# HOUSE OF ASSEMBLY

## Wednesday 12 November 2008

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

### SHARED SERVICES

**Mr GRIFFITHS (Goyder) (11:02):** I move:

That this house calls upon the Economic and Finance Committee to undertake an investigation into the government's shared services reforms, including the economic and social effects upon regional and suburban communities, implementation costs, savings projections, comparative data from other Australian states that have pursued these reforms, and any other issue.

It was with a reasonable amount of fanfare that, as part of the budget presentation for 2006-07, the Treasurer talked about the implementation of shared services reforms across state government agencies and the expectation of the reduction in costs that that would bring about when implemented. We know now that has not proven to be the case. I will go into it a little later but, certainly, the Auditor-General's Report recently presented to the parliament identifies that, while some ICT savings are in place, there are serious concerns about the value of future savings across this area.

Shared services sounds wonderful. It is designed to reduce the effort where duplication occurs in things such as payroll and accounts payable and receivable in the various departments that work in regional and suburban areas. Since it became part of the structure of government and a part of its future savings projections, we have seriously begun to realise that it is not working. When it was presented, the 2006-07 budget identified that $130 million across the then forward estimates would be achieved. This was broken down to $25 million in 2007-08, $45 million in 2008-09 and $60 million from 2009-10 onwards.

Page 10 of Part A of the Auditor-General's Report talks about the fact that, while $45 million might be projected for the 2008-09 year, ICT savings of $24.7 million are locked in place. There are some other savings through Supply SA warehouses and ICT mobile carriage services, but there is a $16.6 million balance of shortfalls where targets against those savings will not be met, and projections out for future years are even worse. In the 2009-10 financial year that balance of savings shortfall is $30 million, in 2010-11 it is $28.6 million and in 2011-12 it is $27.8 million. Across the forward estimates period, according to the Auditor-General, at risk is $103 million worth of savings, which would make an important difference to Treasurer Foley's AAA credit rating.

I am not here to talk about all those issues, but I am here to make parliament aware of the effect of shared services. Like most members of this chamber, I have been contacted by people in the electorate who are concerned about the effect it is having on them. There is an enormous social effect. I will relate it, first, to regional South Australia, given that I am a regional MP. I will talk about the expectation of job losses that were 'in scope', which is a term used by minister Wright when he had responsibility for this area. He used that term in relation to the number of people who would be affected by it. Originally, it was intended that 2,500 people—but it is now about 1,800 people—would be in scope to be affected by shared services.

In regional South Australia, there were 7.9 full-time equivalents in the Barossa Valley and 56.3 on Eyre Peninsula. When I was visiting Port Lincoln earlier this year, a lot of people were concerned because it is not just the basic full-time equivalent number. One has to extrapolate it out to consider the number of people physically involved, and it is usually about double that number. So there were 56.3 full-time equivalents on Eyre Peninsula, 23 in the Far North, 22.5 on the Fleurieu Peninsula and Kangaroo Island, 44.5 on the Limestone Coast, 53.9 in the Murray and Mallee areas and 37.6 for Yorke Peninsula and the Mid North. I think from memory that is 256 full-time equivalents. I extrapolated out that number to determine the number of people affected by it and it came to 500 people.

These people had worked within their community. In many cases they had moved there in order to take up a job opportunity and had made a home and a life for themselves there, or if they had grown up in the community they had been lucky enough to obtain a job there. They felt disadvantaged by the fact that they were told that their job was no longer available. They were told that if they wanted to retain their position they had to be prepared to move to Adelaide, with no compensation for the costs associated with that move. I think there has been some negotiation

since then, but an enormous dislocation is involved. If they did not wish to pursue an opportunity with Shared Services SA in Adelaide, there was a guarantee to retain them within the department in which they worked. But how long would that position be available? They would have to be employed in a different role, which may require training. The role had to be funded from within the department's budget, putting even more pressure on the department to deliver its services. Enormous issues are involved.

During the estimates committee, minister Wright and the Treasurer confirmed that savings would be realised. They were a little vague on some of it. Minister Wright said that only $25 million has been identified; and we have identified that from the Auditor-General's Report. The Treasurer has referred to it. He has acknowledged there are some slippages and that it will take longer to implement it. But, all of a sudden there was the shock of renting premises within the CBD area in which to house these people, and the cost of the refit of numerous floors within these buildings with no person physically working within them. There was a media scene when the Leader of the Opposition visited one of these buildings with a media crew in tow, as a result of a previous arrangement and with the expectation of being able to film it, and then, all of a sudden, they were locked out, which was a great shame.

We want to make South Australians realise that in this case money is being wasted. The document I have indicates that about $9 million was spent fitting out new space at 77 Grenfell Street and it cost $4 million for the lease of rooms which will not occupied. Financial resources are being wasted. I understand that part of delay is that the first and second tranches of people moving to Shared Services created tenancy problems, but it highlights the fact that, basically, this is not working as well as we would have liked.

I understand that it was first suggested on the basis of its occurring in other states. I did some work on the issue at the time and looked at the situation in Western Australia where shared services had been introduced. It was not working there, either. The anticipated savings were not being achieved and it was costing the government a lot more money. But we decided to do it. We put staff in place to manage it. I am aware that there has been enormous concern amongst the Public Service.

The PSA has been very outspoken in order to ensure it is representing its members; and I give it credit for that. A lot of media transcripts around the place from radio and television indicate that they have tried to make South Australians aware of the fact that this model—which is supposed to save money—is seriously affecting real people. The savings are not being achieved and it needs to be reviewed. Something even more enlightening came to my attention last weekend when I was looking through *The Advertiser*, as is my wont. I looked through the employment section to keep up with what is occurring across the state.

**Mrs Redmond:** Are we out of a job?

**Mr GRIFFITHS:** You never know: we only have a four-year contract in this place. I looked in the government employment section, which occupies many pages. With 79,000 full-time equivalents working for the government, a lot of jobs are available. A couple that took my notice were in the services section. If Shared Services is predominantly based on accounts payable and receivable and is meant to be bringing people in from the suburban and regional areas to work in the CBD, they must be having a lot of trouble with people deciding that they will not do that, because they are advertising jobs.

Shared Services is about creating reductions in the number of people they need and about more efficient management. Why is it advertising? One of the positions is as team leader, operating in the CBD in Shared Services, in the range between $61,000 and $68,000. It says that there is more than one position, and ongoing and temporary positions are also available. It is more than just one role; they have trouble in a few spots here.

I looked at the position of manager of services within Shared Services. It is a job advertised at a salary of between $78,000 up to $85,000. Surely there must be a lot of experienced people out there in payroll in government departments who would be suitable candidates for this, but what is happening to these people? I heard of an amazing example of a lady who had worked diligently within Shared Services in payroll for a government department for many years and had come to the stage where she wanted to retire and had agreed on a timetable and did so, but, as part of the Shared Services reform and with the lack of people wanting to take up the role, the key skills she had were identified as being in demand.

She had retired and received her lump sum entitlements—be it superannuation or long-service leave and annual leave—and was brought back on a contract for one or two days a week, but she has found since returning that she is working something like seven days a fortnight. This is a person who retired, we identified problems, had to bring this person back, and we are paying her a much larger amount. It is amazing to me. There are thousands of people affected by this and we are not managing it properly. The government continues to push the line that shared services will come into play, that there will be slippages but that it will work eventually, that we will make it work, but I have serious doubts. If we look at the history of what has occurred in other states, there are real issues.

Part of my notice of motion focuses on the effect on communities. That is an important one for us to focus on. There is no doubt that economic rationality comes into a lot of decisions the Treasurer and ministers will make on where they can get the best bang for their buck. They look at how they will create efficiencies. With efficiency dividends required across all departments these days, it will be an increasingly difficult one to match up.

For every decision made in an economic sense there is also a social effect on a person and, by association, a community. We need to consider what that does. We cannot blindly go around making decisions that will affect people negatively. We need to ensure that if it is done there is a level of support that will always be there to ensure those people can move on with their lives, because probably in many cases these people are part-timers, and in many cases they are women as well as men. It is having an effect not just on the individual but upon the family and the wider circle of relatives and friends that they have.

There are key areas and it is important we identify them in the short time I have left. A petition was presented to the parliament about this, probably about 10 months ago. Some 2,500 people from across the state signed the petition expressing their concern about what was happening. The Provincial Cities Association (made up of Port Lincoln, Whyalla, Port Augusta, Port Pirie and Mt Gambier councils) met with minister Wright when he had ministerial responsibility for this to express real concerns on how it would affect its communities.

I am questioning from tranche No.1, to date, how many of those public sector employees within those groups that have transitioned to Shared Services (group 1A in March 2008, group 1B in July 2008, and group 2 in September 2008) have actually moved to Adelaide in their position? I would be interested to know how many people within the Public Service have declined to be involved in the transition. Of these people, how many were viewed as redeployees? Where have they now been positioned within the public sector, and how many have left the public sector workforce as a result of the shared services transition? I think this is what is occurring: people will just decide to give up because they have been taken away from the opportunity and the job they have liked.

In terms of the amount of the savings target, are we on target? The Auditor-General confirmed in his report that, across the forward estimates, there is a gap of $103 million of projection savings that are not in place. That is an important issue for Mr Foley's AAA credit rating. Part of my motion is that, if it is supported by the parliament, the Economic and Finance Committee will look at it and make investigative comparisons against other states where they have brought in these reforms and determine whether they have worked. This is a great challenge to the Economic and Finance Committee.

We have done various levels of reports. Some are high-level and some are low-level, but this is one that is important to the parliament; so, I hope that members on the other side will support this. What is the true cost of upgrading Westpac House and Wakefield House to accommodate the Shared Services offices for the groups that have transitioned? Will group 3, which I understand are the health agencies, also be housed in one of these buildings? I know that health employees from the South-East have been quite outspoken very recently. I am sure that the member for MacKillop will make some statements on that, because he would have had constituents in his area come to him.

Remuneration packages for public sector employees whose wage was changed as a result of the transition to Shared Services are especially important in the health area, where there is an ability to salary sacrifice much larger amounts than most other public sector employees. There was a fear that, with the transition to working out of the health sphere, this option would be lost; therefore, an enormous additional cost would also become a burden to a family.

Salary sacrifice is a wonderful opportunity for people in health. It provides them with benefits that might not be otherwise available and allows them to maximise their remuneration. So, that is an important one to sort out.

Time expired.

**Mr PENGILLY (Finniss) (11:17):** I support the motion of the member for Goyder, and I would like to raise a few issues, particularly as they relate to my electorate. The question that I ask is whether it will work. I have serious doubts about that. The feedback that I am getting from public servants and government offices across my electorate, both on the mainland and on Kangaroo Island, is that they have concerns about it, and they do not know that it will work. It seems to be a lot more Rann government spin and not a lot of substance. It seemed to be a good idea at the time, so the government trotted it out, and the reality is that it is not anywhere near as practical as it may have suggested.

The member for Goyder talked about $9 million being spent on 77 Grenfell Street without a lot happening. It is just a joke what is going on in South Australia; it is an absolute joke. It is meant to accommodate savings. Is the government, indeed, listening to the concerns of the public service or the organisations and government departments that are split around South Australia?

I would like to turn to the ludicrous situation that exists currently on Kangaroo Island, a place which has 4,500 people and 11 different organisations running it—public authorities. It has: the Kangaroo Island Council, which should be the supreme authority; the Natural Resource Management Board; The Kangaroo Island Development Board; Tourism Kangaroo Island (TKI); Agriculture Kangaroo Island (AGKI); the school; Kangaroo Island Health Services; PIRSA; the police, SA Water; and DEH, which controls a third of the island in the national parks. Out of that lot, seven CEOs are being paid; seven CEOs for a population of 4,500. It is just a ludicrous situation.

If you are fair dinkum about fixing up shared services, and if you are fair dinkum about saving money in South Australia, it is time we took this thing by the scruff of the neck and did something about it. I have spoken to a couple of government ministers about trying to sort out this mess on Kangaroo Island with this duplication of authorities, and some running over the roles of others. Shared services could achieve a great deal if it was done properly and if common sense was used in other areas of the state as well as Kangaroo Island, as I mentioned.

In the scheme of things, shared services might be a great idea. However, as the member for Goyder states in his motion, and as far as I can see, no sort of logic has been applied to or study undertaken into the economic and social effects on regional and suburban communities. It really has not been thought through how much it will cost to implement these shared services. If we go to the $9 million on 77 Grenfell Street, where are the savings projections?

The other Australian states that have pursued these reforms are now taking a different look at it. I really do not have much confidence in the ability of this Rann Labor government to achieve successful outcomes on shared services. More particularly, my concern relates to the ability of the minister handling this to make it happen. I think it leaves a lot to be desired.

Country communities rely greatly on the people who work for the state government, and they rely on them to add to their communities. Currently, they live and work in those communities, be it in sports clubs, churches or whatever, and that is vitally important.

**Mr Griffiths:** Especially in drought.

**Mr PENGILLY:** Especially in drought, as the member for Goyder says. These are critical areas that have not been properly thought through. I know that concerns have been expressed to me within SAPOL about the changes in regions and how they are being juggled around, with people going from one place to another. It is totally out of kilter, and a region that has been working has been changed, with officers now being required to go to a place they know nothing about, even though they are still located in the area from which they came. I do not want to be too explicit about that for certain reasons, but it is making life increasingly difficult for police officers, which is unfortunate in my view.

The thing just was not thought through enough. I seriously wonder whether there will be savings for the poor old long-suffering taxpayer in South Australia. Given the current economic circumstances the world finds itself in, we need to save every cracker we can, but I do not know that this will work.

As I indicated, I have concerns about this issue, and I have localised them to the Kangaroo Island portion of my electorate and what is going on there. If I sat down with a couple of ministers and the council on Kangaroo Island, we could thrash out a way that would save money and be of benefit to the taxpayers of South Australia and streamline where the area could go. It could well be that we could make a model that would work across the rest of the state.

I hope that members opposite support this motion today and that a number of them speak on it. I know that there are members on my side of the chamber who also wish to add to the debate. I endorse absolutely the motion moved by the member for Goyder, and that is the reason I have taken the opportunity to say these few words.

**Mr PISONI (Unley) (11:23):** I also support the motion and commend the member for Goyder for moving it. He spoke earlier about the economics—the Foley-omics, I suppose you could call them, or perhaps Foley's folly—and how we have seen blow-outs. These are not unique to South Australia, but they are certainly unique to Labor governments, as we have seen Labor governments attempt this in other states, particularly in Western Australia.

I want to talk about the impact this has as a metropolitan member of parliament and, as such, I am certainly happy to get out there and back our country colleagues. We know that one of the Labor Party's factional leaders (the member for West Torrens) has said that the Labor Party does not represent the country, and he said that in this place. We do represent the country, and we do represent the city, so I am very pleased to speak in support of my country colleague's motion about his concerns with shared services.

If we look at how this will affect metropolitan areas—particularly when you combine this with the state government's new planning review where we are seeing a proposed growth in the population of South Australia being centred on Adelaide and the metropolitan area—that has implications, of course, for urban consolidation in my electorate and in the electorates of Norwood, Hartley, Morialta and Morphett, as well as many of our other inner suburban electorates, and the electorate of Adelaide, in particular.

We saw how the new development in O'Connell Street has caused an enormous amount of grief for the residents in North Adelaide, who feel as though their character is being squeezed and affected by changes that this government is implementing in the planning review. There is a big concern out there, and rightly so, I must say, about the destruction of character suburbs in Adelaide.

As the tourism spokesperson for the opposition, I look at what other states have as icons. What things do they push for tourists to come to see, and what things do tourists talk about after they have visited those places? In Sydney, there is the Opera House and the Bridge. In Melbourne, there is great shopping, the football stadiums and the trams. What is the one memory that people take back with them from their visit to Adelaide? They say, 'You have beautiful stone homes.'

The concern that I have about the shared services agenda of the government is that we are seeing human resources pulled out of our regional areas and we are seeing a concentration of them within Adelaide. That has the effect of putting pressure on the limited land we have available in Adelaide for release and for use. I think the development plan that the government is putting forward is looking for 80 per cent growth in the population in urban infill, which is quite frightening for those of us in the inner suburbs. The point I am making here is that we are seeing all the focus around Adelaide.

The state government employees who work in our regional areas are often the partner of someone running a small business. The small business, which might be a cafe, a retail outlet, fashion, craft, or one of those shops that tourists like to visit, is not big enough (or the catchment is not big enough) for that business to support the whole family, so one of the partners in that relationship works for the government, and they work in an area that will be affected by these changes to shared services. Consequently, we will see those sorts of businesses at risk.

Then, of course, there are those in the farming community who may have sons or daughters or spouses who would still like to live in the region but perhaps have a slightly different career path. Well, those career paths have just been reduced for those in regional areas. I have just explained to you how it will affect the viability of small businesses, not to mention the spending power that these public servants would have in the regions.

We are seeing a threat to the income of those who are on the land because we are seeing that one of the partners in that relationship may no longer be employed in that region. They will

have to make a serious decision about whether they stay on the land and which career is more important. Is the career with the government more important or is the lifestyle and the tradition that they have with their farming families more important for them—a very difficult decision.

It would be a tragedy for South Australia if we saw a reduction in the population of our regions. It would be a tragedy not just because of the extra pressure it will put on the city of Adelaide and its suburbs with urban consolidation and consequent traffic congestion. Do not forget that people currently based in the outer suburbs are also being moved into the city and there will be even more people on our roads, because we know our public transport system is not up to scratch to get people into town.

I think these are issues that the Labor Party in government has failed to recognise as significant because they do not have representation in the country. And they are not interested in representation in the country—we have heard that. Labor members have said in this chamber that they are a party for the city. We are a party for the city and the country.

**Mr Griffiths:** For all South Australians.

**Mr PISONI:** We are there for all South Australians, and we are representing all South Australians.

**Ms Breuer:** It's disgraceful.

**Mr PISONI:** The member for Giles says that it is disgraceful that the Labor Party is not interested in the country.

**The Hon. L. Stevens:** No, that's not what she said.

**Mr PISONI:** She said it was disgraceful. When I was criticising the Labor Party for not representing the country, she said it was disgraceful. And she is right. I agree with her. She is absolutely right. It is disgraceful. But, of course, I must say—

**The SPEAKER:** Order! The member for Giles.

**Ms BREUER:** Mr Speaker, the member opposite is putting words in my mouth which are absolutely untrue. I said the comments he was making about Labor not being interested in the country were disgraceful.

**The SPEAKER:** Order! The member for Giles will take her seat. There is no point of order. If the member for Giles is being misquoted, there is an opportunity for her to correct the record by way of personal explanation. The member for Unley.

**Mr PISONI:** I ask for another minute, sir. I have three minutes on the clock. I would like another minute, after that frivolous interjection.

**The SPEAKER:** I think you will be all right.

**Mr PISONI:** Sir, the point I am making is that this is an economic disaster and a social disaster for South Australia, and it is a disaster that will affect the metropolitan area and the country equally. So, I commend the member for Goyder for raising this matter in the house. I concur with the comments made by my colleague the member for Finniss; and I know that the member for Schubert is very passionate about this issue as well and I will be looking forward to hearing his contribution.

**Mr VENNING (Schubert) (11:32):** I rise to support the motion of the member for Goyder and congratulate him on putting it forward. I think every member in this house, including the members for Chaffey and Mount Gambier, would be very hard pressed not to support it. After all, if you read the motion, we are simply asking for this issue to be sent to the Economic and Finance Committee for its investigation.

The government first proposed its shared services initiative in September 2006 in a bid to save up to $60 million per year—an all-up saving of $130 million over four years. This plan seeks to relocate 500 jobs from rural and country South Australia, or 246 full-time equivalent positions. Jobs in areas such as payroll, accounts, human resources and information technology will all be rolled into one department in Adelaide. The number of jobs to be relocated from specific regions are: 7.9 in the Barossa Valley; 37.9 on Yorke Peninsula and in the Mid North; 53.9 in the Mallee; 56.3 on Eyre Peninsula; 22.5 from Fleurieu Peninsula and Kangaroo Island; and 44.5 in the Limestone Coast.

What a list of shame that is. The government should consider what is happening out there at this time. We are in a four-year drought, with the worst economic conditions since the Great Depression of the 1930s, and the government is going to do this. Taking 53.9 jobs out of the Mallee is a disgrace. That region battles at the best of times and, to do that now, is totally insensitive. It is against all the principles of supporting decentralisation. South Australia is already the most centralised state in the most centralised country in the world, and the government is doing this. It smacks against all the things we say in this place. We are paying lip service to decentralisation when we are doing things such as this.

The loss of 111 full-time and part-time jobs on Eyre Peninsula is estimated to cost the region $32 million. More than 80 of the 500 regional jobs to be cut are in the Department of Further Education, Employment, Science and Technology, which includes TAFE SA. This will have a severe impact on the quality of training that can be delivered in country South Australia. The government has said that regional employees will not be forced to relocate to Adelaide; however, those who choose not to relocate will become excess employees. In other words, they are off to the transit lounge—and we all know about that.

This plan will affect not just the employees but also their families and local communities. Relocating people to Adelaide will lead to financial losses for the employees, take jobs away from country areas and detract from regional and rural populations—with a flow-on effect on local businesses, schools, sporting clubs, etc. As I have said, the drought is already impacting on country areas, and they need government support, not jobs being taken away. What appalling timing to bring this in now with, as I said, a four-year drought and the worst economic crisis we have seen since the Depression.

