O. FOLEY: Of course it did.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Am I missing something here, guys?

Mr Hamilton-Smith: Yes, you are. The minister should be here in parliament.

The SPEAKER: Order!

The Hon. K.O. FOLEY: The minister should be here, and we should not have asked for a pair, but it is okay for them to approve it. What a weird logic you have over there. It is the Minister for Transport's conference. State ministers are meeting today.

Mr Hamilton-Smith: Tomorrow.

The Hon. K.O. FOLEY: Well, why did you give the pair?

Mr Hamilton-Smith: Tomorrow.

The Hon. K.O. FOLEY: Why did you give the pair?

Mr Hamilton-Smith: Tomorrow. State ministers meet tomorrow.

The Hon. K.O. FOLEY: State ministers meet—

The SPEAKER: Order!

Mr Hamilton-Smith interjecting:

The SPEAKER: The house will come to order!

The Hon. K.O. FOLEY: I would ask the Leader of the Opposition to apologise and withdraw that remark—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: No. The Leader of the Opposition—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The Hon. K.O. FOLEY: I know you might have some problems with your staff, as the whip—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Sir, the Leader of the Opposition has just said that the Minister for Transport has gone to a Labor booze-up in Canberra. It is a ministerial council meeting—

Mr Hamilton-Smith: It's not; it's tomorrow.

The Hon. K.O. FOLEY: State ministers are meeting—Mr Speaker—

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: No; you are not going to keep getting away with this.

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

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The house is suspended for 15 minutes until the ringing of the bells.

[Sitting suspended from 14:53 to 15:05]

HEALTH FUNDING

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:05): My question is to the Minister for Health. What percentage of co-contribution will the minister be seeking from the federal health minister at tomorrow's meeting in Sydney? The New South Wales health minister, Reba Meagher, has demanded a co-contribution of 50 per cent from the commonwealth, while in *The Australian* today the Tasmanian Premier has accused the federal government of blackmail.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:05): I am not too sure what the explanation had to do with the question. What the Premier of Tasmania had to say about a matter which is outside my control is beyond me and I am not sure what point it makes. In relation to the broader issue, we are in the process of beginning the negotiations over the next Australian Health Care Agreement.

That is an agreement which is signed every five years. I do thank the member for raising this question because we know that, over the 11½ years that the Liberal government was in power in Canberra, the contribution made to public health in South Australia declined year after year. The reason it declined was that the commonwealth government refused to sign up to a fair indexation arrangement.

From memory, it signed up to an indexation of about 4½ per cent. As everyone in here should know and everyone in South Australia should know, the real indexation rate in health is closer to double that amount. As a result of its below-indexation funding, the states have been forced to put in more money each year. If we are forced to keep putting in money at the present rate—as the Treasurer will tell you—by about 2032 our entire state budget will have to be spent on health.

I make it absolutely plain that it is this government's belief that the commonwealth should fund public health—and that means, in particular, the hospital system—on a fifty-fifty basis. That is certainly the position we took before the federal election and our position has not changed since

then. However, I think it would be unreasonable to expect the federal government to address that in its first budget. However, I do—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: It took 11½ years for the situation to deteriorate to the state that it is in now. My priority for the next Australian Health Care Agreement is to get agreement over the indexation rate. The most important part of the agreement is to get indexation correct. The last federal government-state government arrangement, as I recall, started off at around 50 per cent but over the course of the agreement it deteriorated. The single most important thing is to get an indexation rate which reflects the actual rate of growth in the cost of the provision of health care services. That is what I want most. A commitment to improving the commonwealth's proportion of funding over time would be welcome as well.

Of course, the commonwealth has already put on the table a $2 billion package which is in addition to the Australian Health Care Agreement, so, in fact, it is increasing the proportion of funds that it is putting into the hospital system in South Australia. The other thing I should point out—and I thank the member for the opportunity to talk about this issue—is that the Health Care Agreement runs for five years. We are very keen for the Health Care Agreement to be signed before the end of the current agreement, which finishes at the end of June, from memory. However, we do not want that to be the end of the reform process.

The commonwealth has also set up a Health Reform Commission which will make recommendations to all Australian governments about where health should go. In particular, of course, we want more flexibility in the way funding is provided so that there are greater opportunities to prevent people from going into our hospital system by investing in more primary health care and more flexible care arrangements. We think it will probably take a year or 1½ years for the health commission to make recommendations, but we do not want to be locked out of that in the Health Care Agreement.

So, my hope is that we can sign up to this agreement with the best kind of deal we can possibly get at the moment and then review it when the health reform commissions come down to look at including some of these broader issues. This is a complex and important matter for South Australia. Our goal is to see the commonwealth government fund on a fair basis, that is, 50 per cent on an ongoing basis, but my priority for the current agreement is to get a proper indexation basis, so that we can plan into the future on a fair basis.

WATER LICENCES

Mr WILLIAMS (MacKillop) (15:10): My question is to the Minister for Water Security. Does the minister agree that the federal government's announcement this week that it will spend some $50 million to purchase water licences is inadequate? The proposal under the former Howard government's national water plan was to use some $3 billion to buy water licences to attack the overallocation across the Murray-Darling Basin. The federal Labor government has only allocated 1.7 per cent of this amount to address the overallocation issue.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security, Minister for Regional Development, Minister for Small Business, Minister Assisting the Minister for Industry and Trade) (15:11): The purchase of water from willing sellers has been a long-term commitment of the South Australian government as one of the measures necessary to return health to the River Murray. We have fought for years to get agreement from other jurisdictions and the federal government that the purchase of water from willing sellers needed to be part of the solution. We were pleased last year when the previous government, in announcing the $10 billion plan, did say that it would consider purchase from willing sellers as part of the program; however, not one cent of the $10 billion was allocated to the purchase of water from willing sellers last year.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: What has happened, however, is that through the Murray-Darling Basin Ministerial Council, South Australia was successful in pushing to have a pilot program established for the purchase of water from willing sellers. In fact, a program was run

towards the middle of last year, in an open tender process, similar to the one that is now being proposed by Senator Wong.

This is a very important first step in the right direction. I am looking forward to seeing the $10 billion invested in returning the river system to a healthy working river. I am going to do all that I can to work with governments of the day to ensure that we get the best deal for the River Murray, and I believe—as does the Premier of this state—that an independent authority that takes the politics out of water is essential to getting this achieved.

MARJORIE JACKSON-NELSON HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:12): My question is to the Premier. Has the budget for the $1.7 billion Marjorie Jackson-Nelson Hospital blown out already? In the Treasurer's budget speech he announced $157 million over four years for the relocation of the Adelaide railyards and for new signal facilities to modernise the rail network, and 'to improve the site for the new central hospital', but on 25 February 2008, at a hearing of the Legislative Council Budget and Finance Committee, Mr Jim Hallion said:

> The first point I make is that the $157 million is about relocation of the railcar depot from North Terrace...so, the major decontamination issues...are covered in the hospital budget not in the rail relocation budget.

The health department has informed the opposition that, for the area of 170,000 square metres that is proposed for the new hospital, the estimate of the cost to build—based on other hospitals built around Australia—is $10,000 per square metre. There was no mention of (or provision for) the decontamination of the site being included in that budget.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:14): I am very pleased to answer this question. I thank the Deputy Leader of the Opposition for asking it. She is obviously confused about the way the costings have been made, but the costs of the—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: You think she's right, do you? Do you on that side honestly think the deputy leader is right on this issue? It would be the first time ever if she were. The cost of the hospital has been estimated at $1.7 billion, and that includes the construction of the site and a whole range of other works associated with it. The removal of the railway lines and the construction of new terminals is part of the DTEI budget, and that is being managed separately. There is some clean-up work that the transport department (DTEI) has to do on part of the site—or adjacent to the site—and there is some clean-up that has to be done—

An honourable member interjecting:

The Hon. J.D. HILL: Just listen. Some clean-up has to be done—or decontamination, if you prefer that term—under the site where the hospital will be constructed. There is allowance in the $1.7 billion—and I am told that it is adequate—to provide for the decontamination of the site. Members have to understand that we are talking about a hospital which takes up a massive amount of the site, and there will be excavation to the extent of having, I think, three floors of car parking and other services underground. So, by the process of actually building the hospital, an enormous amount of contaminated soil will be moved off site. Nonetheless, there is provision in the budget to allow that to happen appropriately.

MARJORIE JACKSON-NELSON HOSPITAL

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:16): I have a supplementary question. How much has been provided for decontamination in the $1.7 billion?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:16): If I were to answer the member now I would be guessing. The figure of $40 million sticks in my mind but, rather than be attached to that, I will get a response back to the member. Always in relation to decontamination, one is exploring without detailed knowledge because, until you actually start digging, you do not really know what is there. Everything is based on the best guesses available and the best science that we can get, but there is provision and there are contingencies in the budget so that, if the direct allocation is not sufficient, other funds are there to pick up where that may be insufficient.

The advice that I have is that there is sufficient allocation in the budget to cover that particular problem. It will not cost—as I think the member might be suggesting—the $1 billion that I think one of the television programs suggested in a shock-horror report after the news one evening.

BRADKEN FOUNDRY

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:17): Will the Minister for Housing confirm whether over 320 families in homes owned by the South Australian Housing Trust around the Bradken Foundry are to be moved and, if so, to where, and when? The opposition has been informed that the government is now considering moving all the residents to another area. This is claimed to be a cheaper option than the cost of relocating the Bradken Foundry.

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) (15:17): No, there are no such plans.

SCHOOL FUNDING

Mr PISONI (Unley) (15:18): Can the Minister for Education and Children's Services advise what additional funding the state government will be providing to primary schools to replace the Investing in Our Schools program axed by the Rudd government? Last year alone, the previous Liberal government's Investing in Our Schools Initiative provided $7.5 million for South Australian primary schools in projects such as: $100,000 for air conditioning at St Agnes Primary School, in the seat of Newland; $69,657 for ICT computer and sports equipment at Seacliff Primary School, in the seat of Bright; $57,985 for ICT computer and shade sails at Roseworthy Primary School in the seat of Light; $100,000 for canteen and library resources at Nicholson Avenue Primary School in the seat of Giles; $75,770 for ICT computer and sportsfield related projects at Moana South in the seat of Kaurna; $100,000 for art rooms and school ground improvements at Oak Valley Aboriginal School, in the seat of Giles—

The SPEAKER: Order! I think the member for Unley has gone beyond what is necessary to explain the question.

Members interjecting:

The SPEAKER: Order! I was worried that you were going to go through all 47 electorates.

Members interjecting:

The SPEAKER: Order! The Minister for Education and Children's Services.

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education and Children's Services, Minister for Tourism, Minister for the City of Adelaide) (15:19): The member for Unley may have noticed that there was a federal election last year and the Howard government is no longer in office. Therefore, its policies are not the ones being enacted by the Rudd government.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: And he may not have realised that one of the reasons the Rudd government was elected was that it made a point of looking towards investing in education in this country in a fair, equitable way—

Members interjecting:

The SPEAKER: Order! The house will come to order. The Minister for Education.

The Hon. J.D. LOMAX-SMITH: Thank you, sir—and in a way that looked at needs across the community. If you look at the investment that will be made in computers in schools, the investment that will be made in further and higher education—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: —the investment that will be made in senior years and trade skills, and the investment that will be made in child care and early years (there will be a whole range of investments), it is a new government. It has a different agenda. One of the challenges, of course, for state governments (and this is something we suffered under enormously) is that the

Howard government had a mass of small pilot studies. People would be employed, they would have programs and projects and be scattered willy-nilly around the state. And, guess what—after three years those pilots were not assessed, measured or audited, and they stopped. In fact, one of the challenges with federal funding is that you have to have continuity. You have to have strategic investment and, above all, federal investment has to enmesh with state investment, so that when we invest in the early years or in trade schools the money dovetails and produces more bang for the buck by being coherent and strategic.

The reality is that this government has invested big time in infrastructure in schools—$665 million has been invested in our schools during the last six years, and that has made a substantial difference to removing asbestos, producing more classrooms (because it reduced class sizes), and employing more teachers to fulfil that commitment. We have trained and invested in more early years teachers, and we have put in counsellors.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: We have supported the earlier years. We are building 20 children's centres; we are building ten trade schools that are just now opening; and we are building a whole range of schools with better facilities for better education. If the member for Unley has not noticed that investment, he has not been looking.

ELECTIVE SURGERY

Mr KOUTSANTONIS (West Torrens) (15:22): My question is to the Minister for Health. What has been the progress of the joint plan with the commonwealth government to reduce the number of long-wait elective surgery patients?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:22): I thank the member for West Torrens and acknowledge his interest in health matters. I know many of his constituents—

An honourable member interjecting:

The Hon. J.D. HILL: He is a very healthy young man, I can assure you. Many of his constituents will, in fact, benefit from this measure.

I am pleased to say that last Friday the South Australian government signed a formal agreement with the commonwealth to receive funding as part of the Elective Surgery Waiting List Reduction Plan, and the signing of the agreement means that, once the commonwealth countersigns it (which we expect will happen soon), it will provide the first $8.5 million of the $13.6 million allocated to South Australia under this plan. This will immediately clear the way for us to make a start on the 2,262 extra procedures, with the ambitious aim of eliminating our state's long-wait elective surgery list. These additional procedures must be undertaken before the end of the year, and come on top of our own elective surgery strategy which will already result in 500 extra procedures this year.

There is no doubt that we have to work hard to undertake the additional procedures on top of the 38,000 procedures that we were already planning to perform this year. However, by working with hospitals and surgeons, the government believes that the vast majority of the additional procedures funded by the commonwealth government will be performed in public hospitals. This is testimony to the hard work and skill of our public hospital doctors and nurses. There is also the potential for the state to use the private sector for a small number of these additional procedures. Some people have questioned whether the private sector would have any additional capacity to undertake additional procedures. I can inform the house today that seven private hospitals have placed bids with the government to perform public elective surgery in their hospitals. The response the government has received to its invitation to submit to tender clearly demonstrates that the capacity exists.

Of course, we would prefer to undertake as many operations as we can in our own hospitals and we will continue to work with the hospitals and surgeons to ensure that this is possible. Our state has a strong health system. The government has been consistently increasing the number of elective surgery operations, and will fund in excess of 150,000 operations over four years. The extra commonwealth funding is gratefully received and is another important step in reducing elective surgery waiting time.

GLENSIDE HOSPITAL REDEVELOPMENT

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:25): I table a statement made by my colleague the Minister for Environment and Conservation, in another place, in relation to the Glenside redevelopment.

GRIEVANCE DEBATE

WORKCOVER CORPORATION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (15:26): The state Labor government will today table bills it claims will eliminate WorkCover Corporation's $844 million unfunded liability within five to six years; reduce levy rates to a range of 2.25 per cent to 2.75 per cent; and provide for fair support to injured workers, delivered efficiently, and to enable the earliest possible return to work.

Mr Rann has told parliament that he expects to debate the legislation in the three weeks of April sittings, which end on 1 May. State Labor has had six years to consider this matter and to deliver the legislation. The parliament will see the bills for the first time today.

The ALP is deeply divided on the issue, and publicly divided. The state opposition will now consider the legislation, when we get it, and will consult widely, during March, with stakeholders, including Mr Clayton. We will ensure during these consultations whether the legislation, we are yet to even see, achieves what the government claims. If it does not, we will seek to amend it.

We will rule nothing in and nothing out, until the process of consultation during March is complete. We will do what the Labor government has failed to do. We will consult with the people most affected. The state Liberals' objectives will be to ensure: that the overall levy rate is reduced to at least 2.25 per cent by 1 July 2009; that the scheme is fully funded within the five to six year range; and that workers' entitlements are not unfairly or unnecessarily cut by the Rann government before all other options to eliminate incompetence, inefficiency and poor management by this government have been examined.