The state Rann Labor government has been wasting millions of dollars in dead rent. It has been leasing the top nine floors of the Westpac House building in King William Street but, due to delays in the implementation of the shared services program, that office space has not been utilised. The original implementation costs were estimated by the government at $60 million; however, there has been a massive blow-out in this figure and the Treasurer has allocated another $37 million to be used for set-up costs, taking the total to $97 million. The 2006-07 budget advised of the savings that the state Rann Labor government hoped to achieve through this plan—$25 million in 2007-08, $45 million in 2008-09, and $60 million in 2009-10—but the plan has not yet delivered any savings and has wasted taxpayer dollars by renting office space that has not even been utilised.

It has also caused huge disquiet in country regions. Imagine how you would feel if your job was one of these jobs; what sort of security would you have? How would your family feel if you had a job in the Mallee and your job was being moved to Adelaide? Is it worth it? What have we achieved here? Nothing; it is a totally negative result. Constituents of mine who work in the health sector—doing tasks such as banking, receipting, contacting companies, coding, and general pay work—were told some weeks ago that the work they do will dry up and they will be moving to the city. An attempt is being made to find them alternative work, with one possibility being culling medical records in hospitals. This is extremely demeaning work for a person with some 41 years' experience, as one of the affected constituents has in their current area of expertise. One of these constituents rang colleagues in other hospitals who do the same work, and they all said that they had been told that the work they do must remain on site. It is clear that some of my constituents will be affected by this initiative, when they were led to believe they would not be affected.

This issue, combined with the country health issue, is absolute proof that this government does not care at all about what it does to country regions. It is all about it wanting to build a new hospital, the Marj Mahal. The government needs $1.7 billion, so what does it do? It will get it out of the country; it will just cut country health. That is easy; no votes, so who cares? Minimum damage, minimum pain; no problem.

I cannot believe that in this day and age any government would attempt something like this. We have set up regional development boards to assist in the decentralisation of our state—as I said, we are seen to be the most centralised state in the most centralised country in the world—and then the government brings in something like this. I cannot understand why it has not made headlines. It is a ridiculous situation that runs totally against all the things we are supposed to espouse in this place; the principles for why we are here; the principles of a fair go for all the people living in these regions. And then this government brings in things like this. For what result? That is what really hurts. These people have been put in a position of a lot of instability, a lot of insecurity and uncertainty about their futures, but for what result? The government has not saved

any money at all. It is the worst result on both sides of the equation; the advantage is not there. So, I am quite upset.

The member for Frome said this morning, during his farewell radio speech, that he is disappointed that in government we just cannot deliver for country people, and he said that we are lucky, and I certainly back him on that in saying that I am very lucky that I have some very capable, hard-working, competent country colleagues with me—and the mover of this motion is but one of them—to back us in fighting for country people. When you get issues like this dished up, what are we supposed to do? It is an appalling thing.

I will be interested to hear in a few moments from the members for Chaffey and Mount Gambier about what they are going to do. I believe that they can and should support this motion. I do not believe that it is a conflict for them as cabinet ministers because all this says is that we are referring this matter to the Economic and Finance Committee for review. I do not see it as a problem for a cabinet minister to come over: if they are true Independents, let's see what they do. I put the challenge out to them. If they are hearing this debate, there is time for them to consider this and to show the house and their constituents that they will vote for the issue rather than merely thinking of their job, with a ministerial car and all the extra trappings of office. So, I extend the challenge to them. Let's see what they are made of.

I believe this is a bit of history. This is an open and shut issue: a disgraceful situation has arisen, and it is up to every member representing country people to stand up on the matter. I know that the member for Giles would have to have some sympathy for this motion, because some of these job cuts are in her city and she is a good local member, although, because of the way Labor locks them all in, she is unable to have the freedom of expressing her own opinion.

I commend the member for Goyder for this motion and I am very pleased that he and others such as the new member for Hammond and the member for Finniss—people on this side with a lot of heart—are representing country areas. These are the new brigade; I am the old—and today is the last day that the member for Frome will sit in this place. I think that at least country people can say that they are in good hands. I hope the house will support the motion.

**Mr RAU (Enfield) (11:42):** I am not going to be very long. I am rising to speak, really, only because I have been listening carefully to the contributions of the last few speakers and want to make a couple of points about what they said. First, my mother always used to say to me that self-praise is no recommendation, and each one of the previous contributors spent some time congratulating the previous contributor and the contributor before that. I think, to be fair to the member for Goyder, he did not congratulate anybody else because he moved the motion, so he did not get to the point of saying that his other colleagues are fantastic people.

With everyone after him, however, it was this conga line of congratulation, cascading walls of praise coming down from each of the successive speakers, and that was impressive as a sort of exhibition of camaraderie; I was impressed with it from that point of view. Honestly, I think you would be better off going on one of those things where you all shoot each other with paint balls because that would be a better team-building exercise. It did not really help us very much.

The second point I want to make—and I do not make this as a point of order, Mr Speaker—is that I wonder what standing order 128 is doing in the standing orders, because it appears to have no work to do and, for those of you who do not have your book handy, standing order 128 is headed 'Irrelevance or repetition' and it states:

> If a Member indulges in irrelevant or tedious repetition of substance already presented in a debate,
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> 1. the Speaker or Chairman may call the attention of the House or the Committee to that fact, and
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> 2. may direct the Member to cease speaking.
>
> The member may require that the question be put ...

I am not going to formally raise that but, if anyone from the other side thinks they can rise to a higher level than the member for Goyder, good luck to them, but I think he really did hit the summit of the mountain there. If all the others are just going to repeat what he said and congratulate him and everyone else who has repeated what he has said, I do not know that that will actually advance things all that much.

*Mr Pederick interjecting:*

**Mr RAU:** The member for Hammond makes a very good point. It might be that we can all save a great deal of time, and, believe it or not, even deal with more business, because this *Notice*

*Paper* is pretty clogged up, if we all paid at least some passing consideration to standing order 128. Presumably it is there for a reason.

The last point that I want to make very briefly is this: when listening to the member for Schubert lamenting the loss of 31.9 people here and 7.8 people there, and so on, I was not sure whether I could hear Max Bruch's violin concerto, the tragic sort of sound of that going. It was a very tragic classical piece; I think it was Max Bruch's violin concerto going in the background. I could see how deeply moved the member for Schubert was about these impending job losses, and so on. He was carrying me with him actually, and I was starting to get into that sense of sadness until I remembered—and the member for Norwood confirmed this for me—the policy that the member for Schubert and his colleagues took to the last state election. This policy, which was very clearly articulated by the Hon. Rob Lucas in another place, was that upon being elected to government in 2006, their first act would be to dismiss 20,000—that is two, zero and then three more zeros, and it has a comma in it as well—public servants. The idea that people whose initial contribution here is to cry crocodile tears about—

**Mr GRIFFITHS:** I rise on a point of order, Mr Speaker. The member for Enfield is quoting a figure which is not correct. Unless he actually knows what the figure is—

**The SPEAKER:** Order! There is no point of order. The member for Goyder will have an opportunity to engage in that debate in his reply.

**Mr RAU:** I think it is slightly comical and slightly tragic that people can be very moved—and I am not saying that it is not significant that a person's position in a particular locality is terminated and they have to move elsewhere; of course it is significant for that person and their family. However, for a person whose party was quite prepared to sack thousands of public servants to be moved to the point where Max Bruch's violin concerto starts ringing through the chamber about 32.4 people being moved I think is a little bit rich.

If all we are going to get from further contributions is the same again, I think we should move on, because there are other very important matters on the *Notice Paper*, including the Natural Resources Committee, and others, and members have important things to say. So, let us move on.

**The Hon. R.B. SUCH (Fisher) (11:48):** I will be very brief, because our *Notice Paper* is suffering from severe constipation. I want to address one aspect of this—and I commend the member for Goyder for moving this motion. It should be the role of committees in this place to look at issues like this, and not just this issue. It is quite appropriate and important that an issue like this be referred to the Economic and Finance Committee, and I am going to support it, because that is what the committee structure is meant to do. So, I will support the motion.

**Ms BREUER (Giles) (11:49):** I rise to comment on this, because I find some of the comments from the other side are absolutely ridiculous. Members opposite say that Labor does not care about the country, which is total nonsense. I know that I have the full support of my colleagues in my role. I call myself the only country member—in fact, I will correct that, because I am not the only country member now: the member for Light has a considerable amount of country in his electorate. Although, when I compare where he goes to where I go, it is a little bit like a suburb of Adelaide. However, he is also a country member.

We also have two members of our ministry who are country members, so we do have representation from the country, and I certainly make my point loud and strong whenever I can. I also know that the rest of my colleagues share my concerns about the country and support me totally on this. The Labor Party is aware of what is going on in the country and it receives constant feedback. We have a Country Labor Association (which is meeting this weekend) and issues from country areas are constantly fed back to members of parliament and to the party. So, it is absolute nonsense to say that it is out of touch and does not care about the country.

Two weeks ago the Premier visited my electorate in Whyalla and spent a day and a night there. We talked to many different groups and organisations. He was able to hear at firsthand what is happening in the Whyalla area and in my part of the state. We have a very good team of candidates coming up for the next state election. They are local people who live in the area and certainly know what is happening in their electorate.

I constantly hear that country people are not being cared for. They quote the Marj hospital and the tramlines that are being built in the city, etc. They say that all this money is being spent in the city on city people and that nothing is happening for country people. Of course, anything that

happens in the city does benefit country people who spend a lot of time in the city. Many country people come to Adelaide to shop, for medical or family reasons, to get away, etc. So, country people benefit from anything that is happening here in Adelaide.

Certainly, when the Marj hospital is built country people will benefit from it. Four major hospitals are being developed in country areas which will benefit country people and save them having to come to Adelaide. However, there will be times when they will need to come down here for medical treatment in order to get the best treatment possible, and so people from country areas will constantly be accessing that hospital.

People talk about the River Murray levy, for example, and other issues relating to the River Murray and about them not affecting people in the country. Well, they do. As I said, we spend time in the city and we spend time in the Riverland area. Anything to do with water in this state has an ongoing effect. Anything done in Adelaide that will save water from the Murray will benefit many country regions. It is a nonsense to try to tie things up and say that people in the country are not getting any benefit.

If we based the amount of money in the state budget that goes out to country regions on the number of electors we would be very poor. I think my electorate is a classic example of that. My electorate covers over 500,000 square kilometres; it is the biggest electorate in the state. If I drive from one side of my electorate to the other it takes me two days; if the member for Norwood hops on her pushbike and rides from one side of her electorate to the other it takes 10 minutes—but there are exactly the same number of people in both electorates.

If we based the amount of money on the number of people out there, country regions are doing extremely well. A classic example is the Olympic Dam Task Force. Millions of dollars are being spent on that, but it will benefit most of my region. It is not just Olympic Dam that is benefiting; all the communities out there are benefiting from the mining boom.

I am not happy with what is being said opposite. Of course the Labor Party and this government care about what is happening in the country, and we have major concerns about it. I can personally state that I was very concerned about shared services and had discussions with the minister, but it has had a minimal impact on my electorate. I have had very few complaints about what has happened. I am certainly not getting a flood of people coming to my door complaining about the issue of shared services.

It is a bit like the country health program, which was absolutely hijacked when it was introduced. I thought it was an excellent plan. I thought it was a great way to resolve some of the issues that are happening in country regions but—

*Members interjecting:*

**The SPEAKER:** Order!

**Ms BREUER:** —it was hijacked by the opposition. Misconceptions about it were put around the state to frighten the life out of country people, and they are trying to do the same with this. I think the way that they carry on is outrageous.

**Mr PEDERICK (Hammond) (11:54):** I wish to make a few brief comments in support of the member for Goyder and his excellent motion on shared services. It shows the government's total disregard for regional areas. The member for Giles commented on the country health plan and how good it was. It was so good that it did not turn 180°, it turned 360° after communities rose up in outrage. They are also outraged about what is going on here, where people are being told, 'If you want a job, you will have to move to the city.' Well, that is pretty bad luck if your husband or wife and family or your partner live in Penola and you are expected to transfer out of an accounts payable position and head to Adelaide. It just does not work. People in this place must realise that the state does extend beyond Glen Osmond and Gepps Cross.

**Mr Pengilly:** And Darlington.

**Mr PEDERICK:** And Darlington. The Regional Impact Statement, dated September 2007, states that under the reform 500 regional jobs will be lost, which translates to approximately 246 full-time positions. As to the effect on regional communities, the government claimed that it had been unable to quantify the impact of the cuts in its Regional Impact Assessment Statement. However, a study by the Murray and Mallee Local Government Association and the Murraylands Regional Development Board has found that the total cost of axing 111 jobs in that region alone will

be $32.6 million. So, across South Australia, that is over 500 jobs, which equates to $150 million in drought stricken communities. I rest my case and support the motion.

**Mr KOUTSANTONIS (West Torrens) (11:57):** I exercise my right as a member of this house to speak on this motion, and I am sure all members celebrate my right to speak on this motion. The member for Enfield does; the member for Newland does; all members do.

I heard the member for Unley, in his usual way of expressing the truth in his 'Liberal' way, say that I do not care what happens in the country, and I have seen the Leader of the Opposition quote me out of context. I will give the house a quick history lesson, which I am sure they often enjoy. The history lesson is this: during a debate on the single desk, I said that it is not the job of city MPs to sit in judgment on country people and the way in which they take on their affairs; indeed, it is up to their representatives from the country. I saw the member for Schubert nodding in agreement during that speech. It was conservative members who led the charge for the abolition of the single desk.

In my speech, I said that it was shame on them, because they are the ones who represent country areas. They are the ones who have seen the impact of deregulation; they are the ones who have seen the impact on men on the land and their families; and they are the ones who should be representing the interests of country people. But, of course, in the Liberal Party way of attacking the individual rather than the policy—as we have seen in spades from the member for Kavel and now the member for Unley, because that is all he does; he plays the man not the ball—we have seen them again take words out of context and try to publish them. I have been made aware of this, and I will be taking some advice on these matters.

I find it a bit rich when country members from the Liberal Party come into this place and lecture us on regional representation and the plight of rural workers. The truth is that Liberal Party members say one thing in the city for their conservative constituents and another thing in the country. You cannot say one thing in the city and another thing in the country; you cannot be an agrarian socialist in the country and then come to the city and be an economic rationalist. You cannot play to Burnside and to the Yorke Peninsula; you have to be consistent. I understand that members opposite have a problem with consistency in the same way they have a problem with the truth, because it is incompatible for them. They are not quite sure how to stand up at a Country Women's Association cake bake and speak about the importance of the market, but they find it very easy to come here and speak about the importance of the market at a Chamber of Commerce meeting. Mission accomplished!

Debate adjourned.

## AUDITOR-GENERAL'S REPORT

In committee.

(Continued from 11 November 2008. Page 820.)

**Mrs REDMOND:** Although I am tempted to commence my questioning on the aspect of multicultural affairs, I will resist that temptation. I will begin my questioning at Volume I, page 90, on the Residential Tenancies Fund and the Office of Consumer and Business Affairs. Near the bottom of page 90, in the area dealing with the Office of Consumer and Business Affairs, it states:

> The audit review identified that in a significant number of instances the office had not:
>
> - issued reminder notices within the timeframes...
> - issued penalty notices within the timeframes...

The explanation then goes on to state that the chief executive acknowledged the backlog and:

> ...that additional contract staff and use of overtime would be used to ensure all notices were up to date by 31 March 2008.

I assumed that, since this report was to 30 June, we would be able to find out whether or not the notices were up to date. The second part of the question is: given that it needed overtime and additional contract staff to get them up to date, is there a mechanism put in place to the satisfaction of the Auditor-General to keep them up to date?

**The CHAIR:** Before I invite the Attorney to conform with standing orders, I will indicate to the member for Heysen that I apologise for being late. My Telstra (supposedly) synchronised clock still does not say that it is 12 o'clock. There is provision in standing orders for somebody who is incapacitated to sit and I am very happy, if it is causing you difficulty, for you to sit.

**The Hon. M.J. ATKINSON:** The Residential Tenancies Tribunal falls within the portfolio of minister Gago.

**Mrs REDMOND:** I was actually asking about the Office of Consumer and Business Affairs, which appears in the heading under Auditor-General on page 90.

**The CHAIR:** It is part of the Attorney-General's Department, I understand, but consumer affairs are the responsibility of minister Gago. I was meaning to alert you to that earlier.

**Mrs REDMOND:** Page 92 of Volume I, the very last paragraph on the page, under 'Balance Sheet', indicates:

> Total liabilities have increased by $9.6 million to $46.8 million due mainly to the recognition of a liability for lease incentives provided pursuant to the renewed operating lease for office accommodation.

That is quite a significant increase of more than 25 per cent. I would like an explanation as to what that paragraph means at the very bottom of page 92.

**The Hon. M.J. ATKINSON:** The assets and liabilities have increased. That is the short answer. The long answer is that lease incentive assets and liabilities increased in 2007-08 owing to renegotiation of the lease for office space at 45 Pirie Street. There were negotiations by DTEI, building management and AGD facilities management and development. The building owner offered a lease incentive of $6.8 million to the department. The incentive will be taken mainly as a contribution towards fit-out costs of the building. The balance will be taken as a rent-free period. The lease incentive asset and liability has been split in the financial statements between a current and non-current portion, reflecting the timing of the benefits received and costs owing.

As part of this, 45 Pirie Street will be restacked so that the arrangement of the Crown Solicitor's Office, equal opportunity, the Attorney-General's office, corporate services and the offices of ministers Zollo and Rankine will be more rational and efficient. However, that is not something that the member for Heysen should concern herself with, at least until 2014.

**Mrs REDMOND:** I will be happy to concern myself with it well before 2014—and, presumably, by March 2010. The Attorney responded by referring to this lease incentive. As I understand a lease incentive, it is a benefit that we are getting. That is why I am puzzled as to why the liabilities have increased by $9.6 million to $46.8 million.

What constitutes a liability for a lease incentive, if what we are getting is a benefit? As I understand the Attorney-General's answer, the landlord who owns the building is happy to have the Attorney-General's Department in there and, to that end, they will provide incentives, including fit-out and so on. I understand that. So, if you are getting that benefit, why on the books does that then come up—or does whatever come up—as a liability, which is increasing at a fairly dramatic rate?

**The Hon. M.J. ATKINSON:** I am told that, owing to very technical accounting, part of this is regarded as a liability over the full life of the lease, and I shall take the question on notice. Full marks to the member for Heysen.

**Mrs REDMOND:** No doubt the minister will be pleased to know that I have some more questions about leasing. I will continue with those now so that, if he wants, the Attorney can take them all on notice. That will be fine. At the bottom of page 121 of Volume I under 'Cash Flow Reconciliation', a series of things are listed under the heading 'Change in Assets and Liabilities'. I note that the third one down is 'Increase (Decrease) in lease incentive liability', which seems to indicate to me that whereas in 2007 there was a decrease in lease incentive liability of $203,000, this year the anticipated increase in lease incentive liability is over $6 million. Can I get an explanation as to what has caused that?

**The Hon. M.J. ATKINSON:** Alas, it is the same issue.

**Mrs REDMOND:** Very technical accounting?

**The Hon. M.J. ATKINSON:** Yes. If it helps, provision was made for increase/decrease in lease incentive liability, and there is a corresponding provision for increase in lease incentive receivable treated as an asset. Why it is treated that way by the accountants, I shall tell the member for Heysen in the fullness of time.

**Mrs REDMOND:** I have only one more question on these leases for the Attorney-General's Department and it relates to item 27 (over the page) under the heading 'Commitments'. The total operating lease commitments seem to have increased by more than 2½ from

$29,012,000 last year to nearly $75 million this year. Is there an explanation in terms of what is happening within the department and why there is that significant increase?

**The Hon. M.J. ATKINSON:** We shall take that question on notice also, but my intuition is that it is the result of Forensic Science SA, the Office for the Status of Women and the Office for Volunteers coming into the portfolio.

**Mrs REDMOND:** I want to move to some questions concerning the Office of the Public Trustee. I particularly want to look at a series of things, starting at about page 142 of Volume I. Halfway down page 142 is the heading 'Trust Operations'. Audit review identified a number of matters in relation to trust operations. The main matters raised with the Public Trustee were instances where the internal control reports presented to the audit committee did not accurately reflect the underlying data.

I will go through each of these in order, but, if one goes down to the dot point below where the Public Trustee has responded, one will see that the Public Trustee advised that staff turnover in key positions during the year contributed to the situation. Is the minister satisfied that that is a complete enough answer to problems with internal control reports, and what processes and procedures are put in place to ensure that, regardless of what staff changes might occur in an organisation such as the Public Trustee (the main function of which, really, is looking after vast amounts of money for people who cannot look after it themselves), internal control reports do accurately reflect the underlying data?

**The Hon. M.J. ATKINSON:** The honourable member should raise thine eyes aloft. If she does she will see in the paragraph immediately above that, under 'Corporate Operations', it states:

> The Public Trustee's response to the matters raised was considered satisfactory.

**Mrs REDMOND:** I have some difficulty with simply accepting that, given some of the other comments made by the Auditor-General about the Public Trustee's Office do tend to be less than specific. For instance, the second dot point under 'Trust operations' states:

> a number of life tenant properties which were not directly covered by their own insurance policy.

The response is essentially, 'There is a blanket insurance policy, but there will be a change in business processes in order to seek specific direction on insurance of client property.' I just wonder whether that is a sufficient response. Is the minister saying on the record that he is satisfied that, provided the Auditor-General says in that general statement at the top that the Public Trustee's response to the matters raised was considered satisfactory, one should not be asking anything about the Public Trustee or its operations?

**The Hon. M.J. ATKINSON:** The member for Heysen puts words in my mouth. I am not saying that henceforth she is prohibited from asking questions about the Public Trustee. There is an upper house select committee looking at the Public Trustee. Criticism of the Public Trustee is made regularly in the other place by the Hon. Ann Bressington. The Public Trustee is the subject of scrutiny and vivid questioning and coverage by the *Today Tonight* program on Channel 7. All I know is that the Auditor-General has given an unqualified report on the Public Trustee, and the Auditor-General himself has said that 'the Public Trustee's response to the matters raised was considered satisfactory'. Unless I am given a proper substratum of fact to go behind the Auditor-General's opinion, I will not be doing that. I have long been a supporter of the Office of the Auditor-General, and the member for Heysen will recall the Auditor-General's unqualified support of me during the Crown Solicitor's Trust Account matter—a support which has been vindicated by events and the effluxion of time.

**Mrs REDMOND:** I note the Attorney-General's willingness to spend time talking about things which are entirely irrelevant to the consideration of the Auditor-General's Report of his office. I refer to the bottom of page 142 and page 143 and information technology. I may be wrong in my assessment of it, but there is an IT architecture project by an external consultant to look at the whole IT—

**The Hon. M.J. Atkinson:** What would you call it?

**Mrs REDMOND:** I would say, 'Let us look at IT processes.' An external consultant came in and did a study of the IT processes of the Public Trustee. It made certain findings which are delineated in the five dot points at the top of page 143. It clearly identified a range of areas where they needed to pay considerable attention to their IT activities. Page 143 states:

- There was a lack of strategic focus within IT activities [and] an absence of a formalised ICT strategy document.
- ICT policies and methodologies tended to be out of date or limited in scope.
- There existed a lack of consistency in production information technologies for network management, application, database and operating systems software and hardware, many of which were older versions which had not been updated for a number of years.
- Third party services contract and performance management were not formally carried out.
- There was a limited business continuity planning and disaster recovery planning.

I would take some of those with a grain of salt to the extent that an external consultant coming in to assess ICT will invariably find things that need money spent on them, preferably through his consultancy or others in the same game. There is no doubt in my mind that there is a tendency for consultants examining systems to find more problems than necessarily exist, just because they are old.

Audit then goes on to say that it followed up these matters during the year and certain actions had been taken. Underneath that it says that 'Key matters from the audit review raised with the Public Trustee were the need to develop an annual ICT operational plan and, in line with SA government mandated ICT planning framework to support the ICT strategic plan'. The question is that the only response seems to be that it is transitioning to what is called 'a more mature ICT strategic planning framework', but it appears to me to indicate that the Public Trustee is out of kilter with the requirements of the government's own Strategic Plan in the failure to address these issues within time frames that should have been in place before this external report was even done. Is that not the case?

**The Hon. M.J. ATKINSON:** I am sorry, Madam Chair, if my East Turkistani hat was not removed when I answered an earlier question. A core business information system realisation working party has been established, with terms of reference approved by the ICT governance forum and the Public Trustee. Workshops have been held with staff to identify desired functionality improvements, and these were then prioritised by the IT governance forum. Work is continuing on the identified priorities.

For the information of the member for Heysen, rapid achievements have been made to improve ICT technology, resources, processes and governance. These include: comprehensive ICT planning and security risk management plans developed; effective governance model introduced; obsolete server licence risk resolved; 60 PCs replaced with a new standard operating environment; all printers multi-function devices replaced; software licence compliance established; desk-top software upgrades planned; ICT contract management procedures introduced; leading edge ICT infrastructure upgrade (due for completion this month); well-managed ICT funding model; comprehensive training for ICT team to improve skilled resources available; and business continuity risk minimisation and contingency planning developed or in progress.

The member for Heysen may recall that, early in the life of the government, the Public Trustee had to abandon a particular IT system because the proprietor of that system was going out of business. It also has: full-time business analysts appointed to ensure business needs are identified, analysed and prioritised within the IT governance framework; adopted Attorney-General's Department ICT policies where applicable; all capital and operating expenditure planned and self-funded; and a pledge to reach a mature ICT environment within two years. I think that is clear.

**Mrs REDMOND:** The bottom of page 143 refers to the operation of an electronic funds transfer facility. The types of transactions using that within the Public Trustee are, indeed, significant. They include: recurring payments to clients; periodic payments to vendors against vouchers and invoices presented on behalf of clients; special payments to clients; and telegraphic transfers to overseas client accounts or intermediary bank accounts.

There is no doubt that significant amounts of money are going out via electronic funds transfers. I am concerned about the possibility of fraud. The report goes on to state:

> It was recommended—

that is, by the Auditor-General, I assume—

> that Public Trustee review the circumstances and practice of modification to the electronic funds transfer file to consider alternative practices or modifications to systems to eliminate the need for manual alteration.

The Public Trustee responded that this matter is being assessed within the context of improving on existing controls, involving considerations of data encryption.

The question relates back to the fact that we have already had an external consultant, referred to on the previous page, who came in in 2007; so, it seems that a separate issue has arisen, not covered by the external consultant. Who in the Public Trustee's office has the skills and wherewithal to figure out what is needed to ensure the safety of electronic funds transfer? It seems to me—and I know from recent experience in relation to a hospital board on which I serve—that there have been cases of electronic funds transfers being abused to the detriment of organisations or those entitled to receive the money. I am puzzled about the timing of how this electronic funds transfer will be looked at, who will look at it, and when it will be addressed.

**The Hon. M.J. ATKINSON:** I know that the member for Heysen has long-standing anxiety about electronic funds transfer. She will remember that, during the last period of Liberal misrule in this state, in the Public Trustee—this is under the attorney-general of blessed memory, the Hon. K.T. Griffin—$A1 million was wired to a bank and went into the wrong account and disappeared in the former Soviet Republic of Georgia. So, yes, the member for Heysen has Georgia on her mind. I can tell you—

*Members interjecting:*

**The Hon. M.J. ATKINSON:** Both suits were made in Hoi An. The Public Trustee is presently looking at how best to allow the payment date amendment but not allow access to any other part of the electronic funds transfer file that may include data encryption. So, the short answer to the member for Heysen's question is that, under the Rann Labor government, we have not wired $1 million in Public Trustee money to the wrong account in Georgia.

**Mrs REDMOND:** Is the Attorney suggesting that no money has been lost from the Public Trustee in any way since the Rann government came to power? This is on the same page and is a supplementary question to the previous question. I will move on, because if we keep on talking I will not get in another question.

**The CHAIR:** The time has expired. I now call on the Minister for Industrial Relations, the Minister for Employment, Training and Further Education, the Minister for Science and Information Economy, the Minister for Youth and the Minister for Volunteers. We will do employment first.

**Mr PISONI:** My question refers to Part B, Volume II, page 503, 'Financial Management Reporting'. The report reveals that in 2005-06 they recommended that the department develop effective management reporting. This ensures effective management decision making. To date this has not been completed, with the department indicating that it will not be completed until three years after the Auditor's recommendation. Minister, can you advise why the process for implementing the Auditor's 2005-06 recommendation has taken so long?

**The Hon. P. CAICA:** There have certainly been rules covering the processes and requirements for, amongst other things, budget adjustments, but they are, of course, subject to variations as we move forward, although not so much variations but more refinements as we go forward. During 2007-08, priority was given to the review and update of the business rules that guide the implementation of the cost, volume and price budget methodology because of its critical importance to the financial business planning and budget development strategies for DFEEST.

Contrary to the assertions of the member, work has commenced on the development of a broader set of policies and procedures covering all those particular processes that are continuing to be, as we go forward, subject to further refinement.

**Mr PISONI:** They are not my assertions; I am simply quoting the Auditor-General. I refer to page 504, 'Expenditure'. Bearing in mind the minister's answer to the last question, the Auditor-General reveals constant non-compliance with basic internal controls such as delegated authorities being disregarded, limited accuracy of invoices and even such things as invoices being drawn after expenditure by way of retrospective invoicing of purchase orders, for example, and manipulation to avoid limit controls.

One of those manipulations relates to the department's policy. The Auditor-General reports here that department policy requires that, for individual purchases, credit card transactions must not exceed $2,200 unless previously authorised, but the audit found instances where transactions were split to ensure that they were within the limit. The minister has been in this portfolio for 2½ years: is this a culture that has developed under his leadership?

**The Hon. P. CAICA:** That is a very interesting question, of course, and also one that goes beyond the information within the Auditor-General's Report. What I would say to the member for Unley is that, in fact, what I have done in my 2½ years in this position is to ensure that the culture that existed is being changed through various processes. I will deal with the matters raised by the member in, I hope, the order that he raised those issues.

On the question of payment delegations, the introduction in 2008 of the Scanning Workflow Accounts Payable (SWAP) system has significantly reduced the risk of unauthorised invoices being paid. This system automates the accounts payment process from receipt of invoice through to cheque generation. The insertion of the authorising officer's position title is a mandatory requirement, and an electronic trail of processing each invoice is a feature, including the authorising officer's name.

I could go on about the particular process, but what I think I will say is that the existence of this new system ,functionally, is considered to provide sufficient risk management in regard to the use of appropriate payment delegations, particularly when it is complemented by internal audit reviews of payments. It is also worth noting that the internal audit that we are involved in supports the establishment of the SWAP system and the associated controls.

On the matter raised by the member in relation to the accuracy of accounts payable, all users of the SWAP system that I mentioned earlier are responsible for ensuring that the information on the scanned image of the invoice matches the data that is input manually to facilitate payment. The system forces these checks and cannot process details if, indeed, they are incorrect, which is a significant improvement on the manual payment process. Invoices are authorised into the system directly to Masterpiece, from which the payment is generated. Again, I could go into more detail, but I think that actually answers the question. To reinforce this point, I am advised that this was introduced in April, after the audit was undertaken.

On the final matter that was raised by the member, and that is the purchase cards and unauthorised transactions, a reminder has been sent to cardholders and supervisors regarding transaction splitting. A system report has been established which extracts transactions that may have been split into two payments exceeding $2,200, and this report is reviewed regularly by the purchase card system administrator. Of course, I would remind the member and the committee of the Auditor-General's own words:

> In my opinion, the controls exercised by the Department of Further Education, Employment, Science and Technology in relation to the receipt, expenditure and investment of money, the acquisition and disposal of property and the incurring of liabilities, except for the matters raised in relation to financial management reporting, risk management, expenditure, payroll and human resources, and contract management framework, as outlined under 'Communication of Audit Matters', are sufficient to provide reasonable assurance that the financial transactions of the Department of Further Education, Employment, Science and Technology have been conducted properly and in accordance with law.

**Mr PISONI:** On the same reference, the auditor also said that invoices were being paid more than 30 days after the invoice date. Considering the outcome of the summit for small businesses at a federal level at which the federal government promised to pay small business invoices in a timely manner, is the minister able to assure this house that accounts that are billed to his department will, in fact, be paid within the standard time of 30 days or the terms of sale of the suppliers?

**The Hon. P. CAICA:** Of course, as a department, we will continue to strive to meet the benchmarks set by Treasury and government in this particular area. We have not always met those requirements, but we are confident that the new procedures we have put in place will go a long way to ensuring that we do so. I accept, and I think that was an assertion, that there is a responsibility to meet those time frames, and that is what we are committed to do.

**The CHAIR:** Now we are moving to science. The member for Morphett.

**Dr McFETRIDGE:** I refer to the Auditor-General's Report, Part B Volume II, at pages 507 and 523. Some of these questions are of a technical nature so, if the minister cannot answer them now, I know he will get back to me. The Auditor-General states that expenses increased by $35 million, mainly due to an increase in grants and subsidies of $25 million resulting from an increase in grants for science and technology programs and grants provided for capital purposes. Can the minister provide a list of what the grants are and how much each grant program increased in comparison to last year?

**The Hon. P. CAICA:** Commonwealth government grants totalled $101 million in 2007, rising to $106 million in 2008, which obviously is a 5 per cent increase. Of course, I know that the member for Morphett and I would be at one in that whatever money we can extract from the commonwealth government in the form of grants we have a bipartisan approach to increasing that to whatever level we can.

**Dr McFETRIDGE:** You always ask for more.

**The Hon. P. CAICA:** That is right. In fact, if they say yes straight away, it only means you have not asked for enough the first time. In relation to the specific question about a briefing on the increase in the grants and subsidies, I can inform the member and the house that those very important programs increased from $16,980,000 to $19,151,000 during the time under audit; and vocational education and training programs increased from $11,331,000 in 2007 to $12,782,000 for the period under reporting. The science and technology programs (and I know the member for Morphett has a particular interest in this area) increased from $16,710,000 up to $29,683,000 during that time.

The member accompanied me to the grand opening of the veterinary science school at Gilles Plains, but that was in another reporting period. Certainly, there is the new veterinary science school at the Roseworthy campus, to which I hope he will be able to accompany me when I open it in the distant future. There are other increases that relate to tertiary student transport concessions, the skill centre programs and other specific grants.

**Dr McFETRIDGE:** Same reference, but page 513. Expenses for employee benefits increased between 2007 and 2008 by $231,000. How many more employees did science and innovation obtain for this increase in expenditure?

**The Hon. P. CAICA:** I thank the honourable member for his question. I do not have that exact information with me, but I undertake to get back to the honourable member and the committee with the specific circumstances around employee levels as they relate to the increase in wages during that period of time.

**Dr McFETRIDGE:** On the same reference: supplies and services have dropped by $267,000 for science and innovation between 2007 and 2008. Why is this?

**The Hon. P. CAICA:** I do not have the specific information required in regard to strategic procurement. However, I make the point that as an organisation—and of course the Directorate of Science and Technology is a compartment within the broader DFEEST umbrella—we needed to get the financial aspects of our house in order; I make no bones about that, and I have spoken about it in estimates. One of those aspects was to ensure, amongst other things, that appropriate checks and balances were in place with the purchase of goods and services—and, in fact, I think we have a far better system that approaches the strategic procurement of goods and services than we had prior to my becoming the minister.

**Dr McFETRIDGE:** I have a similar type of question, minister, on the same reference, page 513; and if you do not have the information I would be more than happy to receive it later. It is good to see the position reported there that the grants and subsidies between 2007 and 2008 increased by $4,198,000. What programs benefited from this increase?

**The Hon. P. CAICA:** I think that was generally covered in my answer to a previous question on grants and subsidies. In relation to the science and technology programs in which the member for Morphett is particularly interested I did mention a $13 million increase, and a significant amount of that relates to the grant of $12.07 million and a higher education capital-related grant of $5 million paid to the University of Adelaide to enable it to establish the new veterinary science school at Roseworthy campus. The remaining increase in grants expenditure was due to higher expenditure on the following programs, as I mentioned: the commonwealth vocational, education and training programs; tertiary student concessions for transport; intragovernment transfer; skills centre payments; employment programs, that also include labour market adjustment programs and public sector initiatives; and finally the seafood training program.

However, I understand that the thrust of the member's question was about the programs that specifically relate to the science and technology programs. There would be a variety of those in there, and I will come back to the honourable member and the committee with details of specific programs within that broader heading of science and technology.

**The CHAIR:** We are now on industrial relations.

**Dr McFETRIDGE:** I refer to the Auditor-General's Report Part C, State Finances and Related Matters, and employee expenses by type. How many EBs are still to be settled? The teachers' is underway at the moment, as is the firefighters' and a couple of others, and they need to be dealt with in the next few months.

**The Hon. P. CAICA:** I will do my best to answer this question but it is not a question that relates to the Auditor-General's Report. I know that the tricky member for Morphett is trying to do exactly that. Enterprise bargaining, by its very nature, is cyclical and, as an agreement expires, efforts are made to strike a new agreement. He is quite right in highlighting that we have the teachers' at the moment, the firefighters', and we still have executive levels to cover and, although that will not necessarily be the subject of an enterprise bargaining arrangement, it will still be the subject of negotiation.

I guess the other key one is that we have the Public Service Association around October next year. Even though it is not part of what ought be the specific questioning that relates to the Auditor-General's Report, I will undertake, as I always do, to give the member a briefing on the rounds of enterprise bargaining that are to come up over the next 12-month period.

**Dr McFETRIDGE:** I appreciate the minister's flexibility and I note that, yesterday, the Treasurer was quite happy to respond to questions on WorkCover, so perhaps the minister might do that, too. That is the next question, and I refer to Part C, page 45 of the Auditor-General's Report under 9.3.2 Public Financial Corporations Financial Assets. The Funds SA investments carry a footnote (b) stating that Funds SA's investments exclude WorkCover. Can the minister tell the house how much is invested and what has been the effect on returns as a result of the current global financial crisis?

**The Hon. P. CAICA:** Again, this is not a question that relates to the Auditor-General's Report.

**The CHAIR:** It is after the period of the report.

**The Hon. P. CAICA:** Not only that, WorkCover is not subject to the Auditor-General's Report, although I know that—

**The CHAIR:** Until 1 July.

**The Hon. P. CAICA:** —the honourable member is aware of the legislative changes that will make WorkCover accounts and the audit report subject to the Auditor-General's Report. In relation to the specific question raised, I presume that the member is talking about investments by the WorkCover Corporation.

**Dr McFETRIDGE:** Yes.

**The Hon. P. CAICA:** As I have said previously, you would have to have been lying under a rock not to know that we are in the most extraordinary global financial circumstances that anyone in this house has ever seen, except maybe for the Hon. Graham Gunn because he might have been around during the Great Depression. I am not attempting to be flippant but I do not have those specific figures. I have told you previously that it depends on what point at what time of any day with respect to what might be the impact of most particular investments.

I can give you a history, if you like, of the processes by which WorkCover has made its investments over an extended period of time (a 20-year history), but we look at three-year reporting cycles and they have been reasonable over that period of time. It is also safe to say that, like any other investment, whether under personal control or corporate control, government or otherwise, they will be impacted upon by this most unfortunate global circumstance.

**Dr McFETRIDGE:** I refer to page 46, the same reference. I have a number of questions on WorkCover but I do not think the minister wants to answer them at the moment, and that is understandable. I was concerned about my previous question yesterday. The Treasurer said:

> I can confidently say to you that, between the release of that report—

he is talking about the annual report of WorkCover just released—

> and the date in that report to the end of September, or the end of October...it is worse, because the situation has deteriorated.

It was almost $1 billion at the end of June. I would be interested to know what the unfunded liability is now?

**The Hon. P. CAICA:** Again, I do not have those figures. The unfunded liability is something that is done and audited over a particular year. I want to make the very important point that we have what is essentially an unfunded liability within WorkCover—we are all aware of that—but it needs to be looked at in two components: the claims liability component and the investment component. Legislative change was made in relation to bringing down—we certainly expect—the claims component of the unfunded liability.

I think this is vitally important, because it would be my expectation that, whilst those claims or that component of the liability will see a southward trend given the legislative change—and we spoke about that yesterday—we still have some time to see the effect of that. The other major component that will contribute to the liability is our ability to make money through investments. So, the point that I want to make clear is that, as we go further down the track—and I know that you will do what it is that you have to do, and I accept that, and I always have—we, in this house and, indeed, the broader community, need to be very mindful that there are a couple of components with respect to working out the unfunded liability.

Given the circumstances that we are being confronted with at the local, national and, indeed, the global level relating to investments and finance, we expect that we will not get the return that any of us would like on our investments, and that will have a contributing impact upon the unfunded liability, irrespective of the downward trend that we say will occur in regard to the claims component of the unfunded liability.

**Dr McFETRIDGE:** I have a number of questions on WorkCover relating to the comments made by the Auditor-General. If the minister wants me to ask the questions, I am happy to, and he can then answer them in the way that he likes. I have one question about which I would like some indication of the minister's attitude. When the Auditor-General takes over the audit of WorkCover, will he look at the way the case management contract has been managed and the way that a sole claims agent was appointed and allowed to put in a late tender?

**The Hon. P. CAICA:** I think it will ultimately be at the determination of the Auditor-General as to what he looks at. Not being an auditor, I suggest that he would look at all aspects of what constitutes the financial statements that will be under audit by the Auditor-General. The Auditor-General will determine what it is that he audits in relation to that particular matter, but I expect that it will be the full scope of the financial statements and how we arrive at those statements. Again, that is a question to ask the Auditor-General.

**Dr McFETRIDGE:** I thank the minister for his honest opinions. I look forward to next year's Auditor-General's Report, because I guarantee there will not be much on anything else other than WorkCover. I would like to thank the minister and his advisers.

**The Hon. P. CAICA:** I, too, would like to thank opposition members for the manner in which they have conducted themselves during this examination. I also thank my advisers for their appearance here today.

**The CHAIR:** Thank you, and I thank the member for Morphett especially for making it easier for us. That concludes the examination of the Auditor-General's Report.

*[Sitting suspended from 12:59 to 14:00]*

## VOLUNTARY EUTHANASIA

**The Hon. R.B. SUCH (Fisher):** Presented a petition signed by 1,654 residents of South Australia requesting the house to urge the government to enact voluntary euthanasia legislation.