In his report Mr Clayton has observed that the WorkCover scheme was in a healthy and financially stable position, with a reputation for forward thinking, in 2002 when the Rann Labor government took office. In six years Mr Rann and Mr Wright have destroyed the scheme, necessitating this legislation to come before parliament later today.

Proposed cuts to workers' entitlements have only arisen in the context of a mismanaged WorkCover scheme. It should never have come to this: high levies burdening small business; cuts to workers entitlements—none of it should have arisen. It didn't under the same legislation with the former government; it has under this government. It is State Bank economics. Treasurer Foley told Parliament this week that no-one was responsible for the WorkCover Corporation's predicament.

The Premier and the minister on behalf of the government have denied responsibility. The Treasurer has excused the Labor government appointed board of WorkCover and its members. We are told no-one is responsible for $844 million of unfunded liability or for high business levy rates, nor the need to cut workers' entitlements. These denials are an affront to responsible government.

The state Liberal opposition is particularly determined during the March consultation process on this legislation to hear from business and from the unions. Representation will be considered on the basis of the quality of the arguments presented and the manner in which they are put. There are two questions that need to be answered by the Rann Labor government:

- why is it that the existing legislation enabled the previous Liberal government to run an efficient scheme (as noted by Mr Clayton); and
- why are self-insurers able to run an effective scheme for over one-third of the South Australia workforce under the existing legislation?

Mr Speaker, we face this challenge in 2008 for one simple reason: the Rann government's mismanagement of WorkCover.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. K.O. FOLEY: Madam Deputy Speaker, I will not let that comment by the leader sit without an apology and a withdrawal.

Members interjecting:

The DEPUTY SPEAKER: Order! The two members standing will sit down.

The Hon. K.O. FOLEY: I am taking a point of order.

The DEPUTY SPEAKER: That is what you need to do; if you rise to your feet you must say—

The Hon. K.O. FOLEY: I seek to make a point of order, Madam Deputy Speaker. The Leader of the Opposition has reflected on me as a member of this parliament. He said, and I quote, 'The Treasurer should stop taking his orders from Peter Vaughan.' I find that offensive to both Mr Vaughan and myself, and ask him to apologise and withdraw.

Mr HAMILTON-SMITH: There is no apology due. It is exactly what he said during interjections yesterday—and the Attorney. It is exactly what they said during interjections—

The DEPUTY SPEAKER: Order, Leader of the Opposition!

Mr HAMILTON-SMITH: —so take a bit back.

The Hon. K.O. Foley: That's not true, Martin.

Mr HAMILTON-SMITH: It's what you said—

The DEPUTY SPEAKER: Leader! The matter is not unparliamentary; however, the leader may choose to withdraw and apologise.

Mr HAMILTON-SMITH: No apology is due or warranted.

Members interjecting:

The DEPUTY SPEAKER: Order! I call the member for Mawson. I want to make the point that if the opposition disrupts the member for Mawson when he is speaking I will add extra time to allow the member for Mawson to have a decent say.

Members interjecting:

Mr PISONI: I rise on point of order—standing order 141: members quarrelling. The Treasurer is quarrelling across the chamber.

The DEPUTY SPEAKER: The member for Unley will sit down. When the house has come to order I will invite the member for Mawson to commence his grievance, and will add time for any disruption.

TOUR DOWN UNDER

Mr BIGNELL (Mawson) (15:33): I rise today to congratulate all those involved in this year's Tour Down Under, the first Tour Down Under under the International Cycling Union's Pro Tour—and what a success it was. There is no need to take my word for it. Phil Latz, the founding editor of *Bicycling Australia* magazine said:

> It's one thing to predict that Pro Tour status would lift the TDU to another level, but it's another to see it actually happen. Several foreign journalists and team directors I spoke to said it's the best organised race of the year.

Earlier today we heard some statistics from the Minister for Tourism, and I would like to add some anecdotal evidence to those statistics. One is that the total attendance was up 53.5 per cent to 548,000 people at the 2008 Tour Down Under as opposed to the 2007 Tour Down Under—and I know that in the electorate of Mawson (the Saturday stage started at Willunga and went through McLaren Vale and Aldinga) huge crowds lined the route in numbers that we had not seen in the previous nine years of the event.

Total visitors to the state who attended the Tour Down Under was 21,000, and that is up by 30.4 per cent. I had a mate from Melbourne who stayed with me and, during his stay, we certainly contributed to the economy of South Australia. He also joined me in the Breakaway ride, the 74 kilometre ride from Woodside to Strathalbyn—and what a fantastic event that was.

There were people of all shapes and sizes doing the Mutual Community Challenge Tour. I rode for a while with Melvin Mansell, the editor of *The Advertiser.* What a proud moment it was for him to see all those riders with *The Advertiser* logo on their jerseys. It was great to see the support from *The Advertiser* for this wonderful event, not just for the Mutual Community Challenge Tour but also the promotion that newspaper gives to the entire Tour Down Under. The number of visitors

specifically attending the Tour Down Under was up 43.8 per cent; that is, 15,100 people from interstate and overseas who came here specifically because of the Tour Down Under.

The weekend before the tour started, I rode from Aldinga to North Adelaide and then back to Aldinga, and the number of extra riders out on the road was unbelievable. It was unbelievable to see so many people on that fantastic veloway that runs alongside the Southern Expressway. It was amazing.

When I reached North Adelaide, I came across some people outside the Lion Hotel. There were 55 of them each wearing a jersey I did not recognise. I went up to one of them and said, 'What are you guys doing?' They replied, 'We are here from Brisbane.' There were 55 of them from Brisbane, and they were spending nine or 10 days here. One of the guys said, 'I've never been to Adelaide. I've never had any inclination at all to come to Adelaide, but a group of us have come down from Brisbane specifically to see the Tour Down Under. We're riding 100 kilometres a day, we are seeing every start and finish and every stage along the way.' You cannot tell me that those 55 people from Brisbane, plus the other 15,000 or so from interstate and overseas, did not have a huge impact on our economy.

There seemed to be only a couple of people who thought it was not a great event, one being a journalist for the *Sunday Mail.* As a former cycling journalist who covered the 1994 World Championships in Palermo, Sicily; the 1995 World Cycling Championships in Bogota, Colombia; the 1994 Commonwealth Games in Victoria, Canada; the 2000 Olympics in Sydney; and the Tour de France in 1999; plus many other stage races through Switzerland and Italy, I must say that I have never heard of this journalist from the *Sunday Mail* who questioned whether it was a B-grade event.

But the member for Morphett jumped straight on the bandwagon, even though he was advised earlier that this was a great race and that the top teams from around the world were all here. There is an article in the *Bicycling Australia* magazine by Greg Griffiths, who, as well as being a correspondent for the magazine, is also a commissaire who has followed international cycling for 35 years. Under the headline 'Ignorant criticism' he unloads on Dr Duncan McFetridge. He says:

> Dr McFetridge questioned me regarding the validity of the event, the quality of the competitors, the value for money to South Australia, and the absence of 'the stars' [and so on].

This gentleman told the member for Morphett that was untrue and that this was, in fact, one of the great events in the world. He said that he would get that information to him. He said:

> However on ABC Radio on Monday 28 January, McFetridge let rip on the Tour Down Under, calling it a B grade event and insinuating that it wasn't value for money for South Australia.

Unfortunately, Dr McFetridge did not wait for Mr Griffiths' evidence to be sent to him. I think it is a disgrace that the Liberals in this place—the people who lost us the Formula One Grand Prix—are now talking down one of the great events in world cycling.

Time expired.

LEGACY CLUB OF ADELAIDE

Mr PENGILLY (Finniss) (15:39): This morning, several hundred war widows enjoyed a concert at the Adelaide Town Hall as part of the celebrations for the 80th anniversary of the Legacy Club of Adelaide. I am very proud to say that I am (and I believe it to be so) the only legatee in the parliament. Legacy is a uniquely Australian voluntary organisation dedicated to the care of the dependants of deceased veterans, including the dependants of today's Australian Defence Force.

With the appalling casualties of World War I and the subsequent deaths due to the effects of war service, there were many shattered families in Australia. The men who did return recognised the need to assist the widows and children of their deceased comrades, thus Legacy was founded in Melbourne in 1923 and soon spread to other capital cities.

On 14 February 1928, a group of 'returned' men met in Balfours Cafe in King William Street and resolved to form a legacy club. The first president was Brigadier General Raymond Leane, a distinguished soldier and, later, commissioner of police. He was followed by Arthur Blackburn, Victoria Cross winner of Adelaide's 10th Battalion.

The returned men who became members of Legacy were known as legatees—a conscious decision to ensure equal status no matter what social position or former military rank was held. They pledged, by personal effort in a spirit of service, to assist the widows and dependent children

of deceased veterans. Sadly, the casualties of the Second World War provided Legacy with increased work. The number of children in Adelaide Legacy's care reached 2,700 in the late 1950s.

Mr Paul Clancy, the current President of Legacy, General Manager Mr Don Stewart and his staff, and the legatees in South Australia proudly continue that work. These days, throughout Australia Legacy supports some 122,000 widows, including a small number of widowers, together with some 1,800 children and disabled dependants. In South Australia there are just over 11,000 widows, 40 children and youth, and 120 disabled dependants.

The Legacy task will continue for many years to come. There is still a small number of widows of World War I men in South Australia, and the present scale of Defence Force operations will sadly add to the Legacy task in due course. Legacy funding is not government based and, apart from some grants for specific welfare purposes, Legacy in South Australia must raise $1 million each year to continue its work. The grant given each year by the state government to Legacy is $1,000. I intend to write to the Premier to ask him to consider raising that considerably, and I hope that I get support from across the house on that.

The South Australian community has been splendid in its support over the past 80 years. The ideals of Legacy have remained unchanged. Legacy continues. I am a proud member of the Legacy group on Kangaroo Island. All active members are either descendants of World War II servicemen or Vietnam veterans who continue that work. Legacy is always looking for additional legatees, but the reality is that you have to be invited to join; you cannot choose to join without being invited. It is a very worthy cause, and I am extremely proud to be a legatee.

It is a small contribution by a considerable number of people across the state and Australia in Legacy, and I ask the house to join me in congratulating Adelaide Legacy Club on its 80th birthday this month.

LANGUAGES EDUCATION

Ms FOX (Bright) (15:42): Yesterday, the Minister for Education and Children's Services spoke in this place about the International Year of Languages 2008. As a former French and English teacher, I am interested in some of the comments that have been made recently in the media about foreign languages and language teaching in South Australia. In particular, I was surprised by the comments of education pundit and former federal Liberal staffer Dr Kevin Donnelly on FIVEaa. Speaking to Leon Byner, Dr Donnelly said the following:

> If you can't get the first language right I've got no idea as to why you'd want to introduce something like German or French or Mandarin.

Dr Donnelly, whose research over the years has been funded by his mates from the former Liberal government and published by the Liberal-based Menzies Research Centre, does not realise that learning a foreign language (or LOTE—a language other than English) helps most students to be better English students. That is because these days—and I know that Dr Donnelly deplores this as do I—students in Australia do not learn about the grammar of English. They do not learn about syntax; they do not learn about tenses, sequence or about consistency. We see the proof of this every single day in this place. By learning about these elements in a foreign language, students realise that language is a carefully structured tool.

Professor Michael Clyne also emphasised this point in his outstanding book entitled *Australia's Language Potential,* which was published in 2005 by the University of New South Wales Press. And he is not alone. The front page story of *The Advertiser* on Monday announced the findings of a $2.2 million report entitled 'Investigation into the state and nature of languages education in Australian schooling', which was co-authored by a South Australian academic. This report calls for an urgent overhaul of our curriculum to make language study compulsory from kindergarten to year 10.

Dr Donnelly's reaction on FIVEaa to this call demonstrates a persistent monolingual mindset shared by some, which will eventually have a severe impact on this country. Already, Australian business leaders are competent in fewer languages than their counterparts in 27 other countries. According to the report mentioned previously, Australian school students now spend less time learning a language than students in any other OECD country. Fixing this is not a job for governments, although we can certainly help by addressing language teacher shortages and trying to change an ingrained culture in some schools which treat language teachers as the poor cousins of the teaching staff.

Fixing the problem is also in the hands of parents who may not realise that the world their children are going to be adults in will not necessarily be a primarily English-speaking world. The

argument that I have heard many times before of 'Oh, but everyone speaks English everywhere' demonstrates a level of provincialism and ignorance which undermines our standing in the world. One of the reasons I was able to live and work overseas was because I spoke a foreign language. I did not speak it at home. I learnt it here, at school, at Blackwood High School to be precise. It might seem like a long way from Mrs Mallon's French class to working at UNESCO in Paris but that was where language took me and it was a pretty direct path.

With that in mind, I would like to touch upon another comment that Dr Donnelly made on air. He made a sweeping statement dismissing language teaching with one Neanderthal brushstroke. He said:

> When you look at the way languages are taught in schools these days most of it is about sociology or tourism. Even after they have done languages for five or six years, a lot of kids don't know much anyway.

I was taken aback by the sheer ignorance of this comment. I think he made it up on the spot. One of the biggest problems facing language teachers and their institutions is the fact—not the perception, but the fact—that learning a language requires rigorous application and intellectual discipline. With all due respect, learning Mandarin at year 12 level cannot be compared to undertaking year 12 food and nutrition in terms of difficulty. I suspect it may be less intellectually challenging to learn how to make a soufflé than to learn how to speak Mandarin.

Learning another language is about economic power and gaining access to it. It is about fully understanding the culture instead of just knowing its tourist spots. We have had enough wake-up calls about language learning recently. Now it is time for parents, governments at all levels and teachers to come together and change the way we view language learning in this country. Australia will not remain competitive in an increasingly multilinguistic world if we continue with our current attitude. I believe that monolingualism will cost us far more in the future than we realise, both economically and culturally.

BOATS, GREY WATER TREATMENT SYSTEM

Mr VENNING (Schubert) (15:47): Today I rise to speak about a unique piece of engineering developed in South Australia: a world-first grey water treatment system for boats and particularly houseboats. I have spoken about this issue in this house before, back in 2003, and despite the continued environmental decline of the Murray River the government has done nothing to ensure that this invention has the financial support to proceed to full-scale marketing and manufacture.

Following trials conducted by the South Australian Environment Protection Authority (the EPA) in 2006, the system was found to be the first and only system to comply with the new standards set out by the EPA. The grey water treatment system was invented by a retired professional engineer residing in Mannum in my electorate—I will be there tonight—Mr Colin Newton, and has been named the Newtreat system. It is believed by the Boating Industry of South Australia to be the only one of its kind in the world, and thus it is of significant interest to South Australian, Australian and global markets.

The system allows recreational boats to return treated, clean water to the river system, directly straight back into the water. It works by filtering the grease, fats and other things from the grey water and then treats the water removing all the nasties. The system is capable of treating grey water to a level suitable for return to the freshwater river environment: in fact, cleaner than when it was taken from the river.

Last year the EPA of South Australia officially recognised the system as being suitable for use on board boats after lengthy testing and analysis of water samples by the Australian Water Quality Centre was undertaken. However, despite this endorsement and the introduction of legislation prohibiting the discharge of grey water from houseboats and other vessels travelling on inland waters in South Australia, the state government has failed to show its support for this world-first system, which has been developed in our state.

In July last year, the EPA released a Draft Code of Practice for Vessel and Facility Management: Marine and Inland Waters (2007), outlining compliance dates for boat operators to correctly and adequately manage their waste water. The EPA requirements state that by 31 December 2010, all vessels fitted with a sink, hand or washbasins, dishwashers, washing machines, spa and showers must either retain their grey water on board and it is to be pumped out into a land-based system, or install a grey water system to treat the waste on board.

I have to say that, given the EPA's regulations and the fact that the EPA has endorsed a system developed and invented by a South Australian, the inaction and disinterest that has been shown by the government is absolutely ridiculous. I just cannot understand it. What they need to do is get off their butts and to recognise the great opportunity to seize the initiative. This is all about saving water, health and convenience and an opportunity to attract world attention, world focus.

Mr Newton estimates the cost he has incurred by inventing and developing the system will exceed $1 million. He spent $20,000 just on lawyers for the Australian patents and is now working on the international patents. For all the effort, time and money Mr Newton has put in, he has received just two grants (totalling $10,000) for his innovative and groundbreaking work—a far cry from what this man has put in. I raised this matter five years ago and, to date, the government has offered no support to help to ensure this invention can be further developed and manufactured in Australia. It has been improved over the five years, particularly with the electronics that are now involved.

At the same time, I also raised the problem of the lack of pump-out stations in the region, particularly in Walker Flat, where negotiations do not seem to be bringing in anything much. Not much is happening there, although I do believe there has been some progress, but it has been years without a pump-out station. This completely contradicts some of the state government's stated objectives in the State Strategic Plan. In the plan the government states that a key initiative to growing prosperity in South Australia is said to be to provide 'ongoing support for innovation across industry and economy'.

The plan also states that South Australia's prosperity 'depends on the imagination, courage, talent and energy of our citizens' and 'this capacity to do things differently will determine whether we can achieve all of our goals for the state's future'. This grey water system is innovative: it was invented by a talented South Australian, who dared to do something different—a world first. He is yet to see any major form of support from the state government. I ask the Premier and the state government: does the government intend to stand by the plan, or merely more rhetoric? There is interest from other people from interstate and, if we do not do something about it, we will lose this opportunity because Victorians and New South Welshmen are certainly very interested. The general manager of the Boating Industry Association of South Australia says, 'We want this project to continue and it is a great success.'

Time expired.

LOCAL GOVERNMENT EDUCATION PROGRAM

Ms PORTOLESI (Hartley) (15:52): Today I rise to discuss the issue of local government voter education, particularly for non-English speaking communities. It is an issue we are facing at the moment in Campbelltown because there is a by-election for the Campbelltown City Council. During the last round of local government elections in 2006, my office was inundated with confused voters requiring assistance to vote (which I was happy to provide), but it is fair to say that these voters were predominantly from a non-English speaking background. They were particularly confounded by the postal voting system which we deal with in local government elections. Of course, many of these voters have grown up overseas under another voting system. They do vary from country to country, but also from state to state and from tier to tier.

For example, a vote in a South Australian state election with only one box numbered with a '1' will count as a valid ticket vote. South Australian local government elections will count the same vote as a valid vote, although it will exhaust once the candidate is excluded or elected during the count. At a federal election, the vote will simply be informal. Thus, it is very understandable that voters can be confused about how to cast a valid vote, even more so when there is a language barrier. Currently, when voters receive their postal ballots for local government elections, information is provided in multiple languages, outlining how they can access material from their local council office in their own language. It also gives them the option of contacting a translation service. I commend this level of support; however, I think it is limited because the onus is on the voter to follow-up that information.

Of course, in state or federal marginal seats (as we would all know in this place) that deficit of information is often rectified by political parties seeking to campaign for each and every vote. Of course, at the last election, I sent out a number of pieces of material in different languages. This has become an expected part of marginal seat campaigning.

However, voter education and access to information should not be determined, in my view, by how safe or marginal an electorate is. Recent studies have clearly shown that the information

rate of non-English-speaking voters can be significantly reduced if an extra, tiny effort is made to educate these voters in their own language.

In the 2004 election, the AEC conducted a study in the federal electorate of Port Adelaide, where non-English-speaking voters were identified and sent voting information in their own language. While the overall informal voting rate in the seat of Port Adelaide increased slightly, the booths where these voters were sent voting assistance information in their own language showed a decrease in informal voting of up to 1½ per cent. For instance, the Ferryden Park booth showed a decrease in the informal rate of .29 per cent with 30 per cent of voters receiving an extra letter from the AEC.

Over 70 per cent of voters who voted at the Pennington booth received the information, and the informal rate dropped by 1.48 per cent. This clearly shows that a little bit of information and assistance can be the difference between an informal vote and a valid one. Of course, none of this should be surprising: a well-informed voter is far more likely to be able to cast a valid vote. In this 2004 study, over half the informal ballots resulted from mistakes that can be attributed to a lack of knowledge of the voting system, such as only voting '1' or using a tick or a cross. It is simply not the case that every informal vote is a sign of a desire to cast a deliberately invalid vote.

While results varied from booth to booth, it is clear that the assistance provided by the AEC resulted in fewer voters casting an invalid vote due to insufficient or inaccurate information about the voting system. I believe this problem is magnified when voting is conducted via a postal ballot, as is the case for local government elections. While postal voting has increased the participation rate, I believe it has made it harder for non-English-speaking voters to cast a valid vote. Voters who cast their vote at polling booths are able to ask for assistance from polling booth workers and multilingual voting information is likely to be available.

Following the pilot project in Port Adelaide, at the 2007 federal election, the AEC targeted areas by placing multilingual staff at polling booths with high percentages of ethnic voters. Voting by post does not allow this level of assistance, and I believe that it opens the system to corruption of ballot papers.

HEALTH CARE 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 11, page 14, after line 26—Insert:

(4a) The Minister must establish arrangements to meet with HPC on a regular basis.

No. 2. Clause 17, page 18, after line 26—Insert:

(4a) If a HAC is established in relation to an incorporated hospital established to provide services within the country areas of the State, the constitution or rules of the HAC (as the case may be) must provide that a majority of members of the governing body of the HAC (in the case of an incorporated HAC) or a majority of members of the HAC (in the case of a HAC that is not incorporated) are persons who are selected or appointed on the basis of being members of the local community.

No. 3. Clause 58, page 40, after line 12—

Clause 58—after subclause (13)—Insert:

(13a) The Minister may, by the terms or conditions of a licence, limit the scope of a licence to specified services or classes of services.

No. 4. New clause, page 61, after line 34—

After clause 100—Insert:

101—Review of governance arrangements—Country regions of State

(1) HPC must, within a reasonable time after the third anniversary of the commencement of this Act, furnish to the Minister a report on the operations, over the 3 year period from the commencement of this Act, of the HACs established in relation to any incorporated hospital or hospitals established to provide services in the country areas of the State.

(2) The report must—

(a) review the effectiveness of the relevant HACs in promoting the interests of local communities; and

(b) review the level of satisfaction with the governance arrangements between the relevant HACs and any relevant hospital from the perspective of the members of the HACs, the local community, and the hospital; and

(c) identify any other significant issues relating to the operations of the HACs considered relevant by HPC.

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

(4) The Minister must, within 6 months after receipt of a report under this section, cause a formal response to the report to be laid before both Houses of Parliament.

The Hon. P. CAICA: Madam Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

WORKCOVER CORPORATION (GOVERNANCE REVIEW) AMENDMENT BILL

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (16:01): Obtained leave and introduced a bill for an act to amend the WorkCover Corporation Act 1994. Read a first time.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (16:01): I move:

That this bill be now read a second time.

The bill I am introducing today amends the WorkCover Corporation Act 1994. Its overall purpose is to provide a more certain and contemporary framework for the relationship between the government and WorkCover. The bill does this by effectively replicating part of the governance arrangements used for those other statutory authorities that are subject to the Public Corporations Act.

The need for this stems, in part, from the amendments the government is seeking to make to the Workers Rehabilitation and Compensation Act. These amendments represent the most significant reforms to that Act in its 20-year history. The community needs to be confident that the government and WorkCover are working together on delivering these reforms. The mechanisms proposed to provide that confidence are both certain and transparent. These are the specific mechanisms proposed:

- First, the bill replicates the power of ministerial direction used in the Public Corporations Act, providing the government and WorkCover with greater certainty over the exercise of ministerial direction.
- Second, the bill requires preparation of a charter and performance agreement between the minister and WorkCover. As with the Public Corporations Act, the minister is obliged to prepare a charter in consultation with WorkCover. The charter is to deal with the nature of WorkCover's operations, its reporting and accounting obligations, internal audit and financial systems and practices of any other relevant matters.

The performance statement also needs to be prepared by the Minister setting performance targets for the corporation for the coming year.

Both the charter and the performance statement will be made public, allowing the parliament and the community to track progress of WorkCover against outcomes agreed with the government.

Finally, the bill proposes that WorkCover have its accounts audited by the Auditor-General. The purpose of this amendment is to provide added transparency to the new governance framework introduced by this bill.

I commend the bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides that operation of the measure will commence on a day to be fixed by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of WorkCover Corporation Act 1994

4—Amendment of section 4—Continuation of Corporation

Section 4(4) provides that the Corporation is subject to the general control and direction of the Minister. This subsection is to be removed because of the insertion by clause 5 of new section 14A, which provides, among other things, that the Corporation is subject to control and direction by the Minister.

5—Insertion of section 14A

This clause inserts a new section.

Proposed section 14A provides that the Corporation is subject to control and direction by the Minister. However, the section prevents the Minister from directing the Corporation in relation to the manner in which action should be taken in connection with a particular claim or entitlement of a worker under the Workers Rehabilitation and Compensation Act 1986.

There is a requirement for a ministerial direction to be communicated to the Corporation in writing. A written direction is to be included in the next annual report of the Corporation and published in the Gazette within seven days after it is given.

The requirement to publish the direction does not apply if the Corporation advises the Minister that publication of the direction—

- might detrimentally affect the Corporation's commercial interests; or
- might constitute breach of a duty of confidence; or
- might prejudice an investigation of misconduct or possible misconduct; or
- might detrimentally affect the performance of a statutory function,

and the Minister is satisfied that the direction should not be published for the reason given. In that event, the Minister is required to present a copy of the direction to the Economic and Finance Committee of the Parliament within 14 days after it was given. The Corporation must cause a statement of the fact that the direction was given to be published in its next annual report.

6—Amendment of section 17—Delegations

Section 17 provides that the Corporation may, by instrument in writing, delegate a function or power conferred on or vested in the Corporation. This clause amends section 17 by inserting a new provision providing for the subdelegation of a delegated function or power if the terms of the instrument of delegation allow for subdelegation.

7—Insertion of Part 3A

Proposed Part 3A provides in section 17A for the preparation of a charter for the Corporation by the Minister following consultation with the Corporation. The charter is to deal with the following:

- the nature and scope of any operations to be undertaken, including—
- the nature and scope of investment activities; and
- the nature and scope of any operations or transactions outside the State;
- all requirements of the Minister as to—
    - the Corporation's obligations to report on its operations; and
    - the form and contents of the Corporation's accounts and financial statements; and
    - any accounting, internal auditing or financial systems or practices to be established or observed by the Corporation; and
    - the acquisition or disposal of capital or assets or the borrowing or lending of money.

The charter may limit the functions or powers of the Corporation, but only insofar as they relate to its commercial operations. The charter cannot extend the Corporation's functions or powers as provided by the Act.

The charter is to be reviewed by the Minister at the end of each financial year and may be amended at any time following consultation with the Corporation.

The Minister is required to cause a copy of the charter, or a copy of the charter in an amended form, to be laid before both Houses of Parliament and provided to the Economic and Finance Committee of the Parliament.

Section 17B requires the Minister to also prepare a performance statement, setting the various performance targets that the Corporation is to pursue in the coming financial year or other period specified in the statement and dealing with other matters as the Minister considers appropriate. The performance statement is to be reviewed when the Minister reviews the charter and may be amended at any time (following consultation with the Corporation).

8—Amendment of section 18—Accounts

This amendment is consequential on the amendment made by clause 9.

9—Substitution of section 19

Under section 19, the accounts of the Corporation are to be audited at least once a year by two or more auditors appointed by the Corporation. This clause substitutes a new section that requires the Auditor-General to audit the Corporation's accounts at least once each year.

Debate adjourned on motion of Dr McFetridge.

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (16:04): Obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (16:05): I move:

That this bill be now read a second time.

Today I am introducing a bill to amend the Workers Rehabilitation and Compensation Act 1986. The bill contains a large number of amendments directed at various aspects of the design of South Australia's Workers Compensation system. However, the overall objectives of the bill are simple. There are three:

- First, the bill aims to align South Australia's scheme nationally while ensuring the state scheme is fair for injured workers particularly in terms of the critical elements of income maintenance, medical payments and non economic loss.
- Second, the bill amends the scheme in a way that is anticipated to restore its financial health and allow it to go on providing benefits at this level.
- Third, it is expected that the improved financial outlook for the scheme will also be able to be used to the benefit of the cost competitiveness of the state's economy.

The bill is the outcome of the government's decision last March to commission an independent review of the South Australian Workers Rehabilitation and Compensation Scheme. The decision to conduct the review was made against a background of a deterioration in the state of WorkCover's compensation funds.

During 2006-07, the WorkCover scheme compensation funds experienced a loss of $149 million, following a $42 million loss in 2005-06. As at 30 June, WorkCover's liabilities exceeded its assets by $843.5 million.

The board of WorkCover has sought to address the deterioration in its financial circumstances in several ways. The most important to date is the decision to engage Employers Mutual as sole claims agent from 1 July 2006, replacing the four previous claim managers.

The board has also examined the design of the current scheme. In November 2006, the board submitted a package of proposals for changing the design of the scheme to the government. This precipitated the government's subsequent decision to hold the review. The consultation processes supporting the review have been extensive with 76 written submissions received.

There are a number of factors which have been identified by WorkCover and by the review as contributors to the financial deterioration of the scheme. However, underlying these factors is one common element—a shift in culture away from injury management and return to work towards a culture of compensation. Reversing this culture is the key to restoring the financial health of the scheme while ensuring that injured workers have the best possible chance of resuming productive working lives.

Regrettably, there are, and will be, cases where the degree of impairment is so severe as to prevent early return to work or return to work at all. In these cases, the South Australian scheme has traditionally been more generous than the scheme of any other state in Australia.

South Australia will go on providing the most generous income maintenance benefits in Australia. Workers who do not have a work capacity will continue to receive weekly payments until retirement.

These payments will be made at 100 per cent of the workers pre-injury average weekly earnings for 13 weeks and at 80 per cent thereafter. This 80 per cent is higher than the rates paid in New South Wales and Victoria, the two jurisdictions with schemes most comparable with our own. New South Wales does go down to 90 per cent, but the figure that they pay is something like about, from memory, $364.

Injured workers will also be eligible to claim compensation for non-economic loss under an entitlement that is now the highest maximum payment for such loss of any state scheme. Workers will also continue to be able to receive compensation for medical benefits beyond 12 months cessation of income maintenance as the proposal to cap these benefits after that period has been rejected by the review and also by the government.

Another benefit for injured workers is that the bill adopts the successful New South Wales model of provisional liability. Under this provision, injured workers will be able to avoid delays in payments by accepting up to 13 weeks of income replacement and a maximum of $5,000 of medical expenses. The experience in New South Wales is that this form of intervention assists both return to work and the efficiency of the dispute resolution process.

These reforms have as their twin objectives encouraging return to work and providing equitable and generous support for those whose impairment prevents them from resuming work at an early date.

The review has also identified other measures for achieving the shift in culture that is required to secure early return to work. There are two that are particularly important. The first is changes to work capacity reviews.