## PAPERS

The following papers were laid on the table:

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

Optometry Board of South Australia—Report 2007-08

By the Minister for Environment and Conservation (Hon. J.W. Weatherill)—

Land Board—Report 2007-08
National Parks and Wildlife Council, South Australian—Report 2007-08
Pastoral Board of South Australia—Report 2007-08

Wilderness Advisory Committee—Report 2007-08

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

Primary Industries and Resources South Australia—Report 2007-08

### LEGISLATIVE REVIEW COMMITTEE

**Ms FOX (Bright) (14:02):** I bring up the seventh report of the committee.

Report received.

**Ms FOX:** I bring up eighth report of the committee.

Report received and read.

### VISITORS

**The SPEAKER:** I advise members of the presence in the gallery today of students from Pembroke School, who are the guests of the member for Hartley.

## QUESTION TIME

### DESALINATION PLANT

**Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:06):** My question is to the Minister for Water Security. Is the $1.374 billion cost for the desalination plant at Port Stanvac, provided to the house yesterday, the complete and final cost for the plant, for the land, for remediation of the site, and for all transfer pipelines and associated infrastructure?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:06):** It astounds me that the Leader of the Opposition does not understand the procurement processes of government. What we have at the moment and what we announced yesterday is an updated cost estimate, based on the prices the plant is estimated to cost in full at the conclusion of the process. However, it has also been very, very clearly stated that it is subject to the final design and conditions of the plant that will be incorporated in that final design, which is currently out to tender.

A process is being undertaken at the moment, where three consortia have been short listed to develop up, in early contractor participation with the government on the final design of the plant. Once that final design of the plant is known then the accurate costings will be released. What we were talking about yesterday is again an estimate.

### DESALINATION PLANT

**Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:07):** I have a supplementary question. In light of the minister's evasive answer—

*Members interjecting:*

**The SPEAKER:** Order!

**Mr HAMILTON-SMITH:** In light of the minister's answer, will she itemise the cost estimate for the plant, the land, the remediation of the site, and each of the transfer pipelines and associated infrastructure? Will she outline the estimate?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:07):** Once again, I fail to understand how someone in the leader's position can be so ignorant—

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order!

**The Hon. K.A. MAYWALD:** —of the processes. The process is that we undertake early estimates of what we the believe the plant is going to be, but it is subject to—

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order! The leader has asked his question.

**The Hon. K.A. MAYWALD:** —a procurement process.

**The Hon. K.A. MAYWALD:** We are not going to go out and detail and itemise what we think the tenderers should be providing us with. We would like a competitive process, whereby each of the contractors will give us—

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order!

**The Hon. K.A. MAYWALD:** —their best bid. That is why we have a competitive process. We do not go out and say, 'Here's what we think it is,' so they put in the highest offer. We have a competitive process for all of the elements—

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order! The leader will come to order.

**The Hon. K.A. MAYWALD:** I think it would be useful if the Leader of the Opposition read the information that we released yesterday. He would then have a better understanding of what is included and what is not included. The EIS that was released yesterday, the information that was provided to the Public Works Committee yesterday, details what the estimate includes. I think the Leader of the Opposition should do his homework.

*Members interjecting:*

**The SPEAKER:** Order! The house will come to order.

## HEALTH CARE PLAN

**Mr KENYON (Newland) (14:09):** My question is to the Minister for Health. How many additional nurses and doctors have been recruited to increase the capacity of South Australia's public hospital system?

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:09):** I thank the member for Newland for his question, a very important question indeed.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** South Australia's Health Care Plan is based on increasing the capacity of our health care system, while also managing demand, to ensure that South Australians have access to a world class and sustainable health care system into the future. A key element of that, of course, is increasing capacity by increasing our medical workforce. Today, I can announce that under this government there are an extra 902 doctors and an additional 2,883 nurses in our public hospitals, since we came to government in 2002. That is a net gain and is based on SA Health payroll records.

The full-time equivalent figures are 598 for doctors and 2,153 for nurses. In the past financial year alone, we employed 203 extra doctors and 477 additional nurses. We now have 3,083 doctors and 13,859 nurses in our public hospitals. We have more nurses and doctors per capita than any other Australian state, according to the latest available figures in the Productivity Commission Report on Government Services published in 2008.

We are training more doctors and nurses to meet future needs. We successfully lobbied the commonwealth, recently, to obtain an extra 60 university places in South Australia in medicine. We have also worked with our federal colleagues to provide an additional 135 places for nursing students in this state in 2009. The state's new enterprise bargaining agreement with public doctors also ensures that our doctors are amongst the very best paid in the country. This will make it easier for us to recruit doctors in difficult to fill subspecialty areas in the future.

Our health system is expanding and is being revamped to cope with future demand. South Australia is leading the way with health care reform, and central to this reform, of course, is the Marjorie Jackson-Nelson Hospital. This is a brand new state-of-the-art hospital which will reinforce South Australia's reputation as a progressive and dynamic health care environment and which will further assist in workforce retention and recruitment.

South Australia is and will continue to be a very attractive place for health professionals to work. Extra medical staff are needed for the additional beds we have already created and those that are planned. We have created an additional 248 staffed and available beds—

*Ms Chapman interjecting:*

**The SPEAKER:** Order! The deputy leader is warned.

**The Hon. J.D. HILL:** Excellent. We have created an additional 248 staffed and available beds and we are continuing major redevelopment works, which include an additional 58 beds at the Lyell McEwin by 2009, as part of the $336 million redevelopment which is virtually doubling the size of the hospital, and with more beds to come; an additional 30 beds at the Flinders Medical Centre by mid-2010 as part of the $153 million redevelopment there, and that includes an expanded emergency department and new operating theatres; and over 120 additional new beds will become available when the Marjorie Jackson-Nelson Hospital opens in 2016. That hospital will be an 800-bed central hospital and it is the best option for South Australia as we plough through the 21st century.

We are also, in South Australian health, performing more elective surgery. A record number of 39,970 elective surgical procedures were undertaken in the 2007-08 financial year in the major metropolitan hospitals. This is 2,479 procedures, or 6.6 per cent, more than the previous year. It is also 12.3 per cent, or 4,384 procedures, more than the number undertaken during the last year of the former Liberal government in 2002.

This government is investing record amounts of money in public health. This year we will spend $1.3 billion more than was spent in 2002, and this will ensure that South Australians continue to enjoy world-class health care facilities well into the future.

## DESALINATION PLANT

**Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:13):** My question is again to the Minister for Water Security. How and when will the government guarantee that Mobil honours the agreement to remediate the Port Stanvac site, and did her $1.4 billion cost estimate yesterday include provision for the cost of remediation, the land and all the pipelines to and from the site, or was that figure for the desal plant only?

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:14):** The proposal for the desalination plant and the negotiations that were undertaken with Mobil are for the northern site of the Mobil-owned land, not for the site where the refinery actually is. The issue of remediation has been considered and is incorporated in the $1.374 billion estimate.

## VETERANS' ADVISORY COUNCIL

**Ms PORTOLESI (Hartley) (14:14):** Will the Minister for Veterans' Affairs inform the house about any progress on the Veterans' Advisory Council announced in September this year?

**The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:15):** I am pleased to announce that former South Australian governor Sir Eric Neal will head the newly created Veterans' Advisory Council. I made the appointment this week on the 90th anniversary of the end of the Great War. Last month I told the house that about 700 people came to a meeting in September to discuss the formation of the Veterans' Advisory Council. The meeting endorsed the appointment of an independent chair from outside the veteran community.

Other members of the council will be appointed soon and will be drawn from all parts of the large and diverse South Australian veteran community. Sir Eric Neal is highly respected by the ex-service community and brings a wealth of experience to this independent role. I am pleased that he will take up the challenge as the inaugural chairman. Sir Eric's appointment will be for two years. Sir Eric served as governor of South Australia from 1996 to 2001. Since 2002 he has been the Chancellor of Flinders University. Sir Eric is an engineer and private sector leader who has worked in the mining, construction and defence industries for much of his life.

Sir Eric is an honorary member of the RSL and former honorary air commodore of the City of Adelaide Squadron of the RAAF. I think that Sir Eric will be an exceptional leader of the Veterans' Advisory Council. I look forward to working with him and the other soon to be appointed council members.

**Mr Pengilly:** Who are they, Mick?

**The Hon. M.J. ATKINSON:** I said 'soon to be appointed'. What part of 'soon to be appointed' does the member for Finniss not understand?

**Mr Pengilly:** He understands perfectly.

**The SPEAKER:** Order!

**The Hon. M.J. ATKINSON:** The Veterans' Advisory Council will take the views of ex-service men, women and their families directly to the cabinet table as a key source of information and advice to me as veterans' affairs minister. The council will also promote the wellbeing of the veterans' community, encourage cooperation between the many veterans' organisations and offer advice to the government on commemorations. More than 40,000 South Australians receive commonwealth veterans' benefits and about 80,000 people in total identify as part of the veterans' community in South Australia. I am confident that the council will be an avenue for this large group to approach the state government with one clear voice.

## GENERAL MOTORS HOLDEN

**Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:18):** My question is to the Treasurer. When he visited the United States last week, did the Treasurer meet with representatives of General Motors to discuss the future viability of the Elizabeth plant, and what negotiations has the government had about the scope, scale and future of the Adelaide business?

**The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:18):** I thank the leader for that question.

*The Hon. M.D. Rann interjecting:*

**The Hon. K.O. FOLEY:** A hell of a lot! No, I did not meet with anyone from General Motors when I was in the United States. I requested a meeting with Chuck Wagoner, the CEO. I will go back a stage. The Premier and I have had regular contact with General Motors for all our time in government, and the Premier took a phone call from the new Chief Executive of General Motors. I was in Melbourne a couple of weeks ago, and I spent an hour with the new chief executive officer who briefed me on the very ambitious and exciting plans that General Motors has for its future, what it involves and what the financial requirements and commitments will need to be.

In that meeting I suggested that it would be good for me to meet with senior people and, if possible, Chuck Wagoner, the CEO of General Motors. The advice from General Motors—and I can fully understand this—is that in the past fortnight senior management of General Motors have been somewhat preoccupied with matters of survival and change of government. It was not possible to meet with senior management at that time. I will be back in the United States in January and the intention is to meet with senior people at that time.

In fact, tomorrow morning, along with the industry minister, the Hon. Kim Carr—a very good and longstanding friend of the Premier; they have shared many moments developing industry policy and policy exchange—I will be at General Motors to talk with them about the outstanding policy decision of the federal Labor government in terms of what it means for Holden's future, component companies and, indeed, all the Australian automotive industry. I have spoken to John Lenders (the Victorian Treasurer) about General Motors, and barely a week goes by when we are not in some form of contact, either at departmental or ministerial level, with Holden. We are doing all we can as a government.

Let us remember that this government, together with someone I consider a friend, Ian Macfarlane (federal industry minister under the Howard government), along with the Victorian government, assisted General Motors by providing assistance to develop new technologies that, in part, have been incorporated into the G8 Pontiac, which is selling reasonably well in the United States. In fact, I saw adverts for it when I was in the United States. It is a good looking car. It is selling well, but not as well as they would like. We should recall that the month of October was the worst month, I think, since the war for automobile sales in the United States. It is widely speculated and commented upon that General Motors, the parent company, is in a severe financial position—

**The Hon. M.D. Rann:** So are Ford and Chrysler.

**The Hon. K.O. FOLEY:** So are Ford and Chrysler.

*Mrs Redmond interjecting:*

**The Hon. K.O. FOLEY:** You may be right, but the big speculation when I was there was Chrysler and General Motors merging to try to get some efficiencies. General Motors' financial position was commented upon and reported widely, to the extent that I understand the US

Congress is looking at a package of assistance for the automotive industry in America in the order of $US25 billion. It is clear that the Bush administration, the Congress and, indeed, the Obama administration will not see the American car industry fail, just as the Rudd government here will not see the car industry fail—and for South Australia that is good news. General Motors is an important part of our economy and the component makers are an important part of our economy. We are confident that we will see a growing and expanding automotive sector here in South Australia.

## SIMPSON DESERT

**Ms BREUER (Giles) (14:23):** Will the Minister for Environment and Conservation explain the reasons for the closure of the Simpson Desert Conservation Park?

**The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:24):** The South Australian Department for Environment and Heritage has announced that the Simpson Desert will be closed during the hottest months of the year to ensure the safety of visitors, in particular overseas visitors, and emergency personnel,. The closure will apply from 1 December to 15 March and will affect the Simpson Desert Conservation Park and Regional Reserve in South Australia. The closure was proposed after a risk assessment identified that extreme temperatures constitute a very high safety risk. There has been consultation with local businesses, tour operators and other people in the area.

I can rule out one of the suggested reasons for the closure of the reserve, which is gaining some online currency. It has been suggested in some online forums that the true reason for closure of the park is that the presence of aliens has been detected in the park. I wish to assure the house that, in fact, no aliens have been detected in the park. I will qualify that. This is parliament, and it is important that I do not mislead the house. They have not been detected, at least by officers of the Department for Environment and Heritage.

When we made the decision to close the park, we did not even suspect that there were aliens in the park. That was no part of our decision-making process. Of course, I cannot entirely rule out the existence of aliens in the park. It is not my present intention to dispatch further investigators to establish beyond doubt that there are no aliens in the park. And I do not wish that to be taken as a cover-up on the part of this government, because that would be an unfair—

*An honourable member interjecting:*

**The Hon. J.W. WEATHERILL:** That's right; that would be a very unfair thing.

## DESALINATION PLANT

**Mr WILLIAMS (MacKillop) (14:26):** My question is to the Minister for Water Security. Why is the government committing South Australian taxpayers to a desalination plant at Port Stanvac without first securing the land on which it is to be built? The minister tabled information in the house yesterday—

*Members interjecting:*

**The SPEAKER:** Order!

**Mr WILLIAMS:** —which states: 'SA Water is in negotiations with Exxon Mobil regarding the purchase of the site.'

**The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (14:27):** Yes; we are in negotiations with Exxon Mobil for the purchase of the site, and we intend to purchase the site to build a desalination plant on it.

*Members interjecting:*

**The SPEAKER:** Order!

*Members interjecting:*

**The SPEAKER:** Order! The member for Reynell.

## PREMIER'S BE ACTIVE AND READING CHALLENGES

**Ms THOMPSON (Reynell) (14:27):** My question is to the Minister for Education.

*Mr Williams interjecting:*

**The SPEAKER:** The member for MacKillop will come to order!

*Members interjecting:*

**The SPEAKER:** Members will come to order!

*Members interjecting:*

**The SPEAKER:** The house will come to order!

**Ms THOMPSON:** Can the minister provide an update on this year's Premier's Be Active Challenge and Reading Challenge?

**The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (14:28):** I thank the member for Reynell for her question. I know that she has been a great supporter of both the Premier's Reading Challenge and the Be Active Challenge. I know that she attends and speaks at all the award-winning ceremonies at the schools in her electorate and hands out the medals and certificates.

Over the last five years we have noted the astounding success of the Premier's Reading Challenge, which is now in its fifth year. We have noted massive participation, with 95 per cent of eligible schools involved in the challenge this year and 106,000 students having completed the challenge, an increase from 100,971 in 2007. Students from 752 schools completed the challenge in 2008; again, an increase from 2007.

In particular, 16 Aboriginal and APY lands schools had students who completed this year's challenge, which is an increase from 10 last year—something that we are very pleased about. An added incentive for children in remote areas was the addition of parcels of new and more exciting books for their libraries, which support their challenge attempts. We should congratulate them on their achievements.

As you know, students are participating for the First Year Achiever Certificate, and after that, bronze, silver and gold medals. This year, 25,500 students received certificates for first-year participation; 24,500 students received a bronze medal; 22,700, a silver; and 18,300, a gold medal. This is the first year that we added an additional category: the Champion. This year, over 15,000 students achieved this category. Next year, we will add the Legend medal, and following that the Hall of Fame medal for students who have continuously participated in this activity.

Again, we are holding a Premier's reception, this year on 24 November, so I remind all members that, if they have schools attending this reception because they have been high achievers, it would be a good time for them to visit this event as well.

We have had particular evidence that our challenge has helped those students who were previously struggling with literacy. It has encouraged them to read books and, anecdotally, both public libraries and school libraries have been inundated with borrowing requests.

Of course, this program has been supported by additional funds into our schools with our Early Years Literacy Program, our Accelerated Literacy Program and our attainment of the South Australian Strategic Plan targets for improved performance in literacy. In addition, the program is supported by 14 ambassadors who attend schools and promote this campaign.

I am particularly proud that this year (and it is appropriate that we mention this today) our first team ambassadorial selection has been made, and our first team of ambassadors will be Adelaide United. Like all members in the house, I am sure, I will be supporting and cheering them on this evening but, after tonight's game, they will be supporting young readers.

In addition, our Be Active challenge has been a great success, with reception to year 9 students involved in up to 60 minutes of activity a day. This year, I am pleased to inform the house that 23,500 students completed the challenge. That is three times more than last year. Last week, the Premier and I attended a Be Active challenge reception and had great pleasure in not only delivering those certificates but also being involved in delivering bundles of equipment for schools.

Eleven top South Australian sportspeople are our challenge ambassadors, and they will be promoting not just fitness but also a healthy lifestyle, with 202 schools sharing in more than $100,000 of one-off start-up grants of $500 per school to persist in their participation.

I think our Be Active challenges, led by the Premier, in both reading and fitness have been an extraordinary success. I commend them to members and encourage them to attend the ceremonies later in the year.

## WATER CHARGES

**Mr WILLIAMS (MacKillop) (14:32):** My question is again to the Minister for Water Security. By how much will South Australian water customers' bills go up to cover the increased costs of the desalination plant and the South Australian water billing system, described by the Treasurer earlier this year as a monumental stuff-up? The opposition has received freedom of information documents which reveal that increased pricing recommendations have already been provided to the Treasurer.

*Members interjecting:*

**The SPEAKER:** Order! I have called the house to order.

**The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:33):** What about this bloke on radio this morning! It was a sensational interview this morning by the Leader of the Opposition about his football stadium. We are in the middle of the world's worst financial crisis—

**Mr WILLIAMS:** Point of order, sir—relevance.

**The SPEAKER:** Perhaps it might have been a bit easier for me to bring the Deputy Premier to the point of the question had he not been met with a chorus of interjections as soon as he got to his feet. The Deputy Premier needs to talk to the substance of the question.

**The Hon. K.O. FOLEY:** Thank you, sir. The government has said from the outset that the desalination plant will be full cost recovery by increased water charges. This silly nonsense that the opposition is going on about cost blow-outs, etc.—a desalination plant will cost what a desalination plant will cost. We are fast-tracking a desalination plant and—

*Mr Hamilton-Smith interjecting:*

**The Hon. K.O. FOLEY:** Sorry?

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** It will cost what it will cost, and the—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** 'What a great Treasurer we have,' he says. Thank you for that compliment. How was this bloke this morning, the alternate treasurer, saying that we need a world-class stadium! We are in the middle of the world's greatest financial crisis and he would rather have a football stadium!

**Mr WILLIAMS:** Sir—

**The SPEAKER:** Order! I know what the member for MacKillop's point of order is going to be. The Deputy Premier must answer the substance of the question.

**The Hon. K.O. FOLEY:** I was just doing it by way of illustration of who has their priorities right. We are building a desalination plant—

**Mr Hamilton-Smith:** Look what the Premier is wearing!

**The Hon. K.O. FOLEY:** And what about Duncan?

*Members interjecting:*

**The SPEAKER:** Order! The house will come to order.

*The Hon. M.D. Rann interjecting:*

**The SPEAKER:** The Premier will come to order. The Deputy Premier.

**The Hon. K.O. FOLEY:** Sir, the Premier of our state is doing what a Premier of our state should be doing, that is, loyally supporting our great Adelaide United, along with the shadow minister for sport.

*Dr McFetridge interjecting:*

**The Hon. K.O. FOLEY:** Are you sport? What are you, then?

**Dr McFetridge:** I'm a supporter. Go you Reds!

**The Hon. K.O. FOLEY:** All right. We will recover the cost of the desalination plant by increased water charges. Once we know the cost of that plant, we will put the price path in place. We have already increased water prices in the order of 15 per cent this year. We have said that a figure of that order—perhaps a higher figure but we have not had it determined yet—will be required over the course of the next five years. We have said that publicly. That is exactly what is happening in Victoria. In newspaper articles over the weekend the water authorities there have made it very clear that the cost of a desalination plant has to be borne by the community to ensure water security. In Victoria, that will see a doubling of prices over a four or five-year period. That is exactly what we have said will happen in South Australia, unless—

*An honourable member interjecting:*

**The Hon. K.O. FOLEY:** So you do not think we should have cost recovery on this? So that is another billion dollar hole in our budget numbers. Is that what you are saying?

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. Rann:** He would rather have a stadium tax.

**The Hon. K.O. FOLEY:** Ah! Can he—

*Members interjecting:*

**The SPEAKER:** Order! The house will come to order.

**The Hon. K.O. FOLEY:** The Leader of the Opposition has made it clear he wants taxation reform. Well, you will need a bloody big tax increase to pay for your stadium.

## SOUTH AUSTRALIAN POPULATION HEALTH INTERGENERATIONAL RESEARCH PROJECT

**The Hon. S.W. KEY (Ashford) (14:37):** My question is directed to the Minister for Science and Information Economy. What support is the government providing to conduct research into preventative measures to address related major illnesses and mortality?

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (14:38):** The Premier's Science and Research Fund is one of the many outstanding state government research initiatives which provide essential funding support to projects that assist in building skills, knowledge and capabilities in science, technology and innovation throughout our state. A particular project I would like to inform members about is the South Australian Population Health Intergenerational Research project, which is investigating measures aimed at preventing major causes of illness and mortality. The results of this research will provide a solid foundation for the development of new strategies to help improve health and fitness outcomes for all South Australians. This comprehensive strategic research project received $1.35 million over three years from the Premier's Science and Research Fund, with matching cash and in-kind support from the Department of Health, and I thank the Minister for Health for his enthusiastic support for this project.

While the project is led by the University of South Australia, it has strong collaboration links with our other two local universities, as well as the Spencer Gulf Rural Health School, all of which have provided substantial financial support. Their involvement exemplifies the outstanding collaborative capabilities and capacities of our state's leading research institutions. A point that I make quite often is we have been very successful in acquiring commonwealth funding because we do things in a way that distinguishes us from other states, that is, we have an ability to work together very well. There are great advantages for South Australia in respect of our future in these areas.

The SAPHIRe project brings together a multidisciplinary team of expert local and international researchers to design, implement and interpret a multigenerational cohort study of the health and fitness of South Australian families. The SAPHIRe project is building and linking data across existing long-term health studies in Adelaide and has kick-started one of the first comprehensive regional health assessments—and I know the member for Giles is aware of this—the Whyalla Intergenerational Study of Health (WISH). WISH will be a leader in community health research in regional and rural Australia, inviting approximately 2,500 Whyalla households to participate in a project that aims to improve our knowledge of health issues and to help keep families 'fit for life'.

The SAPHIRe project will have enormous long-term benefits for South Australians, giving us the potential to further develop our research profile—both nationally and, indeed, internationally—by creating a collaborative research hub for intergenerational health, with a strategic focus on health throughout life and between generations.

*Mr Venning interjecting:*

**The Hon. P. CAICA:** Ivan, I think you could do with a fitness program, having a look at you; all right. This project will not only provide detailed reports on biological, health and social data for up to 5,000 adults and 2,000 children but it will include an economic analysis that models specific intervention strategies. The research outcomes from this project will complement the important work being led by the ministers for health, education and mental health in areas such as childhood and adult obesity, diabetes, cardiovascular and respiratory health, mental health and independence in ageing.

Without doubt, this project is a further example of the capacity among South Australian researchers for effective research collaboration. The SAPHIRe project will help deliver significant outcomes for South Australians and reinforce our state's reputation as a centre for world-class research.

## MARJORIE JACKSON-NELSON HOSPITAL

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:41):** My question is to the Minister for Health. As the Marjorie Jackson-Nelson Hospital model of care that was published yesterday is the same as the draft published in August, what was the point in spending thousands of dollars of taxpayers' money on a two-page advertisement in the *Sunday Mail* on 2 November to consult with the public?

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:42):** It is delightful that the Deputy Leader of the Opposition attacks consultation with the public of South Australia. She obviously does not care what the people in this state think—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** I know, and I think she secretly knows, that the majority of people in this state actually support building a state-of-the-art, brand new hospital on North Terrace. They do not want to see a clapped-out, rundown bunch of old buildings constructed in the 1950s and 1960s remodelled so that people will still have to share toilets and wards. We want to build a brand new, state-of-the-art hospital with single rooms—their own bathrooms and toilets associated with those single rooms—with a lovely view over the River Torrens. That is the model of care on which we are building and we want to know what the public think, and that is why we put that out for consultation.

## AUSTRALIAN VOLUNTEER COAST GUARD

**The Hon. L. STEVENS (Little Para) (14:43):** My question is to the Minister for Emergency Services. What has the government done to bolster our state's marine rescue capability?

**The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:43):** Last Sunday, I had the pleasure of commissioning the *Intrepid*, a new search and rescue vessel for the Australian Volunteer Coast Guard at their headquarters at North Haven. The Australian Volunteer Coast Guard, which is a member of Volunteer Marine Rescue, has made a significant contribution to marine safety in this state for many years through the provision of a 24-hour search and rescue capability, public education courses and the monitoring of marine emergency radio frequencies. In South Australia, the AVCG operates five flotillas—North Haven, O'Sullivan Beach, Port Augusta, Port Vincent and

Kangaroo Island—and operates in excess of 30 radio bases positioned strategically throughout the state.

The government is very aware of the valuable role that volunteer marine rescue associations play in meeting marine-related risk in our state. As the number of registered recreational vessels increases and as marinas venture further out to sea, the risk of an incident or emergency occurring also increases. Therefore, it becomes vital that the search and rescue authorities have the ability to provide an appropriate response in these circumstances. Because of this need, the government provides volunteer marine rescue associations with annual grants from the community emergency services fund that contributes to operating costs, vessel replacement programs and contingency funding.

The acquisition of the *Intrepid* (to be located at North Haven) is an example of the emergency services fund serving the community, with a contribution of $71,855 to the Australian Volunteer Coast Guard enabling this acquisition. The new vessel is a 6.7 metre Wescraft cabin cruiser, powered by two Mercury outboards and fitted with an inventory of navigation electronics, radios and safety equipment.

The Australian Volunteer Coast Guard is an organisation that consists entirely of committed and professional volunteers dedicated to making our waters safer. On behalf of the government, I sincerely thank and commend all the volunteers who give their time freely, often at the expense of family and personal commitments and sometimes in potentially dangerous situations.

## MARJORIE JACKSON-NELSON HOSPITAL

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:46):** My question is again to the Minister for Health. Will the minister confirm that there will be no reduction in the size of surgical theatres at the proposed Marjorie Jackson-Nelson Hospital? Last week, it was publicly disclosed that the 170,000 square metre site will now be reduced to 140,000 square metres—and the minister said yesterday that he was aiming at 150,000 square metres. The opposition has been informed by clinicians that the proposed new theatres will not be 'big enough to do surgical procedures'.

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:46):** The Deputy Leader of the Opposition should seek better advisers when she is getting information for her questions in parliament, because that is absolutely untrue. If the member seriously thinks that we would build a hospital which had theatres which were not big enough in which to perform surgery, she is absolutely deluded.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** We are building a hospital which—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.D. HILL:** Thank you, Mr Speaker. What we are doing is designing—

*Mr Venning interjecting:*

**The SPEAKER:** Order! The member for Schubert.

**The Hon. J.D. HILL:** With expertise provided by clinicians, architects and all the others who have technical expertise, we are designing a hospital which will be able to provide services well into this century. Of course, when the hospital is completed in 2016, the circumstances that will apply at that time and over the next 20, 30 or 50 years of its life will change, so we are building in flexibility. However, there will be more theatres than we have at the current hospital, and the capacity will be larger in those theatres.

Some theatre spaces may be smaller because they do not need all the equipment, and some will be larger. That detail is still being worked through, but I can assure the house and I can absolutely assure the public of South Australia that the theatres in the new hospital will be an advance on the theatres we have at the RAH and that they will be capable of performing the surgery that is required by the clinicians of our state.

## DAME ROMA MITCHELL TRUST FUND

**The Hon. P.L. WHITE (Taylor) (14:48):** Can the Minister for Families and Communities advise the house of the assistance that the Dame Roma Mitchell Trust Fund has provided to children and young people who are or have been under the guardianship of the minister, including assistance provided to children and young people with a disability?

**The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (14:48):** I am sure members would be aware that the Dame Roma Mitchell Trust Fund was established in 2003 by this government and the South Australian Council of Social Services to provide opportunities for children and young people who are or have been under the guardianship of the state or who have lived in long-term family care supported by Families SA.

During the past five years, the Dame Roma Mitchell Trust Fund has contributed in excess of $1.3 million to children and young people for contributions towards self-development opportunities. In the past year, the first full year of the operation since the implementation of a separate—

**Ms CHAPMAN:** On a point of order, Mr Speaker, although this is a very important topic, the annual report was actually tabled in the parliament. So, for the minister to tell us what has happened in the last year when it has already been tabled in this house is not further information to the house.

**The SPEAKER:** There is no point of order. The question is in order. The minister.

**The Hon. J.M. RANKINE:** Thank you, Mr Speaker. This past year has seen the first full year of operation since the implementation of a separate trust deed providing a $1 million trust specifically for children and young people with a disability who are currently or have been in care.

In total, 127 young people have been assisted. Some examples include: enrolment expenses to attend pre-vocational courses, assistance in setting up their own homes, and obtaining employment. Thirty of these were young people with a disability.

There have been a number of corporate partnerships developed to ensure these young people get the best value for their grant dollar:

- The Byte Back program continues to support young people with the provision of new personal computers, laptops and software at reduced prices.
- Radio Rentals, Fantastic Furniture, Bed E Buys and the Good Guys have generously offered these young people discounted rates on goods and services, enabling them to make the most of their grants.
- The RAA works directly with young people to assist them to make informed decisions when purchasing a vehicle.

Their contribution is greatly appreciated and really does help set these young people on the right path. It also sends a very strong message that they matter to our community.

The board has reported some very moving stories of the impact of the trust fund, like an 18 year old woman living in regional South Australia who had recently finished further studies but due to a lack of transport options was finding it difficult to secure employment. She applied to the trust and was provided with financial assistance to enable her to purchase a car. She obtained employment in her chosen field in a neighbouring town. A young couple, who had been renting for years and trying to save towards a deposit on a home of their own, applied and were assisted with a grant to enable them to buy a house and land package—a realisation of their dream.

The Dame Roma Mitchell Trust Fund is able to provide the type of practical support that families generally provide to their young ones. I am pleased to be part of a government that has put this very caring initiative in place. I congratulate the board on its important work. It has had a huge impact on these young lives and on our broader community. It fosters confidence, the development of skills and creates opportunities that lead these young ones into independence and a positive future.

## ELECTIVE SURGERY

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:52):** My question is again to the Minister for Health. Did he consider extending the surgical times at the Queen

Elizabeth Hospital beyond 3.30pm before contracting Aspen Medical to perform additional elective surgery procedures at a cost of more than $1 million?

On the minister's information, Aspen Medical will be performing 210 elective surgical procedures at the Queen Elizabeth Hospital over the next four months and will be paid approximately $1 million. Surgical teams at the Queen Elizabeth Hospital currently do not start any new cases after 3.30pm, whereas in the private hospitals (currently) they perform similar surgical procedures until 6 or 7 in the evening.

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:52):** I thank the deputy leader for that question. I will give some basic background and then come to the point of the question. SA Health has contracted Aspen Medical, which is an Australian company, to perform 210 elective surgery procedures over the next four months. As I pointed out earlier, we do about 40,000 or so, so it is a very small proportion.

Aspen has a long history of providing short and medium-term medical care in areas of need in Australia, Asia and the Pacific, working across a broad spectrum, from medical services in remote areas to running an emergency department in Queensland. So, they are a well credentialled, established, properly organised group.

The procedures will be mostly in the areas of urology, plastics and general surgery and will be undertaken at the QEH, as the member said. This hospital has a strong future as a centre for high volume elective surgery, caring for the population of the western suburbs. The procedures will be funded from the extra one-off $13.6 million that the commonwealth government has given the state as part of its campaign to get surgery to patients on the long-term waiting list.

We are under obligation to the commonwealth government to comply with this requirement by the end of this calendar year. That is, essentially, why we have gone to the private market to complete these procedures.

While we are working hard to recruit more surgeons, anaesthetists and emergency specialists, this recruitment will take some time, and we do not want to lose the opportunity provided by the commonwealth through these funds. When the funding was announced earlier this year, I did indicate that we might seek support from the private sector, and I flagged this again in October of this year.

We, obviously, aim to do all of the work in-house and 99 per cent of it is being done that way. However, if it became necessary, I would not rule out using the private sector again. I think we need to be pragmatic about this because we do not want people to wait longer than necessary for elective surgery. If it is a choice between doing it in-house or getting it done more quickly in the private sector, I would go for putting patients first, and I was pleased that the AMA made a similar point. In addition to the extra federal money, of course, the state has put in $55 million over four years from 2006-07 to fund more elective surgery. All this extra money has pushed resources pretty hard.

The result has been a 12.3 per cent increase, or 4,384 procedures more than the number undertaken during the last year of the former Liberal government. That is a big increase over that period of time. In fact, across the public hospital system up to September this year, an additional 2,009 elective surgical operations have been completed compared to the same period last year. There has been a 51.3 per cent reduction in the number of overdue patients between September 2007 and September 2008. I make no apologies for pushing this as hard as we can.

We went to Aspen. We did contemplate going into one of the private hospitals. I note that, during the week, the honourable member said that I should have taken the work to a private hospital. Well, that was an option we considered, but Aspen was a cheaper option, because what Aspen will do is provide us with the doctors who will come into the hospital to work with our existing staff and our existing theatres.

The question about why we do not do it longer is really not the essence of the problem. The problem has been getting staff who can do it in the time frame, that is, before the end of the year. The department, certainly, tried very hard to work with the profession to get the work done in the required time, and it just was not able to be done. We had an issue earlier this year. We thought we would not be able to get through all the orthopaedic work, but the orthopaedic surgeons got together and worked out how they could do it, and they have been doing overtime work and the rest of it.

One of the issues for some of this work—and I think it is in the plastics area; I think the plastic surgeons are getting through their work reasonably quickly—is having anaesthetists available to do the work. I think that, in the case of plastics (I stand to be corrected; I might be wrong in this), Aspen will bring in the anaesthetists and that will allow the plastic surgeons who operate out of the QEH to do that work. I think that with respect to some of the surgical work we are proposing to do, again, the anaesthetists will be there to assist the surgeons in South Australia.

All the detail of this is being worked through. This is a pragmatic approach to a problem. It is a kind of one-off problem in a sense because the commonwealth government gave us extra money to get rid of the long waits. These are patients who have often been waiting for a very long time. Their need is not necessarily urgent. Someone is always coming into the system who needs a procedure done more urgently, so others get pushed to the bottom of the list because doctors quite rightly determine which order patients are treated in, based on need. This funding, in a sense, is creating a separate list of those who have been waiting a long time, and that is why we need to do it in this way.

I do not apologise for doing it. I think it is a pragmatic way of getting the appropriate outcome. I have to say that most of the other states have done similar things, not necessarily with Aspen but certainly using the private sector to get some of the work done.

## WORKCOVER CORPORATION

**Dr McFETRIDGE (Morphett) (14:58):** My question is to the Minister for Industrial Relations. Has the government received advice on WorkCover's unfunded liability position as at 30 September or since? According to its annual report, WorkCover's unfunded liability was $1.008 billion as at 30 June 2008 using a discount rate of 6.5 per cent. Since 30 June invested funds have experienced further losses. The discount rate has deteriorated to 4.9 per cent as confirmed by the Under Treasurer on 27 October 2008. The drop in the discount rate alone translates to an unfunded liability of $1.22 billion. In the Auditor-General's examination yesterday the Treasurer said:

> I can confidently say to you that, between the release of that report and the date in that report to the end of September, or the end of October, or mark-to-market results to date, it is worse because the situation has deteriorated.

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (14:59):** Again, I thank the honourable member for his question, but what I would say—and he knows because he has been properly briefed—is that the audited figures with respect to the matter which he has raised are updated on a six-monthly basis. Again, you would have had to have been living under a rock not to know that certain circumstances are impacting upon investments, whether they be the substantial investments the honourable member holds or, indeed, the substantial investments which the government holds. Of course, the most extraordinary global economic circumstances are having an impact on investments.

*Members interjecting:*

**The SPEAKER:** Order!

## WORKCOVER CORPORATION

**Dr McFETRIDGE (Morphett) (15:00):** In light of the minister's answer, has the minister sought any advice on the unfunded liability?

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (15:00):** What I can tell the honourable member, and indeed the house, is that since I was provided the privilege of becoming this state's industrial relations minister I have sought an enormous amount of advice from WorkCover on a range of matters. What I would say—and it is a point that needs to be reinforced—is that for a variety of reasons the system that is WorkCover failed in its mission. How did it fail in its mission? It failed in its mission to return people to work. My focus and this government's focus—

*Ms Chapman interjecting:*

**The Hon. P. CAICA:** Well, you were part of the process of setting it up. Sir, she has already been warned a couple of times.

**The SPEAKER:** Order! The deputy leader will come to order.

**The Hon. P. CAICA:** Thank you, sir. What I would say is that it is a matter on which I hope we would get bipartisan support—although I might not expect it from the deputy leader. The focus for the government, employers and this state needs to be on returning injured workers to meaningful work.

## WORKCOVER LEVY

**Dr McFETRIDGE (Morphett) (15:01):** My question is to the Premier. Will the government rule out increasing the WorkCover levy rate? The government promised publicly in June, when arguing the case for legislation to cut workers' entitlements, that it would deliver a cut in the average levy rate from 2.75 per cent to 2.25 per cent. Employer levy revenue has increased by over $47 million in the past 18 months.

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (15:02):** The levy rate, as I understand it, is ultimately the decision of the board of WorkCover. The point that I would make—

*Dr McFetridge interjecting:*

**The Hon. P. CAICA:** I understand that when you were in government you ignored some of the recommendations made by the board in relation to, amongst other things, the levy rate. Be that as it may, that is the way in which the opposition operated when it was in government. I make the point that we have made legislative change. We expect that legislative change to have some impact on a host of matters on which the WorkCover Corporation operates. I reinforce the point that I hope the opposition is right behind our achieving a system that has as its focus the welfare and wellbeing of workers by returning them to meaningful work.

## APY LANDS

**Ms BREUER (Giles) (15:03):** My question is to the Minister for Aboriginal Affairs and Reconciliation. How is the government improving service delivery and community governance on the APY lands?

**The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:03):** For some time there has been a number of concerns about service delivery on the APY lands. That has been obvious. Rubbish collections have been irregular, road maintenance has not been consistent and maintenance and supervision of airstrips have been patchy. There have been dog control issues and the collection of rent has been sporadic and inconsistent. A whole range of services that a community takes for granted have not been well delivered.

A key part of that issue is governance. There is no identifiable body that is clearly responsible for local government and allied services on the APY lands. In the absence of such a body, service delivery has been fragmented between commonwealth and state agencies, the APY executive board, non-government organisations and individual communities on the lands. Understandably, in those circumstances real tensions have emerged between those various organisations, often paralysing service delivery.

In the report into the APY lands, Commissioner Mullighan identified that improved service delivery would be critical in order to establish a safer community. Indeed, it was the subject of his first recommendation. Last year the commonwealth and state governments commissioned John Thurtell to examine these issues and, in response to his report and Commissioner Mullighan's recommendation, a few weeks ago we released a discussion paper, which sets out the principles on which we will act on what we regard as our preferred model for service delivery.

Last week, government officers went to the lands to meet with communities to talk about those principles. Consistent with the Thurtell report, we believe that a regional council should be established to oversee service delivery, and it would be responsible for service delivery to the communities. It would draw its representation from communities and engage with communities in determining service needs. Strong accountability measures would need to be in place, and there should be adequate training for the staff.

The regional council and the way it links with communities would be designed in a way which strengthens Anangu to participate in the decisions that affect them. We need robust grievance procedures, and there needs to be, critically, the protection of the role of APY Executive as landholder and manager of those lands.

I am pleased to be able to tell the house that the suggested changes were generally well received right across the lands. Anangu encouraged us to take these steps to improve service delivery. Significant stakeholders, such as APY Executive and AP Services, have expressed their support for the general thrust of what we are suggesting. Indeed, I am meeting with representatives of APY Executive this week to further these discussions. We have also had discussions with the Aboriginal Lands Parliamentary Standing Committee, and I must say that there is general bipartisan support for the thrust of what we are trying to achieve here.

This is absolutely critical if we are to improve conditions on the lands to get basic service delivery right. I am hopeful that we will be able to reach early agreement and, hopefully, approach the parliament with an agreed bipartisan position.

## GRIEVANCE DEBATE

### WATERFALL GULLY ROAD

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:06):** We find that Waterfall Gully Road is yet again a place of carnage. Members might recall that, in late 2005, there was very significant flooding in the Waterfall Gully area, resulting in millions of dollars in damage to both public and private property. Since that time, whilst the government finally undertook some remedial work on the road, we had the tragic death of a cyclist in February 2007. Just last month, almost in the same place, sadly another 31 year old Unley man—a person from outside my electorate of Bragg—sustained injuries and was hospitalised as a result of an accident on this road. This matter has been the subject of some public comment.

I received information concerning another person—a third victim—in the previous month, on 29 September, who was travelling on his bicycle and had a near fatal collision. He received five stitches to his forehead as a result of the injury, which he sustained despite the helmet he was wearing at the time, and required two operations to his left arm, as well as receiving a number of other abrasions. Again, very significant and serious injury has been sustained as a result of the disgraceful state of this road.

I have repeatedly called on the government to honour its absolute responsibility to ensure that it not only undertakes the flood mitigation problem in that area. It must ensure that two things happen: one is that the roadway is repaired; and, secondly, where there is public land, including parks and areas contained wildlife, work must be undertaken to get rid of the substantial bamboo growth in there, which is causing a watercourse interference. These are two fundamental capital works programs.

In the meantime, at the very least, we asked for a copy of the road accident safety report, which was undertaken as a result of the death of a cyclist in 2007. In the last two months there has been serious injury to other cyclists on this road. As I say, we have asked that, at the least, the report be provided. The freedom of information application, which was to seek TransportSA's safety and audit report on the fatality, was denied. I have raised this issue in the parliament and called upon the government to release this report publicly and to tell us why, in this case, someone who is innocently riding their bike along Waterfall Gully Road should sustain a fatal injury. An investigation has been undertaken but this government continues to keep the matter a secret, and that is utterly disgraceful!