This review is a statutory process which requires the assessment of an injured worker's capacity for some form of work. It can lead to a cessation of benefits or reduction of benefits if the worker has not returned to work to their maximum capacity.

The review argues that the current procedure for this assessment in South Australia has 'become opaque and tortuous' and 'interpreted in a very restricted and technical manner in a number of decisions of the tribunal.' Difficulties also appear to arise in relation to the 'job matching' requirements whereby WorkCover must establish that a particular injured worker is able to enter into particular types of employment.

The review has supported WorkCover's proposal to apply the Victorian legislative model which limits the obligations of the compensating authority to establishing whether or not the worker has a current work capacity, irrespective of the availability of work for which the worker has been determined as capable of performing. WorkCover proposed that this model be applied after 104 weeks. The review is recommending 130 weeks, consistent with current Victorian practice, and that has been adopted by the government.

The second major measure for achieving early return to work is the amendment to significantly restrict access to redemptions. The historical, financial and comparative analyses contained in the review report all point to the central significance that the payment of lump sum redemptions has assumed—as a method for closing claims.

Individual redemptions can appear to benefit the financial position of the scheme in circumstances where they redeem a claim for less than the claim's estimated liability. However, the net impact of the significant use of redemptions has been the creation of a 'lump sum culture' in which the negotiation and settlement of pay-outs for claims often replaces a primary focus on achieving return to work outcomes. This bill amends the act to implement these and a number of other proposals that are consistent with the government's policy objectives.

In closing, there are three points I would like to make. First, the government has accepted without qualification the full set of recommendations provided by Australia's pre-eminent expert in this area. Secondly, an independent actuarial assessment has indicated that the review's recommendations:

...satisfy the review terms of reference provided initiatives are undertaken and applied as recommended, that is, allowing a reduction in the average levy rate to the range of 2.25 per cent to 2.75 per cent from 1 July 2009, and an extinguishing of the unfunded liability over five to six years.

Thirdly, I draw the attention of the house to Mr Clayton's conclusion that:

If the full range of recommendations set out in this report were to be implemented, South Australia will retain its position as the fairest workers' compensation scheme in the country. For workers who do not have a work capacity, weekly payment benefits continue to the age of retirement. The benefit arrangements for non-economic loss will be modernised and, particularly for the most seriously injured workers, will be the most generous in Australia. The wider structural arrangements are aimed to position South Australia as a leading jurisdiction in terms of a 'work health' model of workers' compensation. The strong accountability arrangements, including the Code of Workers' Rights and the South Australia WorkCover Ombudsman will provide a level of protection that places South Australia among the international best.

I commend the bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Operation of the measure will commence on a day to be fixed by proclamation. Section 7(5) of the Acts Interpretation Act 1915 will not apply to the amending Act (in case it is necessary to delay the commencement of certain amendments beyond the second anniversary of assent).

3—Amendment provisions

This clause is formal.

Part 2—Amendment of Workers Rehabilitation and Compensation Act 1986

4—Amendment of section 3—Interpretation

This clause inserts new definitions required for the purposes of the measure. Some existing definitions are amended. The following are examples of new defined terms:

A worker's current work capacity is a present inability arising from a compensable disability such that he or she is not able to return to the employment in which he or she was engaged when the disability occurred but is able to return to work in suitable employment. No current work capacity, in relation to a worker, means a present inability arising from a compensable disability such that a worker is unable to return to work.

New subsection (10) explains that total incapacity for work is an incapacity where the worker has no current work capacity, while partial incapacity for work is an incapacity where the worker has a current work capacity.

Suitable employment means employment for which a worker is suited, whether or not the work is available, having regard to the following:

- the nature of the worker's incapacity and previous employment;
- the worker's age, education, skills and work experience;
- the worker's place of residence;
- medical information relating to the worker that is reasonably available, including in any medical certificate or report;
- if any rehabilitation programs are being provided to or for the worker.
- the worker's rehabilitation and return to work plan, if any;

Proposed subsection (12) explains the meaning of a reference in the Act to suitable employment provided by a worker's employer.

The definition of exempt employer is deleted as that term is to be replaced with self insured employer. The opportunity has also been taken to correct a number of obsolete references and to provide clarification in relation to existing terms. For example, proposed subsection (11) explains the meaning of legal personal representative in relation to a deceased worker for the purposes of the Act. A person is the legal personal representative of a deceased worker if the person is entitled to administer the deceased's estate or authorised by the Tribunal to act as the deceased's representative.

New subsection (13) provides that a reference in a provision of the Act to a designated form is a reference to a form designated for the purposes of the provision by the Minister.

5—Substitution of section 4

Section 4 of the Act provides for the determination of a worker's average weekly earnings. The section currently provides in subsection (1) that the average weekly earnings of a disabled worker are the average amount that the worker could reasonably be expected to have earned for a week's work if the worker had not been disabled.

This clause substitutes a new section 4 under which the average weekly earnings of a disabled worker is the average weekly amount that the worker earned during the period of 12 months preceding the date on which the disability occurred in relevant employment.

Relevant employment is constituted by employment with the employer from whose employment the disability arose. If the worker was, at the time of the occurrence of the disability, employed by 2 or more employers, relevant employment is constituted by employment with each such employer. An amount paid while a worker was on annual, sick or other leave is to be taken to be earnings.

The proposed section includes a number of additional provisions relevant to determining a disabled worker's average weekly earnings. These provisions deal with, for example, the average weekly earnings of a worker who is a director and employee of a body corporate, the extent to which overtime is to be taken into account and matters to be disregarded in determining average weekly earnings (such as superannuation contributions payable by an employer and prescribed allowances).

6—Amendment of section 7—Advisory Committee

This amendment is consequential on the change in terminology from 'exempt employer' to 'self-insured employer'.

7—Amendment of section 28A—Rehabilitation and return to work plans

Under section 28A, a rehabilitation and return to work plan is to be prepared for a worker who is receiving income maintenance and is likely to be incapacitated for work by a compensable disability for more than 3 months but has some prospect of returning to work. The first amendment made by this clause reduces then length of the relevant period of incapacity to 13 weeks.

The second amendment is consequential on the insertion of section 28D by clause 8. The Corporation will be required to consult a relevant rehabilitation and return to work co-ordinator when preparing a plan.

8—Insertion of section 28D

This clause inserts new section 28D, which will require employers to appoint rehabilitation and return to work co-ordinators. The co-ordinator is to be an employee of the employer and based in South Australia. The functions of the co-ordinator are as follows:

- to assist workers suffering from compensable disabilities, where prudent and practicable, to remain at or return to work as soon as possible after the occurrence of the disability;
- to assist with liaising with the Corporation in the preparation and implementation of a rehabilitation and return to work plan for a disabled worker;
- to liaise with any persons involved in the rehabilitation of, or the provision of medical services to, workers;
- to monitor the progress of a disabled worker's capacity to return to work;
- to take steps to as far as practicable prevent the occurrence of a secondary disability when a worker returns to work;
- to perform other functions prescribed by the regulations.

9—Amendment of section 30—Compensability of disabilities

As a consequence of this amendment, a worker's employment will include attendance at a place for the purposes of a rehabilitation and return to work plan.

10—Amendment of section 32—Compensation for medical expenses

Under section 32, a worker is entitled to be compensated for certain medical and related costs in accordance with scales of charges prescribed by regulation. As a consequence of these amendments, the scales will be published by the Minister rather than prescribed by regulation.

11—Insertion of section 32A

This clause inserts a new section. Section 32A provides that a worker may apply to the Corporation for the payment of costs within the ambit of section 32 (ie, medical and related expenses) before his or her claim for compensation is determined. The Corporation may determine that it is reasonable to accept provisional liability for the payment of compensation under section 32 and make payments under section 32A.

The maximum amount payable with respect to a particular disability is $5,000 (indexed). The acceptance of provisional liability under section 32A does not constitute an admission of liability, and a payment under the section with respect to a particular cost discharges any liability that the Corporation may have with respect to the cost under section 32. Section 32A also provides that the Corporation may determine not to make a payment with respect to a particular disability despite having previously done so.

The following decisions under section 32A are not reviewable:

- a decision to accept or not to accept liability;

- a decision to make or not to make a payment;
- a decision to exercise or not to exercise a right of recovery.

12—Amendment of section 33—Transportation for initial treatment

This amendment provides for the indexing of an amount prescribed by regulation under section 33(4), which relates to recovery by an employer of the costs of transportation provided for an injured worker.

13—Amendment of section 34—Compensation for property damage

This amendment provides for the indexing of an amount prescribed by regulation under section 34(1), which relates to compensation for a disabled worker for damage to therapeutic appliances, clothes, personal effects or tools of trade.

14—Substitution of section 35

This clause replaces section 35 with a number of new provisions relating to compensation by way of income maintenance.

35—Preliminary

New section 35 provides that a worker who suffers a compensable disability that results in incapacity for work is entitled to weekly payments in respect of the disability in accordance with Part 4 Division 4.

Weekly payments are not payable under Division 4 in respect of a period of incapacity for work falling after the date on which the worker reaches retirement age. If, however, a worker who is within 2 years of retirement age, or above retirement age, becomes incapacitated for work while still in employment, weekly payments are payable for a period of incapacity falling within 2 years after the commencement of the incapacity.

A worker is not entitled to receive, in respect of 2 or more disabilities, weekly payments in excess of the worker's notional weekly earnings. Where a liability to make weekly payments is redeemed, the worker will be taken to be receiving the weekly payments that would have been payable is there had been no redemption.

The section provides that a reference in Division 4 to a worker making every reasonable effort to return to work in suitable employment includes any reasonable period during which—

- the worker is waiting for a response to a request for suitable employment made by the worker and received by the employer; and
- if the employer's response is that suitable employment may or will be provided at some time, the worker is waiting for suitable employment to commence; and
- if the employer's response is that suitable employment cannot be provided at some time, the worker is waiting for a response to requests for suitable employment from other employers; and
- the worker is waiting for the commencement of a rehabilitation and return to work plan, after approval has been given.

A worker is not to be treated as making every reasonable effort to return to work in suitable employment if the worker—

- has refused to have an assessment made of the his or her employment prospects; or
- has refused or failed to take all reasonably necessary steps to obtain suitable employment; or
- has refused or failed to accept an offer of suitable employment from a person; or
- has refused or failed to participate in a rehabilitation program or a rehabilitation and return to work plan.

For the purposes of Division 4, the first entitlement period is an aggregate period not exceeding 13 weeks in respect of which a worker has an incapacity for work and is entitled to compensation because of the incapacity.

The second entitlement period is an aggregate period not exceeding 117 weeks in respect of which a worker has an incapacity for work and is entitled to compensation because of the incapacity.

35A—Weekly payments over designated periods

Section 35A sets out the weekly payment entitlements of a worker in respect of a compensable disability while incapacitated for work.

During the first entitlement period, the worker is entitled, for any period during which he or she has no current work capacity, to weekly payments equal to his or her notional weekly earnings. For any period during which the worker has a current work capacity, he or she is entitled to weekly payments equal to the difference between his or her notional weekly earnings and designated weekly earnings (see below).

During the second entitlement period, the worker is entitled, for any period during which he or she has no current work capacity, to weekly payments equal to 80 per cent of his or her notional weekly earnings. For any period during which the worker has a current work capacity, he or she is entitled to weekly payments equal to 80 per cent of the difference between his or her notional weekly earnings and designated weekly earnings.

For the purposes of section 35A, the designated weekly earnings of a worker will be taken to be the current weekly earnings of the worker in employment or the weekly earnings the Corporation determines that the worker could earn from time to time in employment, whichever is the greater. The 'weekly earnings that the worker could

earn from time to time' may be in the worker's employment previous to the disability or in suitable employment, that the Corporation determines that the worker is capable of performing despite the disability. In determining a worker's 'designated weekly earnings', certain prescribed benefits are not to be taken into account.

Designated weekly earnings will not be taken to be the weekly earnings that a worker could earn from time to time if—

- the employer has failed to provide the worker with suitable employment and the worker is making every reasonable effort to return to work in suitable employment; or
- the worker is participating in a rehabilitation and return to work plan which reasonably prevents the worker from returning to employment.

35B—Weekly payments after expiry of designated periods—no work capacity

Under section 35B(1), which is to operate subject to section 35C and other relevant provisions, a worker's entitlement to weekly payments will cease at the end of the second entitlement period (unless brought to an end at an earlier time) unless the worker is assessed by the Corporation as having no current work capacity and likely to continue indefinitely to have no current work capacity.

If the worker is so assessed by the Corporation, he or she is entitled to weekly payments while incapacitated for work in respect of a particular disability equal to 80 per cent of his or her notional weekly earnings as though the second entitlement period were continuing.

The Corporation is entitled to conduct a review of the assessment of a worker at any time. A review must be conducted as often as may be reasonably necessary, being at least once in every 2 years.

A worker who, immediately before the end of a second entitlement period, is in receipt of payments under paragraph (a) of section 35A(2) (that is, he or she has no current work capacity), is entitled to continue to receive weekly payments at the rate prescribed by that paragraph (80 per cent of notional weekly earnings) unless or until the Corporation has assessed whether he or she falls within the category of a worker who may be considered as having no current work capacity and likely to continue indefinitely to have no current work capacity. The Corporation must not discontinue weekly payments to such a worker until he or she has been given at least 13 weeks notice in writing of the proposed discontinuance. The notice must not be given unless or until the assessment has been undertaken.

The provisions mentioned in the above paragraph do not apply if the Corporation discontinues the worker's weekly payments under section 36 or suspends payments under some other provision.

If the Corporation is satisfied, following a review of an assessment of a worker, that the worker has a current work capacity, it may discontinue weekly payments.

35C—Weekly payments after expiry of designated periods—current work capacity

Under section 35C, but subject to the Act, a worker who is, or has been, entitled to weekly payments under section 35A(2)(b) or 35B, may apply to the Corporation for a determination that his or her entitlement to weekly payments does not cease at the end of the second entitlement period under section 35A or at the expiry of an entitlement under section 35B.

If the Corporation is satisfied that a worker who has made such an application is in employment and that because of the compensable disability, he or she is, and is likely to continue indefinitely to be, incapable of undertaking further or additional employment or work that would increase his or her current weekly earnings, the Corporation may determine that the worker's entitlement to weekly payments does not cease.

The worker's entitlement where such a determination has been made will be (subject to other relevant provisions) 80 per cent of the difference between the worker's notional weekly earnings and his or her current weekly earnings.

15—Amendment of section 36—Discontinuance of weekly payments

Section 36 deals with circumstances in which a worker's weekly payments can be discontinued. The first amendment made by this clause adds the following to the list of such circumstances in subsection (1):

- that the worker's entitlement to weekly payments has ceased because of the passage of time;
- that the worker's entitlement to weekly payments has ceased because of the occurrence of some other event or the making of some other decision or determination that, under another provision of the Act, brings the entitlement to weekly payments to an end, or the discontinuance of weekly payments is otherwise authorised or required under another provision of the Act.

Section 36(1a) lists circumstances in which a worker breaches the obligation of mutuality. As a consequence of the second amendment made by this clause, a worker breaches the obligation of mutuality if he or she refuses or fails to participate in an assessment of his or her capacity, rehabilitation progress or future employment prospects.

Section 36(2) lists circumstances in which weekly payments to a worker who has suffered a compensable disability may be reduced. This clause adds the following to the list:

- the worker has recommenced work as an employee or as a self employed contractor, or the worker has had an increase in remuneration as an employee or a self employed contractor;

- the worker's entitlements to weekly payments reduces because of the passage of time;

the worker's entitlement to weekly payments reduces because of the occurrence of some other event or the making of some other decision or determination that, under another provision of the Act, is expressed to result in a reduction to an entitlement to weekly payments or the reduction of weekly payments is otherwise authorised or required under another provision of the Act.

Section 36(3a) currently provides that notice of a decision to discontinue or reduce weekly payments under the section must (depending on the ground for the decision) be given at least 21 days before the decision is to take effect. The provision as amended by this clause will provide that the notice is to be given at least the prescribed number of days, rather than 21 days, before the decision is to take effect. The prescribed number of days is as follows:

- if the worker has been receiving weekly payments under the Division (or Division 7A) for a period that is less than 13 weeks, or for 2 or more periods that aggregate less than 13 weeks—7 days;
- if the worker has been receiving weekly payments for a period or periods above the period or periods mentioned above but for less than 52 weeks, or for 2 or more periods that aggregate less than 52 weeks—14 days;
- in any other case—28 days.

The amendments also add the following to the list of decisions to reduce weekly payments where the required notice must be given:

- a decision to reduce weekly payments on account of the end of the first entitlement period under section 35A;
- a decision to discontinue weekly payments on account of the end of the second entitlement period under section 35A;
- a decision to discontinue weekly payments on account of—
- a review by the Corporation under section 35B(3); or
- a decision of the Corporation under section 35C(5)(a).

Section 36(4) currently provides that if a worker lodges a notice of dispute in relation to a decision of the Corporation to discontinue or reduce weekly payments within 1 month of receiving notice of the decision, the operation of the decision will be suspended and may be further suspended by the Workers Compensation Tribunal from time to time to allow a reasonable opportunity for resolution of the dispute. That subsection is to be deleted. New subsection (4) will provide that, so long as there has been compliance with subsection (3a) (ie, notice has been given as required), a discontinuance or reduction of weekly payments under section 36 is to take effect in accordance with the Corporation's notice of the determination. The effect of a decision to discontinue or reduce weekly payments will not be affected by the worker lodging a notice of dispute.

New subsection (5a) sets out the amount a worker is entitled to be paid where a dispute is resolved in favour of the worker at the reconsideration, conciliation or arbitration state, or on appeal:

- in the case of resolution on a reconsideration—the worker is entitled to the total amount that, under the terms of the reconsideration, should have been paid to the worker between the date that the disputed decision took effect and the date that the decision, as varied under the reconsideration, takes effect;
- in the case of a resolution at the conciliation stage—the worker is entitled to be paid any amount payable under the terms of the relevant settlement;
- in the case of a determination at arbitration or on appeal—the worker is entitled to be paid the amount that, under the terms of the arbitration or according to the outcome of the appeal, would have constituted the worker's entitlements under the Act had the weekly payments not been discontinued or reduced.

New section 36(14) provides that a worker is required to take reasonable steps to attend any appointment reasonably required for the purposes of the Division. A worker is also required to take reasonable steps to comply with any requirement reasonably required under a rehabilitation program or a rehabilitation and return to work plan. A failure to comply with these requirements constitutes a ground for the discontinuance of payments under section 36. This provision is expressed to be for the avoidance of doubt.

16—Insertion of section 37

This clause inserts a new section. Under the proposed section, the Corporation may review the calculation of the average weekly earnings of a worker for the purpose of making an adjustment due to a change in a component of the worker's remuneration used to determine average weekly earnings or a change in the equipment or facilities provided or made available to the worker. This review may be undertaken on the Corporation's own initiative or at the request of a worker.

The Corporation is required to give a worker notice of a proposed review under the section and also to invite the worker to make submissions. If the Corporation finds on a review that there has been a change that warrants an adjustment, the Corporation may make the adjustment. The worker may be required by the Corporation to provide relevant information and must be given notice of the Corporation's decision on the review.

17—Amendment of section 38—Review of weekly payments

Section 38 provides for review on the initiative of the Corporation or at the request of a worker of the amount of weekly payments made to the worker. As a consequence of the amendments to section 38 made by this clause, a worker's request for a review must be in a designated manner and a designated form, and notices to the worker under the section must be in a designated form (rather than a prescribed form).

18—Repeal of section 38A

Section 38A, which authorises the discontinuance or reduction of weekly payments because of passage of time, is repealed by this clause.

19—Amendment of section 39—Economic adjustments to weekly payments

Section 39 applies if a worker to whom weekly payments are payable is incapacitated for work, or appears likely to be incapacitated for work, for more than 1 year. The Corporation is required, during the period of incapacity, to review the weekly payments for the purpose of making an adjustment under the section.

Under new subsection (1a), the Corporation will be required to give a worker notice in the designated form before commencing a review. The notice must inform the worker of the proposed review and invite him or her to make written representations.

20—Amendment of section 40—Weekly payments and leave entitlements

Section 40(3) deals with an employer's liability to grant annual leave where a worker has received weekly payments in respect of total incapacity for work over a period of 52 weeks or more. The subsection, as recast and substituted by this clause, provides that if a worker has received weekly payments in respect of total incapacity for work over a period of 52 weeks, whether consecutive or not, the employer's liability to grant annual leave in respect of the period of employment that coincides with that period will be taken to have been satisfied. On the completion of such a period of 52 weeks, another period may be taken to commence for the purposes of the subsection.

21—Amendment of section 41—Absence of worker from Australia

This amendment has the effect of requiring a notice to be in a designated form rather than the form prescribed by regulation.

22—Amendment of section 42—Redemption of liabilities

As a consequence of this amendment to section 42, where a redemption of a liability to make weekly payments is proposed, an agreement for that redemption cannot be made unless 1 or more of the following requirements are satisfied:

- the rate of weekly payments to be redeemed does not exceed $30 (indexed);
- the worker has attained the age of 55 years and the Corporation has determined that he or she has no current work capacity;
- the Tribunal (constituted of a presidential member) has determined, on the basis of a joint application made to the Tribunal by the worker and the Corporation, that the continuation of weekly payments is contrary to the best interests of the worker from a psychological and social perspective.

23—Repeal of Part 4 Division 4B

Division 4B of Part 4, which authorises the Corporation assess the loss of future earning capacity of a worker who has been incapacitated by a compensable disability for more than 2 years, is repealed by this clause.

24—Substitution of section 43

This clause repeals section 43, which provides for lump sum compensation for a worker's non-economic loss, and substitutes a number of new provisions.

43—Lump sum compensation

New section 43 provides that a compensable disability resulting in permanent impairment as assessed in accordance with section 43A gives rise to an entitlement to compensation for non-economic loss by way of a lump sum. The lump sum will be an amount that represents a portion of the prescribed sum calculated in accordance with the regulations.

The prescribed sum is $400,00 (indexed). However, if a regulation is made prescribing a greater amount, the prescribed sum is that amount.

Regulations made for this purpose must provide for compensation that at least satisfies the requirements of Schedule 3 (inserted by clause 73) taking into account assessment of whole person impairment.

There is no entitlement under section 43 if the worker's impairment is less than 5 per cent or, in the case of a permanent psychiatric impairment, less than 10 per cent.

Any degree of impairment is to be assessed for the purposes of section 43 in accordance with section 43A.

Compensation will not be payable under section 43 in respect of a worker following his or her death.

43A—Assessment of impairment

Section 43A sets out a scheme for assessing the degree of permanent impairment. An assessment is to be made in accordance with the WorkCover guidelines (to be published by the Minister for the purposes of section 43)

and must be made by a legally qualified medical practitioner. The practitioner must also hold a current accreditation issued by the Corporation.

The guidelines are to be published in the Gazette. They may adopt or incorporate the provisions of other publications, whether with or without modification or addition and whether in force at a particular time or from time to time. Other requirements and options in relation to the guidelines are listed in section 43A(4). The Minister may amend or substitute the guidelines from time to time but must, before publishing or amending the guidelines, consult with the Australian Medical Association (South Australia) Incorporated and any other prescribed body.

The Corporation is to establish an accreditation team for the purposes of the requirement that assessments be made by medical practitioners holding current accreditations.

An assessment of the degree of impairment resulting from a disability must be made after the disability has stabilised and be based on the worker's current impairment as at the date of the assessment. Under section 43A(9), an assessment must take into account the following principles:

- if a worker presents for assessment in relation to disabilities which occurred on different dates, the impairments are to be assessed chronologically by date of disability;
- impairments from unrelated disabilities or causes are to be disregarded in making an assessment;
- assessments are to comply with any other requirements specified by the WorkCover Guidelines or prescribed by the regulations.

43B—No disadvantage—compensation table

This section applies specified circumstances where a worker is entitled to compensation equal to the amount applying under the table in Schedule 3A (inserted by clause 73) instead of the compensation payable under sections 43 and 43A. Those circumstances are as follows:

- the worker suffers a compensable disability that gives rise to compensation under section 43 or 43A;
- the compensable disability is a loss mentioned in the table;
- the amount of compensation payable under section 43 and section 43A in respect of the disability is less than the amount applying under the table in respect of that disability.

However, if a worker suffers 2 or more disabilities mentioned in the table in Schedule 3A arising from the same trauma, the worker is not entitled in any case to receive compensation under section 43B in excess of $254,100 (indexed).

25—Amendment of section 44—Compensation payable on death—weekly payments

Section 44 deals with compensation payable if a worker dies as a result of a work related injury. The section currently sets out the entitlement of certain dependants to a funeral benefit, weekly payments and a lump sum. The section as amended deals only with the entitlement of a spouse, domestic partner or dependent child to weekly payments. Other benefits are detailed in new sections 45A, 45B and 45C (inserted by clause 26).

26—Insertion of sections 45A, 45B and 45C

This clause inserts 3 new sections that detail the lump sum, funeral benefits and counselling services to which a dependent spouse, domestic partner or child is entitled on the death of a worker as a result of a work related injury.

45A—Compensation payable on death—lump sums

For the purposes of this section, a dependent child is a child mainly or partially dependent on the worker's earnings. A dependent partner is a spouse or domestic partner totally dependent on the worker's earnings, while a partially dependent partner is a spouse or domestic partner who is to any extent dependent on the worker's earnings. The prescribed sum is the prescribed sum under section 43.

Under section 45A(4), if a worker dies as a result of a compensable disability, compensation in the form of a lump sum is payable as follows:

- if the worker leaves a dependent partner, or dependent partners, and no dependent child, the amount of compensation is an amount equal to the prescribed sum payable to the dependent partner or, if there is more than 1, in equal shares to the dependent partners;
- if the worker leaves no dependent partner and no dependent children other than an orphan child or orphan children, the amount of compensation is an amount equal to the prescribed sum payable to that orphan child or, if there are 2 or more, in equal shares for those children;
- if the worker leaves a dependent partner, or dependent partners, and 1, and only 1, dependent child, the amount of compensation is—
    - an amount equal to 90 per cent of the prescribed sum payable to the dependent partner or, if more than 1, in equal shares to the dependent partners; and
    - an amount equal to 10 per cent of the prescribed sum payable to the dependent child;

- if the worker leaves a dependent partner, or dependent partners, and more than 1 and not more than 5 dependent children, the amount of compensation is an amount equal to the prescribed sum payable in the following shares:
    - an amount equal to 5 per cent of the prescribed sum payable to each dependent child;
    - the balance to the dependent partner or, if more than 1, in equal shares to the dependent partners;
- if the worker leaves a dependent partner, or dependent partners, and more than 5 dependent children, the amount of compensation is an amount equal to the prescribed sum payable in the following shares:
    - an amount equal to 75 per cent of the prescribed sum payable to the dependent partner or, if more than 1, in equal shares to the dependent partners;
    - an amount equal to 25 per cent of the prescribed sum payable to the dependent children in equal shares;
- if the worker does not leave a dependent partner but leaves a dependent child or dependent children (not taking into account an orphan child or orphan children), the dependent child is, or if more than 1, each of those dependent children are, entitled to the amount of compensation being such share of a sum not exceeding the prescribed sum that the Corporation considers is reasonable and appropriate to the loss to the dependent child or, if more than 1 dependent child, to those dependent children;
- if the worker leaves—
    - a partially dependent partner or partially dependent partners; and
    - a dependent partner or dependent partners or a dependent child or dependent children or any combination of such,

  each of those dependents is entitled to the amount of compensation being such share of a sum not exceeding the prescribed sum that the Corporation considers is reasonable and appropriate to the loss to that dependent;
- if the worker does not leave a dependent partner, dependent child or partially dependent partner but leaves another person who is to an extent dependent on the worker's earnings, the Corporation may, if it considers it to be justified in the circumstances, pay compensation of a sum not exceeding the prescribed sum that the Corporation considers is reasonable and appropriate to the loss to that person (and if the Corporation decides to make a payment of compensation to more than 1 person, the sums paid must not in total exceed the prescribed sum);
- if the worker is under the age of 21 years at the time of the compensable disability and leaves no dependent partner, dependent child or partially dependent partner but, immediately before the disability, was contributing to the maintenance of the home of the members of his or her family, the members of his or her family are taken to be dependents of the worker partly dependent on the worker's earnings.

If a person who is entitled to a payment under section 45A is under the age of 18 years, the payment may, at the determination of the Corporation, be made wholly or partly to a guardian or trustee for the benefit of the person.

The section also provides that compensation is payable, if the Corporation so decides, to a spouse or domestic partner or child of a deceased worker who, although not dependent on the worker at the time of the worker's death, suffers a change of circumstances that may, if the worker had survived, have resulted in the spouse or domestic partner or child becoming dependent on the worker.

45B—Funeral benefit

Where a worker dies because of a compensable disability, a funeral benefit is payable equal to the actual cost of the funeral or the prescribed amount, whichever is the lesser. The funeral benefit is to be paid to the person who conducted the funeral or to a person who has paid, or is liable to pay, the deceased's funeral expenses.

45C—Counselling services

Under this new section, a family member of a worker who has died as a result of a compensable disability is entitled to be compensated for the cost of approved counselling services to assist the family member to deal with issues associated with the death. Family member means a spouse, domestic partner, parent, sibling or child of the worker or of the worker's spouse or domestic partner.

27—Amendment of section 46—Incidence of liability

Section 46 as amended will provide that the Corporation is liable for the compensation that is payable under the Act on account of the occurrence of a compensable disability. Under the section, if a worker is wholly or partially incapacitated for work and is in employment when the incapacity arises, the worker's employer is liable to pay income maintenance for the first 2 weeks of incapacity. Under new subsection (8b), the Corporation will undertake that liability of an employer in respect of a particular disability if the Corporation is satisfied that the employer has complied with its responsibilities under section 52(5) within 2 business days after receipt of the worker's claim.

28—Amendment of section 50—Corporation as insurer of last resort

These amendments are necessary as a consequence of the change in terminology from 'exempt employer' to 'self-insured employer'.

29—Insertion of Part 4 Division 7A

The new Division inserted by this clause provides for the commencement of weekly payments on a provisional basis following the initial notification of a disability.

Division 7A—Special provisions for commencement of weekly payments after initial notification of disability

50A—Interpretation

This section provides definitions of terms used in Division 7A. An initial notification is the notification of a disability that is given to an employer (if the worker is in employment) and the Corporation, in the manner and form required by the Provisional Payment Guidelines, by the worker or by a person acting on behalf of the worker. The Provisional Payment Guidelines are guidelines published by the Minister from time to time in the Gazette for the purposes of the Division.

50B—Commencement of weekly payments following initial notification of disability

This section provides that provisional weekly payments of compensation by the employer or the Corporation are to commence within 7 days after initial notification of a disability by the worker. This requirement does not apply if the Corporation determines that there is a reasonable excuse (under the Provisional Payment Guidelines) for not commencing weekly payments.