I remind the house, particularly members of the government, that it is not people in Bragg who are being injured; it is people from other areas. Tens of thousands of people visit this important area every year and, because it is a major tourist attraction, we have motor, cycling and walking traffic. It is a state icon. These people are entitled to use this area, but it is dangerous, and every person who visits it is at risk. They continue to sustain injury and, tragically, die.

We want to know the reason why, and we want the government to release this report and stop being so secretive. If it means dealing with capital works, if it means dealing with a change in the engineering of the road and if it means providing surface rehabilitation, let us know about it. The only reason this government is concealing the report is because it is scared to death that people who have sustained injuries will take it up with the government and take the lawful action

they are entitled to. We want this report released now, we want no more secrecy and we want no more deaths on Waterfall Gully Road.

## AMY'S RIDE

**Mr BIGNELL (Mawson) (15:11):** Unlike the member for Bragg, I presume, I actually ride my bike up and down Waterfall Gully fairly regularly.

**Ms Chapman:** At least you're not dead!

**Mr BIGNELL:** Of course I'm not dead; I am standing here. The road is a very good one to ride up and down as a cyclist. Obviously, you go a lot faster on the way down than on the way up. On the way up, it is a very gradual but fairly steep climb and a good workout; however, when heading down Waterfall Gully, it is quite possible to get up a fair bit of speed and, as a cyclist, you really need to be careful because you can reach some fairly high speeds.

This government has done a lot in terms of making our roads a lot safer for cyclists through our campaign about motorists and cyclists sharing the road, and I commend the government for that. We are the first government to appoint a Minister for Road Safety and, under that minister, we have made great headway in making our roads a lot safer for cyclists. As someone who is out on a bike a fair bit, I can say that, while it is not a perfect world out there on a bike, things are getting better.

It is hard to retrofit roads and make them wider and put in bike lanes. However, I can assure people, including the member for Bragg, that when we build new roads we build them with wide bicycle lanes. An example is Henley Beach Road and the Bakewell Bridge underpass. When we build brand new roads, we provide plenty of room for cyclists so that they can be away from motorists. As I said, they are not perfect, but we are really trying to make our roads safer for cyclists across the whole state.

This brings me to the issue that I was originally going to talk about, that is, Amy's Ride on 2 November. The Attorney-General, the Minister for Environment and the Minister for Transport showed their commitment to road safety in this state by joining with 2,000 other cyclists on the Southern Expressway when it was closed to cars and they were able to ride from Darlington down to McLaren Vale.

It was a fantastic day and a great way to honour a great South Australian sportsperson, Amy Gillett, who was tragically killed a few years ago in a training accident while riding her bike in Germany. I commend the 2,000 people who turned up a couple of Sundays ago on 2 November for what was a great day to promote road safety for cyclists and motorists in this state.

In fact, November is proving to be a very good month for good causes. We also have Movember, of which I am proud to be a part this year and which raises the profile of men's health here in South Australia. Blokes are pretty bad at looking after themselves, and it is often said that we look after our cars better than we look after ourselves. We really need to change that and make sure that men get their medical check-ups and look out for each other and ensure that they are checked out for cancer, coronary disease and other things that can beset them.

This month also has White Ribbon Day, on 25 November. At a function here in Old Parliament House just a couple of weeks ago it was fantastic to meet with people such as Mark Williams (the coach of Port Adelaide) and several other people from the legal, sporting and political world. Andrew O'Keefe, who is the Chairman of the White Ribbon Foundation, was the guest speaker. He is the host of the *Deal or No Deal* program on the 7 Network. He spoke very well and encouraged all of us to become ambassadors, and for men to speak out against violence against women. I know members from both sides of the house who were there were keen to take up the invitation to become ambassadors and ensure that we spread the word through our own state communities that violence against women is totally unacceptable.

Another great event, and one that raises a lot of money for the Hutt Street foundation, is the Portavin touch rugby day, which is when wineries from around the state come together to play touch footy. That was held last Sunday and, again, tens of thousands of dollars was raised for a very good cause.

Before I finish, I pay tribute to Rob Kerin. It is his final day in parliament, and I think Rob is a fantastic person and former premier of this state. He is a great mate of mine, and I have always enjoyed catching up with him. I know he will be missed by both sides of the house.

**Honourable members:** Hear, hear!

## MEDIA INDEPENDENCE

**Mr PENGILLY (Finniss) (15:16):** Everyone in this place should get a copy of last week's *Independent Weekly* and read the article by Tom Richardson called, 'An Implacable Hatred'. I think it is a sad indictment of where politics in this state have gone. Freedom of the press and freedom of speech are inalienable Australian rights but something that must be seriously questioned after reading the article by Tom Richardson.

It is fair to say that members in this place and anyone in public life are fair game for the press, and it is fair also to say that from time to time I have had the odd disagreement with the media, whether with radio personalities, the print media, or whatever. However, it disturbed me greatly when I read that article to think about where South Australia is going in relation to the press, particularly under the Rann Labor government. I think it is quite frightening, and certainly journalists in this state must be concerned for their future when they read what has happened, as outlined in that article. I believe it is quite disgusting, and I wonder to what levels this government will stoop to control and attempt to manipulate the media in South Australia.

The end of the article states that, during the Cold War, they used to say, 'Why don't ya just go and live in Russia?' It is getting that way here, in my view. For the life of me, I cannot understand why we have let politics in this state degenerate to the stage they are now, whereby the Rann Labor government is trying to orchestrate, manipulate and organise the lives of people who work in the media and, as outlined in Mr Richardson's article, in the print media. I do not intend to read the article, but I will read one piece. Mr Richardson says:

> The principle of the media as a fourth estate suggests that it's not up to politicians to dictate who reports news, or how they do it. Whatever the rationale, if the newspaper had adhered to a government's request to remove a particular reporter, for whatever reason, the credibility of that paper would never survive.

He goes on to say:

> ...if anyone in the media is comfortable with the principle of a state government getting to decide who reports the news, and how, in the lead-up to an election, then, as they used to say during the Cold War: 'Why don't ya just go and live in Russia?'

I call on members in this place to seriously challenge the Rann Labor government and the apparatchiks who work in that place about who they think they are. Who on earth do they think they are? How dare they try to say who can say what and who cannot say what, and what they should and should not do in the press?

As I indicated earlier, I have had my run-ins with the press, the local press, radio personalities and radio media in Adelaide and other places and will wear that: it is all part of it. However, I think it is disgraceful and it is a sign of a government in free fall when they do what has been written and suggested in the article by Tom Richardson in last week's Independent Weekly.

## PENN, MR M.

**Ms BEDFORD (Florey) (15:20):** Although some time has elapsed since his death, today I would like to speak about Mr Malcolm Penn OAM, who passed away on 10 August this year aged just 69. When I read his obituary in *The Advertiser* on 4 October (and I will be referring to that article), I remembered how much I was impressed by Malcolm and his wife, Rosemary, whom I had met at various functions since my election, mostly through their work for the Charles Bright Scholarship Trust. The scholarship was established in 1985 in the memory of Sir Charles Bright, a former judge of the Supreme Court, chancellor of Flinders University and chairman of the committee into the rights of the disabled.

The scholarships of $1,000 are presented annually and are awarded to disabled persons undertaking post-secondary education whether at university, TAFE or other recognised educational institutions. To date, the trustees have granted over 100 scholarships to applicants who must be residents of South Australia and in various areas of post-secondary education and with various disabilities, including hearing impaired, vision impaired and paraplegics. The work of the trust is to be commended and continues to change lives. Malcolm was an outstanding role model and developed his abilities to their full potential.

He was born the sighted son of Oswald and Jessie Penn on 28 July 1939 in Cook South Australia. In April 1943, Malcolm suffered a severe injury at Coonana in WA, and although being treated first at Kalgoorlie and then for many months at the Adelaide Children's Hospital, he became blind. He attended Townsend House, another organisation I admire greatly, especially for its CanDo4Kids programs. Malcolm learned to read braille and touch-type, and he even made a

presentation to Helen Keller, the first deaf/blind person to graduate from college in the United States of America. She was, no doubt, a major influence and encouragement for Malcolm. Australia has much to do in its efforts to ensure people with dual sensory disability receive the help they need to enjoy a good standard of education and quality of life.

A long love of sport began for Malcolm in 1946 when he first heard radio descriptions of Don Bradman batting in Brisbane against England. His father made a tennis ball with a rattle inside so he could play. As patron of blind sports in South Australia, I can only say how much I admire anyone who can hit a ball and play sport, let alone someone playing with a disability. I want to thank my constituents Ray and Jill McKay for involving me with many wonderful people involved in blind sports. To be involved, blind athletes need sighted people to assist them. We are always looking for volunteers such as my friend, Peter James, who, although a very busy businessman, manages to assist one of his friends participate in a chosen sport.

Malcolm attended Pulteney Grammar School from 1950, and with the help of Canon Ray, gained leaving honours. Aided by a sharp memory, Malcolm studied arts and law at the University of Adelaide between 1959 and 1964, and became interested in social justice and politics from that time. Neighbours and friends would read him his textbooks and Malcolm would type his own notes.

During that period, he travelled to Perth for his first guide dog, Rena, which he trained in 1961. Over the years, Caesar, Fritz and Vinty allowed Malcolm to maintain his independence. Through this obvious need, Malcolm became involved with the Guide Dogs Association, becoming a life member in 2006. He played a prominent role in the early 1970s in the enactment of legislation to ensure guide dogs were permitted to accompany their owners in public places. It is a shame this need is still not always respected. In July 2000, Malcolm and Vinty carried the Olympic torch and, at the time of Vinty's death in 2006, Malcolm was the longest serving guide dog owner.

Getting back to Malcolm's law career, he commenced articles in 1962 and became the first totally blind person admitted to the bar in South Australia, entering private practice in 1964 and going on to the Community Welfare Department and then the Legal Services Commission until his retirement in 1996. Malcolm met Rosemary Jackson when she helped out reading his textbooks, and they married in 1969 in England.

Turning to Malcolm's sporting achievements, while apparently always a lifelong South Adelaide Panther supporter, he was a founding member in 1966 of the South Australian Blind Cricket Club and also a life member. He played 500 games up to 1996, with 100 appearances for South Australia at national carnivals and was named in the Australian XI in 1982 to 1983. He went on to be involved in the initiation of the first blind cricket world cup. Malcolm was a prolific fundraiser and worker in many capacities to assist others with special needs, receiving the OAM in 2003 for his life of service to others, which I can only briefly cover in this contribution.

My sincere sympathies go to Rosemary, his sons, David and Philip, and to Malcolm's mother, Jessie. He will always be greatly remembered and sadly missed.

## ROAD TOLL

**Mr VENNING (Schubert) (15:25):** The most recent statistics available on the Department for Transport, Energy and Infrastructure website show that 13 people were killed in September, making it the deadliest month of the year. It is strange that most of the speeches today have been all on the same issues, that is, roads and road fatalities. So, it must be a serious issue, as it is in this case.

As at 30 September, the road toll was 73, with 43 lives being lost on country roads. Three fatalities occurred on the Dukes Highway in September. Last year, the late Allan Scott called for a major overhaul of the highway to reduce carnage, and the RAA joined him in calling for the highway to be duplicated from Tailem Bend to the Victorian border, which is something I have been calling for for many years. The RAA has predicted that road freight along the Dukes Highway will double by 2020.

The condition of Outback roads also needs to be vastly improved to prevent lives being lost and injuries from occurring. A former worker, a grader driver for the department of transport, said in a radio interview with the ABC:

> There were two gangs and there were only four of us in the two gangs and we had to do the road from Coober Pedy to William Creek and up to Oodnadatta, and from Mount Dare and across to Marla and Mintabie and all the station roads as well [in between].

When asked what he thought was the main problem with how the department had gone about fixing the Outback roads, he said:

> They took one of the gangs away and there was nothing—no maintenance, no resheeting or reconstruction of roads in that area after that—and that is some time ago now.

According to one local, five rollovers occurred in the Oodnadatta area during a three-week period in September, which he believes was the result of the rough conditions on the roads. The member for Giles recently acknowledged, when referring to the roads up north, that 'some of them are very bad'.

The RAA has said that there is a $200 million backlog of critical road maintenance work that needs to be carried out. This has increased from $160 million in 2001. The RAA rated the worst performing or the roughest roads to be the Mallee Highway, the Stuart Highway and the Barrier Highway. South Australia's roads are measured as having the worst surface conditions of all mainland states.

The Committee for Adelaide Roads, in its response to this year's state government budget, stated:

> Our road assets are going to continue to deteriorate and the community is paying the price through wear and tear on vehicles, reduced travel speeds and increased safety risks.

This year's state budget will see South Australia invest around $2.1 billion in infrastructure in the coming year. This compares with Queensland spending $17 billion. No wonder our assets are falling behind and falling into disrepair.

The Adelaide to Clare road is in an extremely bad condition, and the road from Balaclava to Tarlee needs to be sealed. I travel the Clare road regularly, and I am amazed that more people are not killed on that road. The bends are way under standard now, and it is becoming the highest priority. I see some pretty dangerous driving practices. People cannot pass other vehicles because the roads are so bendy and risks are taken. I am amazed that there are not more fatalities on that road, particularly from Tarlee to Clare, more particularly Auburn to Clare. It is disgraceful, and it ought to have been dealt with many years ago.

I appreciate the work done by councils, especially in the Mid North. Wakefield Plains has sealed the Nantawarra to Whitwater Road, completing a very valuable new road corridor. The state Rann Labor government must invest more money into our road infrastructure to save lives.

Also, in the Port Pirie Regional Council area, the Redhill to Koolunga run, and, in the Wakefield Plains area, the Brinkworth to Koolunga road, are now sealed. This is really appreciated by country communities, but I think it is high time the government did its bit and joined them. Also, in the Port Pirie area, Redhill to Crystal Brook, an alternative route, is currently being constructed, and the locals certainly appreciate that.

I commend the work undertaken by all the other councils for upgrading and carrying out ongoing maintenance work on their roads. I urge the state government, with or without federal government funding, to go out there and address the needs. I particularly highlight today that the Clare road, which is a valuable tourism road, is highly dangerous. Before there are any more fatalities on these roads, the government has to address at least putting in some passing lanes on that dangerous and busy road—two would be very handy between Auburn and Clare. I hope the government will address these problems on these roads.

## LABOR PARTY, GAWLER SUB-BRANCH

**Mr PICCOLO (Light) (15:29):** The Friday 20 November 1908 edition of *The Bunyip* carried the following headline, 'Labor members at Gawler—a branch formed'. The report went on to state that:

> A public meeting was held in the Institute Hall on Friday evening last, to form a branch of the Labor Party. Mr Samuel Finch presided and the speakers were Messrs H. Chesson and R.P. Blundell, MPs.

Messrs Chesson and Blundell were Labor MPs. So tomorrow, the Gawler sub-branch of the Australian Labor Party celebrates its centenary. The sub-branch will be holding a special centenary meeting in The Bunyip Reading Room of the Gawler Public Library, located in the Gawler Institute building. The meeting will commemorate the public meeting held on the same day in the same building 100 years ago.

According to *The Bunyip* the meeting was attended by over 20 members of the local community and a motion put by Mr W.H. Brown was overwhelmingly carried. Their object in coming to Gawler—that is, the Labor MPs—was to try to start a branch of the Labor Party. *The Bunyip* states that the MPs:

> ...were surprised that a town like Gawler, with so many workers in it, had not had a branch long ago. Their definition of a worker was one engaged in honest work that was useful for the sustenance and comfort of his fellows. The principal matters they had to combat were not the proposals of the Labor Party but the misrepresentations of their opponents.

Nothing has changed. Our opponents continue to misrepresent the government on a number of issues. *The Bunyip* notes that the:

> ...desire of the [Labor] Party was to bring about a state of affairs in which every man and woman would be able to live the life the Creator intended them to live. The conditions today were not that they should be. All they wanted was a square deal between man and man.

This was 100 years ago.

While the life of workers has improved, the struggle continues to maintain the living standards of working men and women that 'the Creator had intended'. The Labor MPs were reported in *The Bunyip* as saying:

> No doubt there were difficulties in the way of bringing about improved conditions, but they could be overcome if there were larger interest taken in politics by people generally. As to the district of the Barossa—

Gawler was a town within the Barossa—

> they thought there was room for a Labor man, much good would be done if a Labor man were returned to assist Mr Coombe.

Gawler had its first Labor parliamentarian in 1915, when Mr E.H. Coombe was elected as a Labor member to the multi-member electorate of the District of Barossa, a position he formerly held as a 'radical Liberal'.

From 1918 until 1924, the electorate was represented by Liberal members until A.L. Hopkins was elected on a Labor Party platform. G. Cooke was elected in 1927, and in 1930 all three members were Labor affiliated; namely, G. Cooke, T.T. Edwards and L.A. Hopkins.

In 1938, Gawler was included in the single member electorate of the District of Gawler and was represented by Labor MP Mr L.S. Duncan. He held this position until 1953, when Jack Clark, a primary school teacher, was elected. Mr Clark held the seat until 1970 when, as a result of redistribution, the boundaries changed dramatically and Gawler become part of the Light electorate. Mr Clark won the 1956 election uncontested. He is still fondly remembered by many of the seniors in our community.

The Liberals held Light from 1970 until 2006, with Dr Bruce Eastick holding the seat for some 23 years, while Mr Malcolm Buckby held it until the 2006 state election. After an absence of some 36 years, Gawler is again represented by a member of the Labor Party, namely, yours truly.

It is fitting that in the centenary year of the sub-branch, Gawler is represented at both the state and federal levels by Labor members of parliament, with Mr Nick Champion being elected to the federal parliament in 2007.

I would like to thank *The Bunyip*, the Gawler Public Library, Jenni Newton Farrelly of the South Australian Parliament Research Library and Kristy Manning of the State Electoral Office for their research assistance.

*The Bunyip* reports that Mr Chesson ended his speech to the public meeting with the following:

> The desire of Labor men was to leave the world a little better than they found it. Some might say that they had no chance of forming a branch of the party in Gawler, but they were not going to be disappointed. They intended to keep on until they were successful.

Successful they were. I extend my congratulations to the former and current members of the Gawler sub-branch of the Australian Labor Party and wish them a happy centenary.

## KAPUNDA HOSPITAL (VARIATION OF TRUST) BILL

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:35):** Obtained leave and introduced a bill for an

act to allow for land subject to the Kapunda Hospital Trust to be used for other purposes approved by the minister if no longer required for the purposes of the hospital. Read a first time.

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:36):** I move:

That this bill be now read a second time.

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

Leave granted.

The Kapunda Hospital (Variation of Trust) Bill before the House is necessary to allow the continuation of a child care centre established on land held in trust by the Eudunda Kapunda Health Advisory Council Inc.

In 2005, the Eudunda & Kapunda Health Service Inc (the trustee at the time) and Child Care Services Australia Pty Ltd entered into an agreement to allow the establishment of a child care centre on land that was held in trust. Unfortunately, the board of the Eudunda & Kapunda Health Service Inc did not properly investigate whether the use of the land was consistent with the trust deed before it entered into the agreement.

The trustee was, however, well intentioned and Child Care Services Australia entered into the agreement in good faith with a view to providing a required service to the community.

Child Care Services Australia had previously applied to the council for approval to build the child care centre on other sites in the Kapunda township. However, those sites were located within existing residential zones and the applications were rejected by the Council.

The approach to the Hospital at that time was regarded as opportune, since it would provide convenient access for staff to child care services some 500 metres from the Hospital on vacant land no longer deemed necessary for any future activity by the Eudunda & Kapunda Health Service Inc.

The Government was advised in late 2006 that the trust deed established in 1877 in respect of the Kapunda Hospital required the land specified in the trust deed and all buildings then existing and built in the future to be used as a hospital. It is not possible under the terms of the trust to utilise the land in a manner that is not consistent with the purposes of the hospital and, although hospital staff may make use of the child care facilities, the centre itself could not be considered as a purpose of the hospital or ancillary to that purpose.

The Government was advised that the centre should close down to meet the terms of the trust or that legislation be drafted to vary the trust deed.

The Government concluded that to close the child care centre that had been operating for some time would disadvantage those using it and Child Care Services Australia, which had entered into the agreement in good faith. Instead this legislation has been drafted to vary the trust deed.

The Bill before the House varies 'The Kapunda Hospital' Trust Deed to enable the Eudunda & Kapunda Health Advisory Council Inc (the trustee), with the approval of the Minister, to allow any trust land not required for the purposes of the Kapunda Hospital to be used for any other purpose approved by the Minister (including the provision of child care services, early childhood intervention services and other related services). The Eudunda Kapunda Health Advisory Council Inc as trustee has indicated its support for the variation of its powers under the trust by this Bill.

It is the Government's view that this is a fair and reasonable outcome for Child Care Services Australia and the community in and around Kapunda who may use the centre.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause is formal.

2—Variation of Kapunda Hospital trust

The measure varies the terms of the Kapunda Hospital trust so that the trustee, with the approval of the Minister, has all the powers necessary to allow any trust land not required for the purposes of the Kapunda Hospital to be used for any other purpose approved by the Minister (including the provision of child care services, early childhood intervention services and other related services).

The clause further provides that despite any other Act or law, a lease may be granted for such period and on such other terms and conditions (which may include a right for the lessee to occupy the land free of rent or at a nominal rent) as may be agreed between the parties to the lease.