50C—Status of payments

The payment of provisional weekly payments of compensation is on the basis of the provisional acceptance of liability for a period of up to 13 weeks determined by the Corporation having regard to the nature of the disability and the period of incapacity. The acceptance of liability on a provisional basis is not an admission of liability by the employer or the Corporation. A provisional payment will be taken to constitute the payment of weekly payments under Division 4.

The employer or the Corporation may decide to discontinue weekly payments under section 50C on a ground set out in the Provisional Payment Guidelines.

50D—Worker to be notified if weekly payments are not commenced

A worker is to be notified if weekly payments are not commenced because of a reasonable excuse under the Provisional Payment Guidelines. The notice is to include details of the excuse.

50E—Notice of commencement of weekly payments

Following the commencement of weekly payments under Division 7A, the employer or the Corporation must notify the worker that weekly payments have commenced on the basis of provisional acceptance of liability.

50F—Obligations of worker

The Corporation may require the worker to provide a medical certificate in addition to other information of a prescribed kind.

50G—Liability to make weekly payments not affected by making of claim

The making of a claim for compensation does not affect a liability to make weekly payments in connection with the acceptance of liability on a provisional basis.

50H—Set-offs and rights of recovery

An amount paid under Division 7A may be set off against a liability to make weekly payments of compensation under Division 4. Further, if an employer or the Corporation makes 1 or more payments under Division 7A and it is subsequently determined that the worker was not entitled to compensation, the employer or the Corporation may, subject to and in accordance with the regulations, recover the amount or amounts paid as a debt from the worker.

50I—Status of decisions

Certain decisions under Division 7A are not subject to review:

- a decision to make a provisional weekly payment of compensation;
- a decision not to make a provisional weekly payment of compensation after it is established that there is a reasonable excuse under the Provisional Payment Guidelines;
- a decision to discontinue weekly payments of compensation under section 50C or 50F;
- a decision to continue or not to continue weekly payments of compensation under section 50G;
- a decision to exercise or not to exercise a right of recovery under section 50H.

30—Amendment of section 51—Duty to give notice of disability

This amendment is necessary as a consequence of the change in terminology from 'exempt employer' to 'self-insured employer'.

31—Amendment of section 52—Claim for compensation

Some of the amendments made by this clause are necessary as a consequence of the change in terminology from 'exempt employer' to 'self-insured employer'. It is also proposed to refer in some provisions to designated forms instead of prescribed forms.

32—Amendment of section 53—Determination of claim

Section 53(7a) details circumstances that constitute an appropriate case for the Corporation to re-determine a claim. As a consequence of the amendment made to that subsection by this clause, the Corporation will be authorised to re-determine a claim where the redetermination is for the purposes of section 4(11) (inserted by clause 5) and is appropriate by reason of the stabilising of a compensable disability.

33—Amendment of section 54—Limitation of employer's liability

These amendments are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

34—Amendment of section 58A—Reports of return to work etc

This amendment is necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

35—Amendment of section 58B—Employer's duty to provide work or pay wages

Section 58B deals with the duty of the employer of a worker who has been incapacitated for work in consequence of a compensable disability to provide suitable employment for the worker. Proposed new subsection (3) provides that if a worker who has been incapacitated for work in consequence of a compensable disability undertakes alternative or modified duties under employment or an arrangement that falls outside the worker's contract of service for the employment from which the disability arose, the employer must pay an appropriate wage or salary in respect of those duties unless otherwise determined by the Corporation.

36—Amendment of section 60—Self insured employers

Most of the amendments made by this clause are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

This clause also amends section 60, which provides for the registration of an employer or group of employers as a self-insured employer or as a group of self-insured employers, by inserting a definition of 'related bodies corporate'. Some consequential amendments are also made. Related bodies corporate means—

- in the case of corporations—bodies corporate that are related bodies corporate under section 50 of the Corporations Act 2001 of the Commonwealth;
- in the case of any other kind of bodies corporate—bodies corporate that are associated entities under section 50AAA of the Corporations Act 2001 of the Commonwealth.

New subsection (4a) provides that the Corporation may, at any time, on the application of 2 or more self insured employers, amend the registration of each self-insured employer so as to form a group on the ground that they are now related bodies corporate.

Under subsection (4b) the Corporation may, at any time, on application by a group of self insured employers, amend the registration of the group in order to—

- add another body corporate to the group (on the ground that the body corporate is now a related body corporate); or
- remove a body corporate from the group (on the ground that the body corporate is no longer a related body corporate); or
- amalgamate the registration of 2 or more groups (on the ground that all the bodies corporate are now related bodies corporate); or
- divide the registration of a group into 2 or more new groups (on the ground that the bodies corporate have separated into 2 or more groups of related bodies corporate).

37—Amendment of section 61—The Crown and certain agencies to be self insured employers

38—Amendment of section 62—Applications

The amendments made by these clauses are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

39—Amendment of section 62A—Ministerial appeal on decisions relating to self insured employers

Section 62A provides a right of appeal to the Minister in respect of certain decisions of the Corporation relating to registration as a self-insured employer or group of self insured employers. As a consequence of these amendments, an employer or group of employers will be able to appeal to the Minister if the Corporation reduces the period of registration of the employer or group as a self insured employer or group of self insured employers.

Under new subsection (2a), if an employer or a group of employers appeals to the Minister against a decision of the Corporation to refuse to renew, or to cancel, the registration of the employer or employers as a self-insured employer or group of self insured employers, the Corporation may extend or renew the registration of the employer or employers for a period of up to 3 months (pending resolution of the appeal).

40—Substitution of heading to Part 5 Division 2

This amendment is necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

41—Amendment of section 63—Delegation to self insured employer

Section 63(1) lists the powers and discretions of the Corporation that are delegated to self-insured employers. This clause amends the subsection adding references to powers and discretions under a number of additional sections of the Act.

New subsection (5a) clarifies that if the Corporation would, but for a delegation under the section, be required to take any action or do any thing in relation to a worker of a self-insured employer. responsibility for taking the action or doing the thing rests with the employer. Further, any cost incurred in connection with taking the action or doing the thing is to be borne by the employer.

Other amendments to section 63 made by this clause are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

42—Amendment of section 64—The Compensation Fund

This clause amends section 64 by adding the following to the list of matters towards which the Compensation Fund may be applied:

- any costs incurred by the Minister or the Crown if a decision or process of the Minister under section 62A becomes the subject of judicial proceedings;
- the costs associated with the establishment and operation of Medical Panels (see note on clause 60);
- the costs recoverable from the Compensation Fund under Part 6C (Medical Panels);
- the costs recoverable from the Compensation Fund under Part 6D (WorkCover Ombudsman).

43—Amendment of section 66—Imposition of levies

Under section 66, an employer, other than a self-insured employer, is liable to pay a levy to the Corporation. The levy is a percentage of the aggregate remuneration paid to the employer's workers in each class of industry in which the employer employs workers. The percentage applicable to classes of industry is fixed by the Corporation by notice in the Gazette. It is currently provided that a percentage fixed in relation to a class of industry must not exceed 7.5 per cent (thought this operates subject to other provisions, particularly subsection (9)). This clause amends the section by increasing the maximum to 15 per cent.

Proposed new subsection (2a) provides that the levy will be payable at first instance on the basis of an estimate of aggregate remuneration for a particular financial year in accordance with Division 6. (A new Division 6 is inserted by clause 47.)

44—Amendment of section 67—Adjustment of levy in relation to individual employers

Section 67 provides for adjustment of the levy in relation to individual employers, having regard to various listed matters. This clause amends the section by adding the following to that list: the employer's practices and procedures in connection with the appointment and work of a rehabilitation and return to work co-ordinator under Part 3 (including with respect to compliance with any relevant guidelines published by the Corporation for the purposes of section 28D).

45—Substitution of heading to Part 5 Division 5

46—Amendment of section 68—Special levy for self insured employers

The amendments made by these clauses are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

47—Substitution of Part 5 Division 6

Part 5 Division 6, which relates to the payment of levies by employers, is deleted by this clause and a new Division, dealing with the same subject, is substituted.

Division 6—Payment of levies

69—Initial payment

This clause provides that an employer must provide to the Corporation an estimate of the aggregate remuneration the employer expects to pay to the employer's workers during a financial year. The estimate provided by an employer that is not a self-insured employer is to relate to workers in each class of industry. The return is to be accompanied by the levy payable on aggregate remuneration in the relevant class or classes of industry based on the estimate or estimates set out in the return.

The Corporation may, by notice to a particular employer or in the Gazette—

- specify another date that will apply instead of the prescribed date; or
- specify an estimate or estimates of aggregate remuneration that will apply instead of any other estimate; or
- specify that the levy must be paid according to some other requirement determined by the Corporation.

69A—Revised estimates of remuneration by employers

This section details circumstances in which an employer must provide the Corporation with a revised estimate or estimates. For example, an employer is obliged to advise the Corporation if it becomes aware that the actual remuneration paid or payable by the employer exceeds or is likely to exceed by more than the prescribed percentage the estimate, or latest estimate, of aggregate remuneration applying in relation to the employer under Division 6.

69B—Certificate of remuneration

The Corporation may require an employer to provide a certified statement of remuneration paid or payable by the employer in a designated form during a period specified by the Corporation to workers employed by the employer. The requirement is to be made by notice in writing to the employer.

69C—Revised estimates of remuneration by Corporation

This section authorises the Corporation to, in its absolute discretion, review an estimate of remuneration previously made under Division 6.

69D—Statement for reconciliation purposes

Section 69D requires an employer to provide the Corporation with a statement setting out the remuneration paid by the employer to workers employed by the employer during a period for which a levy was payable.

69E—Adjustment of levy

The Corporation may issue a notice of adjustment of a levy to an employer if it considers the levy should be adjusted for any 1 of a number of reasons specified in the section.

69F—Deferred payment of levy

Under this section, the Corporation may defer the payment of a levy by an employer in financial difficulties if satisfied that the employer has a reasonable prospect of overcoming those difficulties and the deferment would assist materially in overcoming the difficulties. A deferment may be conditional, and the Corporation may cancel a deferment by written notice to the employer.

69G—Exercise of adjustment powers

Under this section, the Corporation may exercise its powers under Division 6 regardless of whether or not—

- a levy has been fixed, demanded or paid; or
- a period to which a determination or adjustment may apply has been completed; or
- the Corporation has already reviewed or adjusted an estimate, liability or payment under the Division; or
- circumstances have arisen that would, but for this section, stop the Corporation from conducting a review, or making a determination or adjustment.

48—Amendment of section 70—Recovery on default

Section 70 provides the Corporation with a power of recovery in certain circumstances. Under the section as amended by this clause, if an employer fails or neglects to provide information when required by or under Part 5 of the Act, or the employer provides information that the Corporation has reasonable grounds to believe is defective, the Corporation may make its own estimates, determinations or assessments. The Corporation may also impose a fine on the employer. A fine so imposed may be remitted by the Corporation in part or in full.

49—Amendment of section 72—Review

Under section 72, an employer may require the board of management of the WorkCover Corporation to review certain decisions. As a consequence of this amendment, if an employer considers that a decision of the Corporation as to the estimate of remuneration that is to be used for the calculation of a levy is unreasonable, the board must review the decision. On a review, the board may alter the estimate.

50—Amendment of section 78—Constitution of Tribunal

Section 78 provides that the Workers Compensation Tribunal may be comprised of a Full Bench, a single presidential member or a single conciliation and arbitration officer. This amendment to section 78 removes the reference to the Full Bench.

51—Repeal of section 78A

This clause repeals section 78A, which is no longer required as it relates to the constitution, and decisions of, the Full Bench.

52—Substitution of Part 6 Division 10

Division 10 of Part 6 of the Act deals with appeals and references of questions of law. The Division currently provides that an appeal lies on a question of law against a decision of the Tribunal constituted of a single presidential member to a Full Bench of the Tribunal. The Full Bench may refer a question of law for the opinion of the Full Court of the Supreme Court. This clause deletes Division 10 and substitutes a new Division under which different arrangements apply in respect of appeals and questions of law.

Division 10—Appeals and references of questions of law

86—Appeals from decisions of arbitration officers

Under new section 86, an appeal lies on a question of fact or law against a decision of an arbitration officer to a single presidential member of the Tribunal.

86A—Appeals on question of law to Supreme Court

An appeal lies on a question of law against a decision of a presidential member to a single Judge of the Supreme Court in the case of a question decided as a part of interlocutory proceedings and to the Full Court of the Supreme Court in any other case. An appeal cannot be commenced without the permission of a Supreme Court Judge .

86B—Reference of question of law to presidential member

An arbitration officer may refer a question of law for the opinion of a presidential member of the Tribunal. On such a reference, the presidential member may—

- decide the question of law referred to the presidential member; or
- refer the matter back to the arbitration officer with directions the presidential member considers appropriate; or
- refer the question of law to the Full Court of the Supreme Court under section 86C; or
- make consequential or related orders (including orders for costs).

86C—Reference of question of law to Supreme Court

A presidential member may, under this section, refer a question of law for the opinion of the Full Court of the Supreme Court. The Full Court may—

- decide the question of law; or
- refer the matter back to the presidential member with directions considered appropriate; or
- make consequential or related orders (including orders for costs).

53—Amendment of section 89—Interpretation

This amendment is necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

54—Insertion of section 91B

Section 91B, which is a new section inserted by this clause, applies to a dispute relating to a decision to vary, discontinue or suspend weekly payments of compensation. The section authorises the Tribunal to direct the Corporation or self insured employer who is a party to such a dispute to pay, or to continue to pay, weekly payments of a specified amount for a specified period or periods (each of which may not exceed 13 weeks). The Tribunal may also direct payment of weekly payments with respect to a period that is before the direction is given, but that period must not exceed 13 weeks.

The Tribunal should not make such a direction if it is satisfied that there is (and continues to be) a genuine and substantive dispute about the worker's entitlement to weekly payments of compensation.

A decision of a conciliator or arbitrator under the section is subject to review by a presidential member of the Tribunal. If a dispute is subsequently resolved in favour of the Corporation or a self-insured employer, the Corporation or employer may recover amounts paid under the section as a debt or set off the amounts against liabilities of the Corporation or employer in respect of the person to whom the amounts were paid.

55—Substitution of section 92D

Section 92D currently provides for the reference of a dispute that is not settled in conciliation proceedings into the Tribunal for either arbitration or judicial determination. This clause substitutes a new section. Under new section 92D, if conciliation proceedings do not result in an agreed settlement of a dispute, the dispute is to be referred by the conciliator into the Tribunal for arbitration.

56—Amendment of section 93A—Conduct of proceedings

Under section 93A as amended by this clause, an arbitration is to be conducted as a full determination of the matters in dispute.

57—Repeal of Part 6A Division 6

Division 6 of Part 6A, relating to judicial determination of disputes, is repealed by this clause because disputes are no longer to be referred for judicial determination.

58—Amendment of section 95—Costs

Under section 95 as amended by this clause, a party to a dispute (other than a compensating authority) is entitled to an award against the compensating authority for the party's reasonable costs of the initial reconsideration of the disputed decision and any subsequent proceedings for resolution of the dispute under Part 6A. This principle operates subject to Part 6 and limits prescribed by regulation.

59—Insertion of section 95A

This clause inserts a new section authorising the Tribunal to make certain orders if a party's professional representative has caused costs to be incurred improperly or without reasonable cause or has caused costs to be wasted by undue delay or negligence or by any other misconduct or default.

The orders that the Tribunal may make are as follows:

- that all or any of the costs between the professional representative and his or her client be disallowed or that the professional representative repay to his or her client the whole or part of any money paid on account of costs;
- that the professional representative pay to his or her client all or any of the costs which his or her client has been ordered to pay to a party;
- that the professional representative pay all or any of the costs of a party other than his or her client.

A professional representative is in default if any proceedings cannot conveniently be heard or proceed, or fail or are adjourned without any useful progress being made, because the professional representative failed to—

- attend in person or by a proper representative; or
- file a document which ought to have been filed; or
- lodge or deliver a document for the use of the Tribunal which ought to have been lodged or delivered; or
- be prepared with any proper evidence or account; or
- otherwise proceed.

A professional representative must be given an opportunity to make representations and call evidence before an order is made against him or her under the section.

60—Insertion of Parts 6C and 6D

The clause inserts 2 new Parts. The first deals with the establishment of Medical Panels while the second establishes the office of WorkCover Ombudsman.

Part 6C—Medical Panels

Division 1—Establishment and constitution

98—Establishment

This section provides that there will be such Medical Panels as are necessary for the purposes of the Act and sets out procedures for the appointment of persons to, and removal of persons from, Medical Panels.

98A—Constitution

This section provides that a Medical Panel is to consist of the number of members as is determined by the Convenor of Medical Panels in each particular case. The number of members is not to exceed 5.

98B—Procedures

Medical Panels are not bound by the rules of evidence and may act informally and without regard to technicalities or legal forms.

98C—Validity of acts

An act or proceeding of a Medical Panel is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

98D—Immunity of members

No personal liability will attach to a member of a Medical Panel for an act or omission by the member or the Medical Panel in good faith and in the exercise or purported exercise of powers or functions under the Act.

Division 2—Functions and powers

98E—Interpretation

This clause provides that the following are medical questions:

- a question whether a worker has a disability and, if so, the nature or extent of that disability;
- a question whether a worker's disability—
  - in the case of a disability that is not a secondary disability or a disease—arose out of or in the course of employment; or
  - in the case of a disability that is a secondary disability or a disease—arose out of employment or arose in the course of employment and the employment contributed to the disability;
- a question whether a worker's employment was a substantial cause of a worker's disability consisting of an illness or disorder of the mind;

- a question whether a worker has suffered a disability of a kind referred to in the first column of Schedule 2 (which relates to disabilities presumed to have arisen from employment);
- a question whether a medical expense has been reasonably incurred by a worker in consequence of having suffered a compensable disability;
- a question whether a charge for a medical service should be disallowed under section 32(5);
- a question whether a disability results in incapacity for work;
- a question as to the extent or permanency of a worker's incapacity for work and the question whether a worker has no current work capacity or a current work capacity;
- a question as to what employment would or would not constitute suitable employment for a worker;
- a question as to whether a worker who has no current work capacity is likely to continue indefinitely to have no current work capacity;
- a question whether a worker who has a current work capacity is, and is likely to continue indefinitely to be, incapable of undertaking further or additional employment or work and, if not so incapable, what further or additional employment or work the worker is capable of undertaking;
- a question as to when a disability, other than noise induced hearing loss, that developed gradually first caused an incapacity for work;
- a question as to when and in what employment a worker with noise induced hearing loss was last exposed to noise capable of causing noise induced hearing loss;
- a question as to when a worker has ceased to be incapacitated for work by a compensable disability;
- a question as to what constitutes proper medical treatment for the purposes of section 36(1a)(c);
- a question as to whether a disability is permanent and, if so, the level of impairment of a worker for the purposes of sections 43 and 43A;
- a question as to whether a provision of a rehabilitation and return to work plan imposes an unreasonable obligation on a worker;
- a question as to any other prescribed matter.

98F—Functions

A Medical Panel's function is to give an opinion on a referred medical question.

98G—Powers and procedures on a referral

This section sets out the powers and procedures of a Medical Panel. A Medical Panel may ask a worker—

- to meet with the Medical Panel and answer questions;
- to supply to the Medical Panel copies of all documents in the possession of the worker relating to the medical question;
- to submit to a medical examination by the Medical Panel or by a member of the Medical Panel.

A person or body referring a medical question to a Medical Panel is required to submit a document to the Medical Panel specifying—

- the disability or alleged disability to, or in respect of, which the medical question relates;
- the facts or questions of fact relevant to the medical question which the person or body is satisfied have been agreed and those facts or questions that are in dispute.

The person or body must also submit copies of all documents relating to the medical question in the possession of the person or body.

Under subsection (7), information given to a Medical Panel cannot be used in subsequent proceedings unless the proceedings are before the Tribunal or a court under the Act, or the worker consents to the use, or the proceedings are for an offence against the Act.

98H—Opinions

Medical Panels are required under this section to form an opinion on referred medical questions within 60 days following the referral or a longer period agreed by the Corporation or the Tribunal. The Medical Panel must give a certificate as to its opinion.

Division 3—Related matters

98I—Admissibility

A Medical Panel's certificate is admissible in any proceedings under the Act, and a member of a Medical Panel may give evidence as to matters in a certificate given by a panel of which he or she was a member. The member cannot be compelled to give such evidence.

98J—Support staff

The Minister is required under this section to ensure that there are such administrative and ancillary staff as are necessary for the proper functioning of Medical Panels.

Part 6D—WorkCover Ombudsman

Division 1—Appointment and conditions of office

99—Appointment

Section 99 provides that there is to be a WorkCover Ombudsman who is to be appointed by the Governor. The person appointed to the role may hold another office or position if the Governor is satisfied that there is no conflict between the functions and duties of the WorkCover Ombudsman and the functions and duties of the other office or position.

99A—Term of office and conditions of appointment

Section 99A sets out the term of office, which is not to exceed 7 years, and the conditions of the appointment of the WorkCover Ombudsman. A person cannot hold office as WorkCover Ombudsman for more than 2 consecutive terms.

99B—Remuneration

The WorkCover Ombudsman's remuneration, allowances and expenses are to be determined by the Governor.

99C—Temporary appointments

This section authorises the Minister to appoint a person to act as WorkCover Ombudsman—

- during a vacancy in the office of WorkCover Ombudsman; or
- when the WorkCover Ombudsman is absent from, or unable to discharge, official duties; or
- if the WorkCover Ombudsman is suspended from office.

Division 2—Functions and powers

99D—Functions

The functions of the WorkCover Ombudsman are as follows:

- to identify and review issues arising out of the operation or administration of the Act, and to make recommendations for improving the operation or administration of the Act, especially so as to improve processes that affect workers who have suffered a compensable disability or employers;
- to receive and investigate complaints about administrative acts under the Act, and to seek to resolve those complaints expeditiously, including by making recommendations to relevant parties;
- to encourage and assist the Corporation and employers to establish their own complaint-handling processes and procedures with a view to improving the effectiveness of the Act;
- to initiate or support other activities or projects relating to the workers rehabilitation and compensation scheme established by the Act;
- to provide other assistance or advice to support the fair and effective operation or administration of the Act.

He or she may act on his or her own initiative, at the request of the Minister or on the receipt of a complaint from an interested person. However, under subsection (3), the WorkCover Ombudsman may not investigate certain acts.

The WorkCover Ombudsman may attempt to deal with a complaint by conciliation.

99E—Powers—general

The WorkCover Ombudsman has the powers necessary or expedient for, or incidental to, the performance of his or her functions.

99F—Obtaining information

Under this section, if the WorkCover Ombudsman has reason to believe that a person is capable of providing information or producing a document relevant to a matter under his or her consideration, he or she may, by notice in writing, require the person to do 1 or more of the following:

- to provide the information to the WorkCover Ombudsman in writing signed by the person or, in the case of a body corporate, by an officer of the body corporate;
- to produce the document to the WorkCover Ombudsman;
- to attend before a person specified in the notice and answer questions or produce documents relevant to the matter.

The maximum penalty for failing to comply with such a requirement is a fine of $5,000.

99G—Power to examine witnesses etc

The WorkCover Ombudsman, or a person who is to receive information under section 99F, may administer an oath or affirmation to a person required to attend before him or her and may examine the person on oath or affirmation. The WorkCover Ombudsman may require a person to verify by statutory declaration—

- any information or document produced; or
- A statement that the person has no relevant information or documents or no further relevant information or documents.

The maximum penalty for failing to comply with such a requirement is a fine of $5,000.

Division 3—Other matters

99H—Independence

The WorkCover Ombudsman is to act independently, impartially and in the public interest. The Minister cannot control how the WorkCover Ombudsman is to exercise his or her statutory functions and powers.

99I—Staff

The WorkCover Ombudsman's staff is to consist of—

- Public Service employees assigned to work in the office of the WorkCover Ombudsman; and
- persons appointed by the WorkCover Ombudsman, with the consent of the Minister, for the purposes of the Act.

99J—Funding

The cost associated with the office of the WorkCover Ombudsman (including in the performance by the WorkCover Ombudsman of functions) and the WorkCover Ombudsman's staff are to be recoverable from the Compensation Fund under a scheme established or approved by the Treasurer after consultation with the Corporation.

99K—Delegation

This section sets out the WorkCover Ombudsman's power to delegate a function or power to a particular person or body or to the person for the time being occupying or holding a particular office or position.

99L—Annual report

The WorkCover Ombudsman must, on or before 30 September in each year, forward a report to the Minister on the work of the WorkCover Ombudsman during the financial year ending on the preceding 30 June. The Minister must have copies of the report laid before both Houses of Parliament.

99M—Other reports

The WorkCover Ombudsman may, at any time, prepare a report to the Minister on any matter arising out of the exercise of the WorkCover Ombudsman's functions. The Minister must have copies of the report laid before both Houses of Parliament.

99N—Immunity

The WorkCover Ombudsman is to incur no civil liability for an honest act or omission in the performance or exercise, or purported performance or exercise, of a function or power under the Act. This immunity does not extend to culpable negligence.

61—Amendment of section 103A—Special provision for prescribed classes of volunteers

This amendment is necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

62—Amendment of section 105—Insurance of registered employers against other liabilities

This clause amends section 105(2) by adding a reference to a rehabilitation and return to work plan. The subsection currently refers only to a rehabilitation programme.

63—Amendment of section 106—Payment of interim benefits

Under section 106, the Corporation may make interim payments of compensation pending the final determination of a claim. New subsection (3), inserted by this clause, makes it clear that the section does not derogate from Division 7A of Part 4 (Special provisions for commencement of weekly payments after initial notification of disability), which is inserted by clause 29.

64—Amendment of section 107B—Worker's right of access to claims file

Section 107B provides that the Corporation or a delegate of the Corporation must, at the request of a worker, provide the worker with certain material or make certain material available for inspection. The maximum penalty for an offence against the provision is currently a fine of $2,000. This clause increases the maximum fine to $5,000.

65—Amendment of section 111—Inspection of place of employment by rehabilitation adviser

The maximum penalty for hindering an inspection by a rehabilitation adviser of a disabled worker's place of employment is currently a fine of $3,000. This clause amends the provision by increasing the maximum to $5,000.

66—Amendment to section 112—Confidentiality to be maintained

The maximum penalty for disclosing confidential information contrary to section 112(1) is currently a fine of $3,000. This clause amends subsection (1) by increasing the maximum fine to $5,000.

A new subsection authorises the Corporation to enter into arrangements with corresponding workers compensation authorities about sharing information obtained in the course of carrying out functions related to the administration, operation or enforcement of the Act or a corresponding law. A disclosure made in accordance with such an arrangement will be permitted, as will a disclosure authorised or required under any other Act or law.

A corresponding workers compensation authority is any person or authority in a State or a Territory other than South Australia with power to determine or manage claims for compensation for disabilities arising from employment.

67—Insertion of section 112AA

The new section inserted by this clause prohibits an employer who is registered under the Act, and an employee of such an employer, from disclosing the physical or mental condition of a worker unless the disclosure is—

- reasonably required for, or in connection with, the carrying out of the proper conduct of the business of the employer; or
- required in connection with the operation of the Act; or
- made with the consent of the person to whom the information relates, or who furnished the information; or
- required by a court or tribunal constituted by law, or before a review authority; or
- authorised or required under another Act or law; or
- made—
  - (i) to the Corporation; or
  - (ii) to the worker's employer; or
- made under the authorisation of the Minister; or
- authorised by regulation.

68—Amendment of section 113—Disabilities that develop gradually

These amendment are necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

69—Amendment of section 119—Contract to avoid Act

Section 119(2) provides that a purported waiver of a right conferred by or under the Act is void and of no effect. Under subsection (3), a person who enters into an agreement or arrangement with intent either directly or indirectly to defeat, evade or prevent the operation of the Act, or who attempts to induce a person to waive a right or benefit conferred by or under the Act, is guilty of an offence.

Under proposed new subsection (4), subsections (2) and (3) will not apply to action taken by an employer with the consent of the Corporation or to an agreement or arrangement entered into by an employer with, or with the consent of, the Corporation.

70—Amendment of section 120—Dishonesty

This amendment is necessary because of the change in terminology from 'exempt employer' to 'self-insured employer'.

71—Insertion of section 123B

Under new subsection 123B, the Governor may prescribe a code to be known as the Code of Claimants' Rights. The purpose of the Code is to meet the reasonable expectations of claimants for compensation under the Act about how they should be dealt with by the Corporation or a self-insured employer. The Code is to do the following:

- set out principles that should be observed by the Corporation and self-insured employers;
- provide for the procedure for lodging and dealing with complaints about breaches of the Code;
- provide—
  - for the consequences of, and remedies for, a breach of the Code by the Corporation or a self-insured employer; and
  - how and to what extent the Corporation or a self-insured employer must address situations where its conduct is not consistent with or does not uphold the rights of claimants under the Code.

72—Amendment of Schedule 1

This clause amends Schedule 1 by the insertion of a new clause that provides for the making by regulation of provisions of a saving or transitional nature consequent on the amendment of the Act by another Act. Although a

provision of a regulation made under this clause may take effect from the commencement of the amendment or from a later day, a provision that takes effect from a day earlier than the day of the regulation's publication in the Gazette does not operate to the disadvantage of a worker by decreasing his or her rights.

73—Substitution of Schedule 3

This clause inserts 2 new Schedules. Schedule 3 is inserted for the purposes of section 43(3). Schedule 3A is inserted for the purposes of section 43B.

Schedule 1—Transitional provisions

The Schedule includes a number of necessary transitional provisions.

Debate adjourned on motion of Dr McFetridge.

INDUSTRIAL RELATIONS COMMISSION

The Hon. M.J. WRIGHT (Lee—Minister for Industrial Relations, Minister for Finance, Minister for Government Enterprises, Minister for Recreation, Sport and Racing) (16:14): I move:

That pursuant to section 34 of the Fair Work Act 1994, the nominee of this house to the panel to consult with the Minister for Industrial Relations regarding the appointment of a Commissioner to the Industrial Relations Commission of South Australia be the member for Morphett.

This motion relates to the appointment of an additional commissioner to the Industrial Relations Commission. A panel to undertake the task is formed under section 34 of the Fair Work Act. The panel will consist of a representative of the House of Assembly, who will be the member for Morphett, and a representative of the Legislative Council, and it is proposed that Mr Bernard Finnigan be that representative. Other panel members are SA Unions, Business SA and the Commissioner for Public Employment. I have written to all three but I do not think I have yet received their nominations.

I will consult with the panel regarding the appointments, and it is proposed that a short list be formed. When that panel (which I will chair) meets we will discuss the appointment of a new commissioner.

Motion carried.

STATUTES AMENDMENT (PUBLIC ORDER OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 21 November 2007. Page 1805.)