3—Immunity from liability for breach of trust

This clause provides that no liability attaches to a person for breach of trust by virtue of anything done under this Act or by virtue of the occupation of a portion of the trust land for the purposes of providing child care and other related services before the commencement of this Act.

Debate adjourned on motion of Ms Chapman.

## MOUNT GAMBIER HOSPITAL HYDROTHERAPY POOL FUND BILL

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:37):** Obtained leave to introduce a bill for an act to allow for donations for a hydrotherapy pool at Mount Gambier Hospital to be returned to donors or applied for another purpose. Read a first time.

**The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:38):** I move:

That this bill be now read a second time.

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

Leave granted.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* before the House addresses a matter that has been of considerable concern to the community of Mount Gambier for some time.

In 2000 the then board of the Mount Gambier and Districts Health Service Incorporated established the Mount Gambier Hospital Hydrotherapy Pool Fund to support the building of a hydrotherapy pool at the Mount Gambier Hospital. At that time it was anticipated that approximately $1 million would be required for the construction of the facility.

During that time donations were made by local community members and organisations and by June 2003, $270,769 had been raised. However this sum was well short of the money required to build such a pool and the proposal was abandoned.

Mount Gambier Hospital is an institution listed in Schedule 2 of the *Public Charities Funds Act 1935* and, by virtue of section 11 of the Act, all donations to the Mount Gambier Hospital vest immediately in the Commissioners of Charitable Funds. As such, the monies of the fund for the proposed hydrotherapy pool are held under a charitable trust administered by the Commissioners.

Since the abandonment of the proposal for the pool, there has been considerable community concern to have donations returned where requested and for the balance of funds to be used for an alternate purpose.

Under the *Public Charities Funds Act* the donated funds are properly held by the Commissioners of Charitable Funds and the Commissioners are required to apply the donated funds to the general purposes of the Mount Gambier hospital. Donations cannot therefore not be returned.

Other provisions of the *Public Charities Funds Act* limit the Commissioners to spending the earnings derived from the investment of the trust, but not the capital of the trust itself. These provisions mean that the whole of the funds held in trust cannot be used for another purpose, only the earnings on that trust. These earnings would not be sufficient to enable the development of an appropriate alternate purpose.

The Government was advised that legislation would be necessary to enable the return of donations and the utilisation of the funds held.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* before the House transfers the money held by the Commissioners of Charitable Funds to Country Health SA Hospital Incorporated. It requires Country Health SA Hospital to offer to return donations plus interest earned on the donations and to develop a proposal for the use of the balance of the funds for an alternate purpose.

In developing the alternate proposal Country Health SA Hospital must consult with the Mount Gambier and Districts Advisory Council.

The Bill requires the Mount Gambier and Districts Health Advisory Council to consult with the community on the proposal developed and advise Country Health SA Hospital of the outcomes.

Before Country Health SA Hospital can act on the proposal it must be reasonably satisfied that the proposal is acceptable to the community.

Country Health SA Hospital must also consult with the Mount Gambier and Districts Health Advisory Council when developing its policy for the calculating the interest on the donations to be returned.

Once a proposal is approved by Country Health SA Hospital, it must place advertisements in the local newspapers and in a newspaper having circulation on a statewide basis offering the return of donations plus interest and outlining the alternate proposal so that people can be informed of the purpose of their donation should they elect not to have it returned to them. Those seeking the return of their donation must of course be able to verify the amount they donated to the hydrotherapy pool fund.

The Bill ensures that a proposal that Country Health SA Hospital may approve has the support of the community in and around Mount Gambier and that it cannot approve any proposal unless it is satisfied that the proposal is acceptable to the community. It also provides for transparency in the process for returning donations and confidence that community views on this matter are considered.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* will enable this matter to be resolved.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

4—Transfer of funds

This clause provides that the Fund held by the Commissioners of Charitable Funds for the purpose of building a hydrotherapy pool at the Mount Gambier Hospital is transferred to Country Health SA.

Country Health SA holds the Fund on trust for 2 purposes:

- to return donations and interest to donors in accordance with the measure; and
- to apply the remainder of the Fund in accordance with a proposal developed under the measure.

5—Proposal for use of funds

This clause requires Country Health SA to develop a proposal for the application, at the Mount Gambier Hospital, of that part of the Fund that is not returned to donors in accordance with the measure.

In developing the proposal, Country Health SA must consult with the Mount Gambier and Districts Health Advisory Council, which in turn must consult the local community and make submissions concerning the proposal to Country Health SA following such consultation.

6—Procedures for advertising proposal and return of funds

This clause makes provision for procedural requirements relating to advertising the proposal developed in accordance with the measure and return of funds to donors.

7—Return of donations

This clause provides for the return of donations together with an amount determined as interest on the donations to donors who request the return of a donation.

8—Application of remainder and winding up of trust

This clause provides for any part of the Fund not returned to donors in accordance with the measure to be applied in accordance with the proposal developed under clause 5.

This clause also revokes the trust established by the measure once all monies have been applied in accordance with the measure.

9—Expiry of Act

This clause provides for the expiry of the Act.

Debate adjourned on motion of Ms Chapman.

## MENTAL HEALTH BILL

**The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (15:38):** Obtained leave and introduced a bill for an act to make provision for the treatment, care and rehabilitation of persons with serious mental illness with the goal of bringing about their recovery as far as is possible; to confer powers to make orders for community treatment, or detention and treatment, of such persons where required; to provide protections of the freedom and legal rights of mentally ill persons; to repeal the Mental Health Act 1993; and for other purposes. Read a first time.

**The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (15:39):** I move:

That this bill be now read a second time.

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

Leave granted.

A world class mental health system depends on an effective legislative framework to ensure that society can fulfil its obligation to care for individuals with serious mental illness. There is an expectation in the community, and an obligation on the part of government, that where a person is unable to make an informed decision about their

own mental health and welfare, and they are vulnerable or pose a risk to others, intervention can take place to ensure they obtain the assessment, treatment and care that is necessary.

The *Mental Health Bill 2008* is designed to replace the *Mental Health Act 1993* and provide a contemporary framework for the provision of services to people with serious mental illness who are either unwilling or unable to consent to their own treatment.

To ensure that our mental health legislation is based on up to date knowledge and research and contemporary standards, a thorough review of the *Mental Health Act 1993* and related legislation was undertaken. This review commenced in August 2004 and was chaired by Mr Ian Bidmeade, Legal Policy Consultant and Solicitor.

The terms of reference for the review focussed on the extent to which South Australia's legislation provided a framework for the management of mental health issues for individuals in a manner consistent with contemporary standards.

The report of the committee's findings, 'Paving the Way-Review of Mental Health Legislation in South Australia April 2005' (the Report) was released for public comment by the Department of Health at the end of May 2005.

The Report was distributed to approximately 500 stakeholders and the recommendations received significant support.

The Report proposed a number of changes to modernise the legislation and improve responses to people with mental illness. These included:

- the need for a clearer articulation of the rights of people using mental health services and carers;
- greater emphasis on community care, not just hospital or institutional care;
- recognition of the particular circumstances of children;
- acknowledging the unique cultural perspective of Aboriginal and Torres Strait Islander people.

A majority of the changes recommended in the Report were supported by the Government and in December 2006 Cabinet approved the drafting of a Bill for a new mental health Act. The Report recommended the establishment of a Mental Health Tribunal to hear appeals currently heard by the Guardianship Board and the Administrative and Disciplinary Division of the District Court. The Government does not believe the establishment of a Mental Health Tribunal is necessary. Some of the issues regarding the hearing of appeals can be remedied through amendment of the *Guardianship and Administration Act 1993* which the Government is progressing.

In October 2007 a draft *Mental Health Bill* was released for public comment. Fifty-five written submissions were received through to late December 2007. This process resulted in further refinements to the Bill.

The Government would like to thank publicly all of the individuals and organisations who participated in this process, and who have taken the time to formally submit a response to the review, or participate in subsequent consultation. Their input has been of immense value in developing this Bill. I am confident that the comprehensive consultation process has ensured the Government has been able to address key concerns, and their efforts will result in legislation which is clear in its focus while retaining a degree of flexibility.

I would also like to acknowledge the significant contribution former mental health advocate and review and reference group committee member, the late Trevor Parry, made to ensuring mental health legislation and services have become more effectively focussed on the people who use our services. Trevor was passionate about ensuring a balance between any new provisions for early intervention with additional safeguards and supports for people who become subject to involuntary treatment, and this Bill achieves that balance.

The *Mental Health Bill 2008* incorporates provisions which bring South Australia into line with contemporary approaches to the management of serious mental health issues and includes innovations designed to assist people to obtain assistance in a manner which aims to minimise the extent to which their freedom is curtailed and to protect their rights.

The long title for the Bill states that it is a Bill for 'An Act to make provision for the treatment, care and rehabilitation of persons with serious mental illness…'. This Bill is primarily about the use of powers to treat people with serious mental illness against their will and provides for the checks, balances and protections necessary for the transparent and accountable exercise of these powers. The objects of the Bill were refined following consultation an include to ensure that people with serious mental illness retain their freedom, rights, dignity and self-respect as far as is consistent with their protection, the protection of the public and the proper delivery of mental health services designed to bring about their recovery as far as is possible.

Most people with a mental illness are never subject to an order which requires them to have treatment. They are treated by their general practitioner, psychologist or possibly a psychiatrist, willingly seeking and obtaining treatment. The Bill which is before you today is designed to provide a framework for providing care and treatment, while protecting the rights of the small minority of people who are unwilling to accept treatment even though they may be placing their own safety or the safety of others in jeopardy. Research indicates that one in five or twenty percent of Australian adults will be affected by mental illness at some time in their life. Three percent will be seriously affected. It is primarily the three percent of the population who suffer from a major mental illness which seriously affects them that this Bill is concerned with.

The *Mental Health Bill 2008* contains a set of principles which are designed to provide guidance to all persons and bodies involved in the administration of the Act. The following principles are included in the Bill:

- mental health services should be designed to bring about the best therapeutic outcomes for patients, and, as far as possible, their recovery and participation in community life;
- the services should be provided on a voluntary basis as far as possible, and otherwise in the least restrictive way and in the least restrictive environment that is consistent with their efficacy and public safety, and at places as near as practicable to where the patients, or their families or other carers or supporters, reside;
- the services should—
    - be governed by comprehensive treatment plans that are developed in a multi-disciplinary framework in consultation with the patients (including children) and their family or other carers or supporters; and
    - take into account the different developmental stages of children and young persons and the needs of the aged; and
    - take into account the different cultural backgrounds of patients; and
    - in the case of patients of Aboriginal or Torres Strait Islander descent, take into account the patients' traditional beliefs and practices and, when practicable and appropriate, involve collaboration with health workers and traditional healers from their communities;
- there should be regular medical examination of every patient's mental and physical health and regular medical review of any order applying to the patient;
- children and young persons should be cared for and treated separately from other patients as necessary to enable the care and treatment to be tailored to their different developmental stages;
- the rights, welfare and safety of the children and other dependants of patients should always be considered and protected as far as possible;
- medication should be used only for therapeutic purposes or safety reasons and not as a punishment or for the convenience of others;
- mechanical body restraints and seclusion should be used only as a last resort for safety reasons and not as a punishment or for the convenience of others;
- patients (together with their family or other carers or supporters) should be provided with comprehensive information about their illnesses, any orders that apply to them, their legal rights, the treatments and other services that are to be provided or offered to them and what alternatives are available;
- information should be provided in a way that ensures as far as practicable that it can be understood by those to whom it is provided.

I will now go on to discuss the key provisions of the Bill.

The *Mental Health Bill 2008* recognises the role of carers to ensure they can provide the best possible care and support to a person with a mental illness. The Bill includes a definition of a carer and refers to carers in the guiding principles as a category of people to whom information about the illness, any orders that apply, legal rights and the treatment and other services available to the person being cared for is to be given. The provisions regarding confidentiality and disclosure of information enable information to be disclosed to a carer, relative or friend of the person subject to an order if the disclosure is reasonably required for the treatment, care or rehabilitation of the person, and there is no reason to believe that the disclosure would be contrary to the person's best interests. If a person is subject to a Community Treatment Order or a Detention and Treatment Order, information reasonably required for their treatment, care or rehabilitation may be shared, despite their opposition to this. These provisions overcome the barriers identified by the Bidmeade review regarding the sharing of information. Carers, professionals and some of the people who use the services who were consulted as part of the Bidmeade review all expressed concern that information necessary for the appropriate care and treatment of a person was not able to be shared. The *Mental Health Bill 2008* clarifies that information can be shared with the consent of the person concerned, or with a carer, relative or friend as described.

The *Mental Health Act 1993* has been identified as lacking a sufficient focus on the rights of individuals using mental health services. The Bill, in contrast, articulates a number of rights for both voluntary and involuntary patients, as well as their carers, which are not included in the *Mental Health Act 1993*. These include:

- Providing a copy of orders and a statement of rights to a guardian, medical agent, relative, carer or friend of the patient nominated by the patient for the purpose, as well as to the patient;
- Providing for the use of interpreters where available and appropriate;
- Entitling the patient to have another person's support;
- Entitling the patient to communicate with people outside of the treatment centre;
- Enabling information reasonably required for the treatment, care or rehabilitation of the person to be shared with a relative, carer or friend of the patient, where such disclosure is not contrary to the person's best interest;
- The right to a comprehensive treatment and care plan and to input into the plan for patients and their carers or other persons providing support to them.

In recognition of the different and broader concept of mental health in Aboriginal and Torres Strait Islander and Torres Strait Islander culture, the Bill establishes as a principle that services should take into account the patient's traditional beliefs and practices, and when practicable and appropriate, services should involve collaboration with Aboriginal and Torres Strait Islander health workers and traditional healers. The definition of relative used in the Bill recognises traditional Aboriginal and Torres Strait Islander kinship rules for determining who is a relative.

The Bill enables the Minister to determine that a specified place will be a Limited Treatment Centre for the purposes of the Act. This provision will enable some country hospitals which are suitably equipped, to be declared Limited Treatment Centres. This will enable them to detain and treat a person, if they meet the criteria for the order, for up to 7 days on a level 1 Detention and Treatment Order, rather than having to transport the person to Adelaide. During the 7 day period the illness may resolve itself. These provisions will be of benefit to all South Australians who live in country areas and, in particular, to Aboriginal and Torres Strait Islander people.

If further detention and treatment is deemed necessary, the person should be transferred to an Approved Treatment Centre. Currently the metropolitan public hospitals and 2 private hospitals are approved treatment centres and it is not anticipated that this will change in the immediate future.

The *Mental Health Act 1993* does not contain provisions especially directed at children. The *Mental Health Bill 2008* includes express provision about the application of the Act to children and includes a number of provisions designed to protect children's interests. These include principles that children and young people would be cared for and treated separately from other patients to enable the care to be tailored to their developmental stages and that the rights, safety and welfare of children and other dependants of patients should always be considered and protected as far as possible. The latter principle is designed to ensure that the needs of children and young people are considered and responded to when either or both of their parents have a serious mental illness. While it is not appropriate to include specific provisions for how the children of patients should be treated in the Bill, this principle will provide guidance to mental health and other staff dealing with children in specific circumstances. It is proposed that the Department of Health undertake a review of the current practices regarding the children of patients to ensure that their needs are being adequately addressed.

The Bill provides additional protections and safeguards for children under 18 but recognises that a child of 16 may consent to their own treatment, in line with the *Consent to Medical Treatment and Palliative Care Act 1995.* The long term orders on which a child may be placed, an infrequent occurrence, are shorter than those for adults and require more frequent review. These provisions are designed to provide greater protection for children.

The Bidmeade review recommended that provisions for electro-convulsive therapy (ECT) should be separate from the provisions for the other, much less commonly used treatments, the use of which is regulated by mental health legislation. This has been done. The Bill includes a requirement that consent, either by or on behalf of the patient, or by the Board, can only be given for a maximum of 12 episodes of ECT in a maximum period of 3 months. The use of ECT without consent is allowed in an emergency, however the psychiatrist administering the treatment in these circumstances must advise the Chief Psychiatrist of their actions within one working day. This requirement will enable the provision of emergency ECT to be monitored.

The term psychosurgery in the current Act has been changed to neurosurgery in the Bill. Psychosurgery is more tightly controlled than ECT and is currently unable to be performed if the patient cannot consent in writing. In practice, this part of the Act has never been used in South Australia. The Bill retains the requirement that neurosurgery has to be authorised by the person who will carry it out and 2 psychiatrists (at least one of whom is a senior psychiatrist), and the patient has to give written consent. If the patient is unable to consent, the Guardianship Board can do so. These provisions retain significant protection for patients but recognise that someone who may benefit from neurosurgery for mental illness is often unable to consent. Enabling the Guardianship Board to consent is designed to assist patients who may benefit from this treatment to obtain it.

The criteria for compulsory intervention for the purpose of mental health care and treatment are a critical component of any mental health legislation as they determine when an individual's wishes can be overridden, and assessment and treatment provided compulsorily. The criteria for detention under the current Act are that:

- the person has a mental illness that requires immediate treatment; and
- such treatment is available in an approved treatment centre; and
- the person should be admitted as a patient and detained in an approved treatment centre in the interests of his or her own health and safety or for the protection of other persons.

The concept of 'health and safety' has proved problematic in practice, often setting the threshold for intervention too high to include people who are obviously deteriorating but have not yet reached the point where both their health and safety are compromised. The criteria included in the Bill for the issue of a Community Treatment Order or Detention and Treatment Order have been developed after giving close consideration to the review's recommendation, the United Nations Principles for the Protection of Persons with Mental Illness, the Model Mental Health Legislation agreed to by the Australian Health Ministers' Council and submissions received during the consultation period. The criteria for both forms of order require decisions that:

- the person has a mental illness; and
- because of the mental illness, the person requires treatment for the person's own protection from harm (including harm involved in the continuation or deterioration of the person's condition) or for the protection of others from harm; and

- there is no less restrictive means than the particular form of order in question for ensuring appropriate treatment of the person's mental illness.

The intent of the criteria for intervention in the *Mental Health Bill 2008* is to ensure that a person who needs a specialist psychiatric assessment will receive one. The intent is to broaden the basis for obtaining an order. In line with the recommendations of the 'Inquiry into the Circumstances of the Immigration Detention of Cornelia Rau' (Palmer Report), initial orders for both detention and community treatment can be made where it 'appears' to the medical practitioner or authorised health professional that the person has a mental illness. This is a lower threshold than in the current Act where even a medical practitioner who makes a first order, not only a psychiatrist who confirms an order, has to be *satisfied* the person has a mental illness.

This set of criteria is also intended to address the problems identified by Australian researchers of mental health law. According to their research, mental health laws which place the emphasis on involuntary intervention only when persons are assessed as dangerous to themselves or others result in poorer outcomes for these people. They convincingly argue that placing the emphasis on the dangerousness of the person often results in the period of time between the first onset of the mental illness, usually psychosis including schizophrenia, and the time at which the illness is diagnosed and treated, being longer than necessary. This delay in receiving treatment can lead to a poorer prognosis for the patient and potentially homicide.

Recent data from both New South Wales and the United Kingdom show that the risk of a patient committing homicide during their first psychotic episode is in the order of one in 500 new cases. In contrast, the annual risk of homicide by patients who have received treatment is only about one in 10,000 per year. The researchers note that the lethal assault was usually preceded by frightening delusional beliefs and most of the victims were family members or close associates. Only 15 per cent of victims were strangers.

It would be remiss of me not to point out that most people with a mental illness are not violent and that patients with psychosis are not generally violent once they have been treated and can be safely managed in the community. However it is now clear that untreated psychosis in particular can lead to violence and that mental health law in general, and the criteria for involuntary intervention in particular, can reduce this risk. The greatest risk of potential harm for people with mental illness arises from the potential for suicide if they are not treated. The suicide rate for people with a mental illness is up to one in 10 compared to an average of one in 100 for the whole population. The criteria in the Bill place the emphasis on the person's need for treatment with the aim of ensuring that patients who need an assessment and treatment will fall within the new legislative scheme. Enabling people to obtain an early assessment, and treatment if required, is designed to reduce the risk of both suicide and homicide arising from untreated illness.

Part 9 of the Bill enables 'authorised officers' to transport a person who appears to have a mental illness. This is in line with a 2006 Australian Labor Party election promise that mental health staff would be given the powers to do their jobs and police would be used where there was a danger involved.

Authorised officers are defined by the Bill as mental health clinicians, ambulance officers, and specific staff of the Royal Flying Doctor Service. Within this part of the Bill 'authorised officers' and police officers have broadly similar powers. The differences in powers are that some authorised officers, that is, specific ambulance and Royal Flying Doctor Service staff, will be legally able to chemically restrain a person under the provisions of the *Controlled Substances Act 1984*, while a police officer, unlike an authorised officer, will be able to break into premises under certain circumstances. These provisions are not new provisions, merely a clearer articulation of existing powers.

Currently, the Mental Health Emergency Services Memorandum of Understanding between the Department of Health, South Australian Ambulance Services, the South Australian Police and the Royal Flying Doctor Service signed in June 2006 provides a framework and specific guidance to staff transporting people with a mental illness. The Bill refers to the Memorandum of Understanding and states that authorised officers, police officers and other persons engaged in the administration of this measure should endeavour to comply with it. It is planned that the Memorandum of Understanding will be updated prior to the new Act coming into force. Practices, driven by the Memorandum of Understanding, are already consistent with the intentions of the Bill and have resulted in the safe transportation of people with mental illness. Police are no longer involved in inter-hospital transfers. The current *Mental Health Act 1993* lacks clarity regarding the power of various professionals to transport a person with a mental illness. The Bill and the Memorandum of Understanding clarify that in the main, responsibility for transporting people with a mental illness rests with health staff, however when there is a danger, assessed in line with agreed methods of risk assessment, then the police will be there to assist.