Mrs REDMOND (Heysen) (16:16): It is my pleasure to indicate that I am the lead speaker—indeed, probably the only speaker—for the opposition in relation to this bill which, of course, goes hand in glove with the so-called bikie control order bill that we dealt with earlier this week. Happily for the house, this bill is considerably simpler and a lot more straightforward than the earlier bill, and I therefore do not expect the house will be delayed very long, notwithstanding that I am not on any sort of time limit.

The Hon. M.J. Atkinson: Unless I misbehave.

Mrs REDMOND: Unless, of course, the Attorney misbehaves. Even I would struggle to speak for five hours on this bill, given that it is three pages long, or some such amazing amount of pages.

The Hon. M.J. Atkinson: Number of pages.

Mrs REDMOND: Number of pages. It is not 'amount'; the Attorney is absolutely correct. The bill introduces two new offences into the Criminal Law Consolidation Act and one new offence into the Summary Offences Act. I think that, on any reading of them, members of the public would agree that it is appropriate to insert the sort of offences that are being put into those acts by this bill. Whilst they appear quite straightforward, they do have some interesting little turns in them, and I do want to go through the offences in a little detail in the second reading just to be certain that we are all on the same path.

The offences, although aimed specifically at being a mechanism by which we can target outlaw motorcycle gangs, will not just be addressing outlaw motorcycle gangs and, indeed, anyone who is involved in these activities, which will now be known as 'riot', 'affray' and 'violent disorder', stands to be prosecuted for the offences.

In going through the first one, which is the most serious one (that is the offence of riot), I looked through it fairly carefully to establish just what the elements of the offence will be. They are set out in a quite straightforward way in the bill, but they do have some interesting subclauses that make the interpretation quite interesting.

In relation to the elements of the offence of riot (and it will be quite a serious offence), a basic offence has a maximum penalty of imprisonment for seven years; for an aggravated offence, the maximum penalty is imprisonment for 10 years. So, it is quite a serious offence. It requires that there be 12 or more persons together who use or threaten unlawful violence—and 'violence' is defined differently for 'riot' to the definition that is used in 'affray'—

The Hon. M.J. Atkinson: Different from.

Mrs REDMOND: Different from. Again, the Attorney is absolutely correct, because 'different to' makes no more sense than 'similar from'. It is indeed 'different from'. Violence for the purpose of 'riot' is what I would describe as the broader definition. There is a definition put at the top of the bill, which is applicable to both 'riot' and 'affray', except that in the case of 'affray' there is a restriction on it.

So, for this particular offence of riot 'violence' means 'any violent conduct towards property as well as violent conduct towards persons; and it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct'. So, it is a quite broad definition. I am always doubtful about definitions that use within the definition the term we are seeking to define but, notwithstanding that, I think violence is a concept so generally understood that it would be hard to avoid that. I also note the following provision in subsection (6) under the riot provision:

A person is guilty of riot only if the person intends to use violence or is aware that his or her conduct may be violent.

I want to explore that a little when we go into committee. I note that there is an amendment on the table, so we will be going into committee on this measure. So, we have those elements that there have to be 12 or more persons together; they use or threaten violence, which is broadly defined; and it then has to be for a common purpose. However, another subclause further down allows us to understand that the common purpose can be inferred from conduct, and I think that may overcome one of the potential difficulties in prosecution.

Once you have those elements together (that is, 12 or more persons together; use or threaten unlawful violence; for a common purpose), if their conduct taken together is such as would cause a person of reasonable firmness (that is, not someone who is particularly flighty—

The Hon. M.J. Atkinson: Timorous.

Mrs REDMOND: —timorous or an eggshell, skull type of person) present at the scene to fear for his or her personal safety, the offence occurs. One of the tricks about this legislation is that, although it requires the contemplation of a person present at the scene, the offence does not actually require any such person to be present at the scene, which is a little tautological on first examination. However, I think the intention is that, if a person of reasonable firmness were present at the scene, the behaviour is such that it would cause that person to fear for his or her personal safety and, regardless of whether that person is at the scene, the offence occurs, and it can occur in a public place as well as a private place. So, they are the elements of 'riot'.

'Affray', which is to be incorporated into the Criminal Law Consolidation Act as section 83C, has a similar-sounding definition and very similar elements in some ways, except that 'affray' only necessarily involves a person (so, there does not have to be a group of persons) who uses or threatens unlawful violence towards another. In this case, the definition of 'violence' is the narrower definition, so that in this case it does not include 'violent conduct towards property as well as violent conduct towards persons'. So, I take it that it is restricted to 'violent conduct towards persons' but it is not just restricted to 'conduct causing or intended to cause injury or damage but includes any other violent conduct'.

So, you have at least one person involved—it could be more than one person; it could be two or more—anything, presumably, up to the number of 12, after which it would probably fall into the area of 'riot' under the earlier definition. There does not have to be a common purpose as there is in 'riot', because it might be just one person. If there is more than one person, their conduct taken together is what one looks at. They are using or threatening violence but their threat cannot be by words alone, according to a later subsection. They use or threaten unlawful violence towards another, but again there is a provision that provides that, whilst the person who is, again, of

reasonable firmness present at the scene has cause to fear for his or her personal safety, there is no requirement that there actually be such a person, or be likely to be such a person, present at the scene.

The differences, I guess, between this and the earlier offence of riot are, first, that there are fewer people required, that there can be use or threaten, but not by just a verbal threat—not just words alone—and that there is the narrower definition of unlawful violence towards another, but those other elements of the conduct 'is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety', remain the same as in the offence of riot.

The offence carries a lesser penalty of a basic offence of a maximum three years' imprisonment, and an aggravated offence carries a maximum of five years' imprisonment. As with the offence of riot, the offence may be committed in a private or a public place. They are the two offences that are put into the Criminal Law Consolidation Act. Lastly, we have the Summary Offences Act, in which a new offence of violent disorder is inserted. Interestingly, it appears in that act just after assaulting and hindering police provisions in section 6.

This offence requires three or more persons present together to use or threaten, but not necessarily simultaneously, unlawful violence, and it uses the same definition as the broad definition used in riot. Again, once those elements are present, if the conduct of those three or more persons is taken together, the conduct 'is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety'. This offence carries a maximum of two years or $100,000, and, again, it can occur in either a public or a private place. There is also the provision that, if the court is going to impose a penalty of more than two years, the matter of sentencing has to refer to the District Court for the sentence to be imposed.

They are the offences covered by the legislation. I do not intend to keep the house unnecessarily, because I think it was fairly comprehensively covered in the Attorney's second reading explanation. I do have a number of questions in terms of the mechanics of how all this will work. It seems to be relatively straightforward in its intention, and something that I think the ordinary members of the public would be quite happy to see introduced—that where people are gathering and behaving in a manner which is threatening, there will be an ability for the police to charge a particular offence, particularly where groups have gathered. It seems that there is much to be gained from giving our police powers to address that sort of behaviour.

With those few words, I conclude my remarks. I will raise the other matters in committee, which hopefully will not keep us for a long either, since the bill, as I said, is only five pages long; so we should not be delayed unduly in its consideration.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

Mrs REDMOND: Why has exception been placed in the definition of violence that appears in paragraph (a), which provides the following:

> violence means any violent conduct so that—
>
> (a) it includes violent conduct towards property as well as violent conduct towards persons;

That is not the case in section 83C, the affray offence. I am curious as to the reasoning. Why would we not, in the case of an affray offence, include violent conduct towards property as well as towards persons?

The Hon. M.J. ATKINSON: Both a riot or violent disorder include violence towards property. A riot at common law included violence against property, but affray was always a fight between two people that did not involve property.

Mrs REDMOND: I accept that that is the history of it. I just wonder whether there is the potential for a problem to arise in the sense that, if you have less than 12 people, say you have 10 people—

The Hon. M.J. Atkinson: Fewer.

Mrs REDMOND: Fewer than 12 people. If you had 10 people behaving in the same threatening way as would otherwise fit within the offence of riot, it seems to me that, if their threats

were directed towards property and they were throwing chairs around and so on but they were not actually aiming at any person, then you are restricting it to either riot, where you need 12 people, or the summary offences provision for violent disorder. I just wonder why there would not be sense in putting the property offence aspect into the affray provision as well.

The Hon. M.J. ATKINSON: Violent disorder is the alternative offence to riot. This legislation is based on New South Wales legislation which is based on the United Kingdom legislation which is based on common law and I suppose that it probably goes back to the Riot Act of 1714 when the government—

Mrs Redmond: Wasn't it 1713?

The Hon. M.J. ATKINSON: I am open to suggestions from members but I think it was 1714. Upon the death of Queen Anne there was a fear that the Tories and the Jacobites would return—with God's blessing, of course—and there was an attempt to ensure that Britain remained Protestant by passing the Riot Act of that year. I would like to add that there is always the offence of criminal damage. We do not want to load up the charge sheet too much.

Mrs REDMOND: Regarding this definition of riot, I just wonder where the number of 12 came from in terms of assessing how many need to be involved. I understand that you have to put a figure on it at some point, but is there any magic or is it simply based on the number that was used in the New South Wales legislation?

More importantly, when it says 'the conduct of them (taken together)', although there is a provision in subsection (2) that the people do not have to use or threaten unlawful violence simultaneously, is it the case that there could be problems with people remaining present at the same time, for instance, if you only have 10 people at any given time and so on? I am curious about how, in practice, this will work for the police in making sure that they keep all their offenders nicely corralled to say, 'Well, there were definitely 12 people there for this event. Even if they weren't all acting simultaneously, we can identify that these 12 people were there at that particular time.'

The Hon. M.J. ATKINSON: I am advised that the Riot Act was 1714.

The CHAIR: I am advised that the Riot Act was 1713.

The Hon. M.J. ATKINSON: It might have been passed by parliament in one year and given the royal assent in another. The Riot Act required 12 people present to read the Riot Act: that was a mob. However, the whole 12 did not need to be rioting; three would do. I am advised that there was a Law Commission of the UK inquiry, and it seemed to them that, for such a serious offence, 'Two's company, three's a crowd.' That seemed a very small number so they put it back up to 12 and returned to 1714.

Mrs REDMOND: Is there not then a risk that we could have a very serious situation but, because there are only 11 people involved—assuming that only 11 were involved and there was never a 12th person—the problem that I see is that it could be just as serious an offence, but what it appears to do is create a circumstance where as the Attorney says the only alternative charge is violent disorder but the penalty is so much lower for the maximum offence.

If you have 11 people behaving in exactly the same way, being just as threatening, the maximum penalty is $10,000 or imprisonment for two years, but if there happens to be 12 of them then it jumps up dramatically. I am concerned about whether that is altogether sensible.

The Hon. M.J. ATKINSON: We had to draw the line somewhere. We have tried to maintain consistency with other English speaking jurisdictions.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Indeed. So, the alternative verdict of violent disorder still carries a penalty of two years in prison.

Mrs REDMOND: I have one other question on this riot provision and that is in relation to subsection (6), which is the matter of the intention:

> A person is guilty of riot only if the person intends to use violence or is aware that his or her conduct may be violent.

Then subsection (7) goes on to say that that provision does not affect the determination for the persons being present at the same time, so even if only three of them are actually behaving badly. I understand that, but I am a little concerned about whether the intention of subsection (6) is that the

innocent, non-active member of the group of nine is not to be found guilty of riot, even if they were there present and charged with the offence.

The Hon. M.J. ATKINSON: The answer is yes, they are necessary for it to be a riot, but they will not be charged with riot. I move:

Page 3, line 21—Delete 'or threatening'

The amendment corrects an error in proposed section 83B (1) of the new offence of riot. The offence of riot is committed where 12 or more people who are present together use or threaten violence for a common purpose and the conduct of them, taken together, is such as would cause a person of reasonable firmness at the scene to fear for his or her personal safety. The offence is committed only by those persons using violence, although other persons threatening violence may be counted towards the 12 persons who must be present.

A person who merely threatens violence in the circumstances described would be guilty of the new offence of violent disorder in part 3 of the bill. Under proposed subsection (8) of the offence of riot, a person charged with that offence may, in the alternative, be found guilty of violent disorder. Inadvertently, the words 'or threatening' were inserted in line 5 of proposed subsection 83B(1), implying that a person who merely threatens violence is guilty of riot. This was not intended. The amendment removes those words bringing the offence into line with the New South Wales and British offences on which it is based.

Mrs REDMOND: I thank the Attorney for that excellent explanation because, until he said that, I could not understand why the words 'or threatening' were being deleted, but I now see that, in the light of the Attorney's answer to my previous question about people not being found guilty and his explanation just given, the proposed amendment makes sense and I will support it.

I have two further questions, the first of which relates to subsection (1) of the provisions regarding affray. The words used are, 'A person who uses or threatens unlawful violence towards another.' That expression 'towards another', does not appear under either the riot or violent disorder offence. So, that made me think when I read it that, in fact, it was necessary to have a person present. But, indeed, further down in subsection (4), as in the subsections dealing with the other offences, there is a provision which states:

No person of reasonable firmness need actually be or be likely to be present at the scene.

It looks to me on the surface as though this is inconsistent with the requirement that there be a threat of unlawful violence towards another. How can there be if no such person is actually present at the scene?

The Hon. M.J. ATKINSON: The third person is notional.

The CHAIR: A notional third person?

Mrs REDMOND: I know that the Attorney enjoys being somewhat cryptic, but I am at a loss to understand which of the people he is referring to as 'the third person' and in what sense the person is 'notional'. I would appreciate a more comprehensive explanation of the difficulty I see with that interpretation.

The Hon. M.J. ATKINSON: The old test used to be 'striking terror into the public', now it is—

Mrs Redmond: Into another person.

The CHAIR: Into a notional person.

The Hon. M.J. ATKINSON: I am sorry, 'into another person'. The definition says that it would cause a person of reasonable firmness to fear for his or her safety, but no such person may be present. They are notional in that sense.

Mrs REDMOND: I think what you are saying is that there must be a person against whom the threats, or whatever, are directed for the offence to occur but that that person could be someone who does not fit the definition of a person of reasonable firmness. Is that the explanation?

The Hon. M.J. ATKINSON: Yes.

Mrs REDMOND: I have one other question on a practical point. Under subsection (7), which is the part that I referred to in my second reading, if there is going to be an imprisonment exceeding two years, the court has to commit the person to the District Court for sentencing. I just wonder how that works in practice, because it presupposes that the magistrate has to determine

the appropriate sentence, at least in his own mind, in order to decide to refer it. I want to clarify what that means in terms of how it works in practice.

The Hon. M.J. ATKINSON: I think this happens now in our courts. I recall the pastoralist Tom Brinkworth from the Upper South-East, whose company I have enjoyed on his property—

An honourable member interjecting:

The Hon. M.J. ATKINSON: No.

The CHAIR: Any trees present?

The Hon. M.J. ATKINSON: Yes, there were trees present. There were fish and ducks; it was quite a sylvan scene really.

Mrs Redmond: Bucolic.

The Hon. M.J. ATKINSON: Bucolic; yes, that, too. He was found guilty of environmental offences. The magistrate declared him guilty and then said, 'But the kind of fine you need is one that only the District Court can impose' and sent him up to them. So, yes, the member for Heysen is right: the magistrate would have to form the view that the appropriate sentence would be more than two years.

Amendment carried; clause as amended passed.

Clause 6 passed.

Title passed.

The CHAIR: I think we have some authority about whether it was 1713 or 1714. On 15 June 1715 the Riot Act passed as a result of Jacobite risings. The act enabled a magistrate to order any crowd of 12 or more persons to dispense by reading the proclamation—reading the Riot Act. This reading created great problems in implementation.

Bill reported with amendment.

Bill read a third time and passed.

At 16:51 the house adjourned until Tuesday 4 March 2008 at 11:00.