Recent reforms of mental health legislation in other Australian States and Territories have emphasised the 'treatment plan' as crucial to proper treatment, incorporating the involvement of both community services and hospitals as appropriate. The Bidmeade review argues that the treatment plan is the cornerstone of compulsory orders for treatment in the community or involuntary inpatient treatment, with the plans being individualised, multidisciplinary and comprehensive, not just focussing on medication.

Consistent with a focus on recovery from mental illness, treatment plans provide the means for clearly articulating the purpose of compulsory mental health orders and how treatment and care will be undertaken. The treatment plan, referred to as a treatment and care plan in the Bill to reflect the multidisciplinary nature of these plans, will specify the elements which are compulsory, for example, medication, and those which are voluntary, for example, counselling. While a treatment plan is a desirable component of a contemporary approach to the treatment of mental illness, the *Mental Health Bill 2008* does not allow the absence of a treatment plan as grounds for an appeal against an order. This is to encourage a comprehensive approach to treatment and care plans rather than a minimalist or token approach simply to be able to demonstrate compliance with a legislative requirement.

Organisations representing the interests of patients and their carers have welcomed the requirement for treatment and care plans in the Bill and their involvement in the development of such plans. Since the requirement for treatment plans was prescribed in legislation in Victoria, reportedly all patients have treatment plans and, there has been a significant increase in constructive dialogue and interaction between service providers and service users.

The most significant change in the provision of mental health services in the last century has been the development of care in the community. Facilitated by the development of new drugs to treat psychosis, including schizophrenia, and other major mental illnesses, care in the community has enabled the majority of people with a serious mental illness to remain in the community rather than being detained. This minimises the extent to which a person's freedom is limited while ensuring access to appropriate treatment.

The current Act enables only the Guardianship Board to make a Community Treatment Order. It is entirely appropriate for the Guardianship Board to continue to make longer term orders for community treatment or detention and treatment and it is pointed out that the Guardianship Board's role in making Community Treatment Orders on receipt of an application remains unchanged. It is expected that in most cases Community Treatment Orders will result from applications made to the Guardianship Board.

However, currently, Community Treatment Orders are generally made only after a person has deteriorated to the point where they have been hospitalised. The general trend in mental health legislation nationally is for orders similar to Community Treatment Orders to be available as a first treatment option if appropriate for a particular person at a particular time. This is also consistent with the principle, contained in the Bill that services are to be provided in the least restrictive environment and the least restrictive way that is consistent with their efficacy and public safety.

To prevent the present situation whereby a patient is often admitted as an inpatient, prior to a Community Treatment Order being made, the *Mental Health Bill 2008* enables medical practitioners or a few highly skilled and trained authorised health professionals to be able to make a level 1 Community Treatment Order for up to 28 days to facilitate early access to care and treatment if appropriate. The order must be confirmed by a psychiatrist or authorised medical practitioner within 24 hours or as soon as practicable.

The process used for the Board's review of a level 1 Community Treatment Order will, in fact, be similar to a Board hearing that is currently set up on receipt of an application by the Board for the Board's consideration of whether a Community Treatment Order should be made as only the Board can make a level 2 Community Treatment Order for up to 12 months.

Community Treatment Orders enable early intervention to occur with the aim of reducing the severity and impact of the mental illness. A level 1 order will be able to be made relatively quickly rather than taking up to 14 days for a hearing of the Guardianship Board as is the case at present. The current Act is also somewhat contradictory in enabling a person to be detained for up to 3 days by a medical practitioner, subject to confirmation of the order, but requiring the authority of the Guardianship Board for them to be treated in the community.

The criteria for both Community Treatment Orders and Detention and Treatment Orders contain common elements and the requirement that the order is the least restrictive means of ensuring appropriate treatment of the person's illness will mean that in appropriate cases a Community Treatment Order is made. This provision aligns with national and international approaches to managing serious mental illness.

The Chief Psychiatrist has a responsibility to ensure that a mental health clinician is responsible for monitoring compliance with the order which is aimed at preventing people falling through the cracks if they move to another area or even interstate. Rather than focussing narrowly on medication and medical treatment like the current Act, it is contemplated that a broader range of services will be included in a treatment and care plan under a Community Treatment Order.

In contrast to the other States and Territories, with the exception of Tasmania, the *Mental Health Act 1993* only allows a medical practitioner to make an order for detention and treatment. The Bill enables 'authorised health professionals' as well as medical practitioners to make both Community Treatment Orders and Detention and Treatment Orders. It is planned that 'authorised health professionals' will be a few individuals with advanced skills, knowledge and training in mental health.

Currently, the power to confirm an order is restricted to a psychiatrist. The *Mental Health Bill 2008* enables psychiatrists and 'authorised medical practitioners' to confirm an order. An authorised medical practitioner will be a person who has undertaken several years of psychiatric training at a reputable training institution and has considerable psychiatric experience. These people will be selected by the Minister, on the advice of the Chief Psychiatrist.

The Bill, unlike the current Act, makes it clear that audio-visual conferencing can be used as the basis for making, confirming, extending, reviewing and revoking orders. This will reduce the need for people from remote areas to be transported to Adelaide for an assessment if they can be appropriately and safely examined via audio-visual conferencing.

The timeframes for involuntary treatment, particularly detention and treatment in the *Mental Health Bill 2008* have been adjusted to more accurately correspond with the actual patterns of many mental illnesses and reflect a number of safeguards including specialist psychiatric and Board reviews. In contrast to the current Act all orders will expire at 2pm on a business day rather than at midnight.

The particular needs of children are addressed by provisions for shorter orders and more frequent reviews.

Patients can appeal at any time against any order and legal representation for appeals will continue to be provided. A range of people may make an application to the Board for a variation or revocation of a long term Community Treatment Order or a Detention and Treatment Order, both of which are made by the Board.

The *Mental Health Bill 2008* provides additional safeguards for people in receipt of mental health services. The position of Chief Psychiatrist will replace the existing position of a Chief Advisor in Psychiatry. The Chief Psychiatrist will have the authority to monitor and review the performance of mental health services with a focus on promoting continuous improvement and issue standards to apply in the treatment of patients.

The current Act is silent regarding the issue of how interstate orders apply in South Australia and how South Australian orders apply interstate and the current regulations deal only with transfer to and from the Northern Territory. The Bill deals with these matters in a comprehensive fashion. A Ministerial Agreement will be negotiated with the other States and Territories, on an individual basis. These agreements will provide greater clarity for all parties regarding the inter-state management of people on mental health orders.

Concerns were raised during consultation about the potential for patients not yet subject to an order for detention or treatment to be transferred long distances interstate for mental health examination and it was suggested that a requirement to transfer patients to the nearest facility should be imposed. It would, of course, be problematic to impose hard and fast rules given the need to consider multiple means of transport and routes and the many factors that properly affect a decision on the most appropriate facility for a person in need of mental health care in the particular circumstances.

The Bill includes a guiding principle that 'services should be provided..... at places as near as practicable to where the patients, or their families or other carers or supporters reside' and it is the intention that these new provisions should reduce the distances that people have to travel for a mental health examination.

The Bill also requires that, in circumstances where action is being taken in accordance with a Ministerial Agreement, the action may only be taken if it is in the best interests of the patient or person concerned. Prudent administration will require records to be kept of the basis on which the action is taken.

The *Mental Health Bill 2008* provides reforms which will complement the Government's recently announced $107.9 million mental health reform package to implement the Social Inclusion Board's recommendations. This reform package comprised funding for:

- 90 intermediate care beds;
- 73 supported accommodation places;
- 6 new community mental health centres;
- the employment of 8 new mental health nurse practitioners in the country;
- the establishment of a priority access service for about 800 people with chronic and complex needs, including those with drug and alcohol problems, a history of homelessness or who may be involved in the criminal justice system;
- the provision of non clinical community based support services by non-government organisations; and
- the establishment of an early intervention service for young people experiencing their first episode of psychosis.

The Social Inclusion Board also made recommendations about how care should be delivered in the future. The centre piece of their reforms was the stepped model of care which contains the following graduating steps:

- support across the community, including community mental health centres and care and support provided by non-government organisations
- 24-hour supported accommodation;
- community recovery centres;
- intermediate care beds;
- acute care beds; and
- secure care beds.

The Bill recognises the provision of care in the community to assist people leaving acute mental health facilities or to provide a place for early intervention. As a subset of the new stepped care system, the Government has already commenced the process of establishing community recovery centres and opened the first 20 bed centre at Mile End in June 2007. The second, the Trevor Parry Centre, was opened in January 2008 and the third facility at Playford opened in June 2008.

As a further commitment to mental health reform, the Government released the Glenside Concept Master Plan in September 2007 which outlined the development of the Glenside Campus into a new world-class 129 bed hospital for mental illness and substance abuse called: 'SA Specialist Health Services' that will comprise:

- 40 secure rehabilitation beds;
- 6 mother and infant acute beds;

- 23 rural and remote acute beds;
- 20 acute adult beds;
- 10 psychiatric intensive care beds;
- 30 drug and alcohol acute beds.

In anticipation of the Bill's provisions for early access to care and treatment, a new Mental Health Triage Service commenced operation in December 2007, providing for a single entry point and emergency response across Adelaide in partnership with SA Ambulance Service.

The broad definition of mental illness has been retained in the Mental Health Bill in response to the Coroner's concerns that people should not be denied access to services, including short term intervention in a crisis, on the basis of diagnosis. The Government's capital works program is replacing old and outmoded facilities with new inpatient mainstream facilities such as the Margaret Tobin Centre at the Flinders Medical Centre, the Repatriation General Hospital Aged Care Centre, a new 50 bed facility at Lyell McEwin Health Service which is due for completion in late 2009 and a new 40 bed secure forensic mental health centre at Mobilong.

The Bill acknowledges traditional healers and recognises the cultural values and practices of Aboriginal people and the Government is working in partnership with Aboriginal Health Services to improve service access for Aboriginal people.

The importance of partnership cannot be over-emphasised. For example, it is partnership that underpinned the RAISE Wellbeing Program in Port Augusta between Pika Wiya Health Service and the local specialist mental health service that won a Margaret Tobin Award in 2006.

The Child and Adolescent Mental Health Service has commenced a visiting service to the APY Lands. The visiting team is comprised of a psychiatrist and a social worker. A number of services are provided on the Lands through the Nganampa Health Council and there are 2 Anangu men working in the APY Lands Men's Health Program which provides cultural and social, emotional wellbeing support for men at risk of mental health issues.

Housing resources for Aboriginal people with a mental illness who are homeless or at risk of becoming so are located in Adelaide, Port Augusta, Ceduna, Port Pirie, Port Lincoln, Whyalla, Berri, Murray Bridge, Mount Gambier and Coober Pedy.

The Australian Government is providing capital funding for a substance misuse facility for the APY Lands and the SA Government will provide recurrent funding to run the facility. A mobile drug and alcohol outreach service is currently operating on the APY Lands.

In line with the Bill's provisions for care in the community and in partnering with non-government organisations, the State Government is undertaking a training initiative for the non-government mental health sector to support the development of its workforce and build up its capacity to deliver high quality services. The Government has also provided funding to NGOs to enhance their governance arrangements as well as for the development of quality standards. These initiatives form part of a broader capacity building program to improve services to people with mental illness.

The Bill recognises the role of informal, unpaid, family carers as partners with service providers in providing care and treatment for people with mental illness. In line with the *Carers Recognition Act 2005*, carers have choices and the Bill provides for the appropriate sharing of information with carers who care for a person with a mental illness who is subject to an order.

The Government values the important role that carers play and provides support funding for mental health carer respite and other support programs. A number of carer organisations receive funding from the Government.

The Australian Government is also rolling out a number of programs through the Council of Australian Governments National Action Plan on Mental Health 2006-2011. With the inclusion of the recent reforms and infrastructure initiatives, including the Glenside redevelopment, in the 2008-09 State Budget, the amount committed as part of the Council of Australian Governments National Action Plan on Mental Health 2006-11 is now $344 million. It should also be noted that a number of Australian Government funded services arising from the National Action Plan are now being provided in South Australia. Some of these service programs include Personal Helpers and Mentors, Support for Day to Day Living and Better Access to Psychiatrists, Psychologists and General Practitioners through the Medicare Benefits Schedule.

Most of the $107.9 million for the Social Inclusion Board Report initiatives, is over four years (2007-08 to 2010-11). An allocation of $600,000—of the $18.2 million—for intermediate care, will be spent in the fifth year (2011-12) and $13.84 million of the $25.92 million for the community mental health centres will be spent over years five and six, that is, until 2012-13.

The *Mental Health Bill 2008* and the service initiatives I have described will provide a modernised legislative framework and integrated service system to ensure that society can fulfil its obligation to care for individuals with serious mental illness.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out the terms that are defined for the purposes of the measure.

The Board is the Guardianship Board established under the *Guardianship and Administration Act 1993*.

Mental illness is given a general definition—any illness or disorder of the mind. Schedule 1 sets out conduct that will not on its own be taken to indicate mental illness.

Prescribed psychiatric treatment is defined as ECT or neurosurgery for mental illness or any other treatment declared by the regulations to be prescribed psychiatric treatment.

4—Application of Act to children

This clause provides that the measure applies to children in the same way as to persons of full age, subject to the following:

- in the case of a child under 16 years of age, a right conferred on a person may be exercised by a parent of guardian of the child on behalf of the child;
- an obligation to give a document to a person is, if the person is a child under 16 years of age, to be treated as an obligation to give the document to a parent or guardian of the child, and operates to the exclusion of any further obligation to send or give the document to a guardian, medical agent, relative, carer or friend.

5—Medical examinations by audio-visual conferencing

This clause makes provision for medical examinations to be conducted by audio-visual conferencing if it is not practicable in the circumstances for the medical practitioner or authorised health professional to carry out an examination of the person in the person's physical presence.

Part 2—Objects and guiding principles

6—Objects

The objects of the measure are—

- to ensure that persons with serious mental illness—
  - receive a comprehensive range of services of the highest standard for their treatment, care and rehabilitation with the goal of bringing about their recovery as far as is possible; and
  - retain their freedom, rights, dignity and self-respect as far as is consistent with their protection, the protection of the public and the proper delivery of the services; and
- for that purpose, to confer appropriately limited powers to make orders for community treatment, or detention and treatment, of such persons where required.

7—Guiding principles

The Minister, the Board, the Chief Psychiatrist, health professionals and other persons and bodies involved in the administration of the measure are to be guided by specified principles in the performance of their functions.

These are as follows:

- mental health services should be designed to bring about the best therapeutic outcomes for patients, and, as far as possible, their recovery and participation in community life;
- the services should be provided on a voluntary basis as far as possible, and otherwise in the least restrictive way and in the least restrictive environment that is consistent with their efficacy and public safety, and at places as near as practicable to where the patients, or their families or other carers or supporters, reside;
- the services should—
  - be governed by comprehensive treatment and care plans that are developed in a multi-disciplinary framework in consultation with the patients (including children) and their family or other carers or supporters; and
  - take into account the different developmental stages of children and young persons and the needs of the aged; and
  - take into account the different cultural backgrounds of patients; and
  - in the case of patients of Aboriginal or Torres Strait Islander descent, take into account the patients' traditional beliefs and practices and, when practicable and appropriate, involve collaboration with health workers and traditional healers from their communities;
- there should be regular medical examination of every patient's mental and physical health and regular medical review of any order applying to the patient;

- children and young persons should be cared for and treated separately from other patients as necessary to enable the care and treatment to be tailored to their different developmental stages;
- the rights, welfare and safety of the children and other dependants of patients should always be considered and protected as far as possible;
- medication should be used only for therapeutic purposes or safety reasons and not as a punishment or for the convenience of others;
- mechanical body restraints and seclusion should be used only as a last resort for safety reasons and not as a punishment or for the convenience of others;
- patients (together with their family or other carers or supporters) should be provided with comprehensive information about their illnesses, any orders that apply to them, their legal rights, the treatments and other services that are to be provided or offered to them and what alternatives are available;
- information should be provided in a way that ensures as far as practicable that it can be understood by those to whom it is provided.

Part 3—Voluntary patients

8—Voluntary patients

This clause provides that a person may be admitted as a voluntary patient in a treatment centre at his or her own request and that such a person may leave the centre at any time unless a detention and treatment order then applies to the person.

9—Voluntary patients to be given statement of rights

This clause provides that the Director of a treatment centre must ensure that a voluntary patient in the centre is given a written statement of rights informing the patient of his or her legal rights and containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that the director must cause a copy of the statement of rights to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

Part 4—Orders for treatment of persons with mental illness

Division 1—Level 1 community treatment orders

10—Level 1 community treatment orders

This clause provides that a medical practitioner or authorised health professional may make an order for the treatment of a person (a *level 1 community treatment order)* if it appears to the medical practitioner or authorised health professional, after examining the person, that—

- the person has a mental illness; and
- because of the mental illness, the person requires treatment for the person's own protection from harm (including harm involved in the continuation or deterioration of the person's condition) or for the protection of others from harm; and
- there are facilities and services available for appropriate treatment of the illness; and
- there is no less restrictive means than a community treatment order of ensuring appropriate treatment of the person's illness.

A level 1 community treatment order, unless earlier revoked, expires at a time fixed in the order which must be 2pm on a business day not later than 28 days after the day on which it is made.

Subclause (4) provides that if a level 1 community treatment order is made by a person other than a psychiatrist or authorised medical practitioner, the following provisions apply:

- a psychiatrist or authorised medical practitioner must examine the patient within 24 hours;
- if it is not practicable to examine the patient within that period, a psychiatrist or authorised medical practitioner must examine the patient as soon as practicable thereafter;
- after completing the examination, the psychiatrist or authorised medical practitioner may confirm the level 1 community treatment order if satisfied that the grounds referred to above exist for the making of a level 1 community treatment order, but otherwise must revoke the order.

A level 1 community treatment order may be varied or revoked at any time by a psychiatrist or authorised medical practitioner who has examined a patient to whom the order applies.

Confirmation, variation or revocation of a level 1 community treatment order must be effected by written notice in the form approved by the Minister.

11—Board and Chief Psychiatrist to be notified of level 1 orders or their variation or revocation

This clause provides that a psychiatrist or authorised medical practitioner making, confirming, varying or revoking a level 1 community treatment order must ensure that the Board and the Chief Psychiatrist are each sent or given, within 1 business day, a written notice in the form approved by the Minister.

Receipt of the notice provided must be acknowledged in writing by the Registrar of the Board and the Chief Psychiatrist respectively within 1 business day.

12—Copies of level 1 orders, notices and statements of rights to be given to patients etc

A medical practitioner or authorised health professional making a level 1 community treatment order must ensure that the patient is given, as soon as practicable, a copy of the order.

A medical practitioner or authorised health professional making a level 1 community treatment order must ensure that the patient is given a written statement of rights informing the patient of his or her legal rights and containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that the medical practitioner or authorised health professional must cause a copy of the statement of rights to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

Subclause (5) provides that if a level 1 community treatment order is varied or revoked, the psychiatrist or authorised medical practitioner varying or revoking the order must—

- ensure that the patient is given, as soon as practicable, a copy of the notice of variation or revocation of the order; and
- cause a copy of the notice of variation or revocation to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

13—Treatment of patients to whom level 1 orders apply

A patient to whom a level 1 community treatment order applies may be given treatment for his or her mental illness of a kind authorised by a psychiatrist or authorised medical practitioner who has examined the patient. Such authorisation is not required if a medical practitioner considers that—

- the nature of the patient's mental illness is such that the treatment is urgently needed for the patient's well-being; and
- in the circumstances it is not practicable to obtain that authorisation.

Treatment may be given under this clause despite the absence or refusal of consent to the treatment.

This clause does not apply to prescribed psychiatric treatment (as defined by clause 3), or to prescribed treatment within the meaning of the *Guardianship and Administration Act 1993*.

14—Chief Psychiatrist to ensure monitoring of compliance with level 1 orders

This clause provides that the Chief Psychiatrist must, after receiving notice of the making of a level 1 community treatment order, ensure that there is a mental health clinician who has ongoing responsibility for monitoring and reporting to the Chief Psychiatrist on the patient's compliance with the order.

15—Board to review level 1 orders

This clause requires that the Board review a level 1 community treatment order as soon as practicable after receiving notice of the order and before the order expires and enables the Board to conduct a review in any manner it considers appropriate.

The Board must, on a review of a level 1 community treatment order, revoke the order unless satisfied that grounds exist for a level 2 community treatment order to be made.

Division 2—Level 2 community treatment orders

16—Level 2 community treatment orders

This clause provides that the Board may make an order for a level 2 community treatment order if satisfied as to the matters set out as the grounds for a level 1 community treatment order.

Subclause (2) provides that a level 2 community treatment order may be made in respect of a person—

- on an application to the Board for the Board's decision as to whether it should make a community treatment order in respect of the person (whether or not a level 1 community treatment order has been made in respect of the person); or
- on a review by the Board of a level 1 community treatment order that applies to the person; or
- on an application to the Board for the revocation of a level 3 detention and treatment order that applies to the person.

Subclause (3) specifies the persons who may make an application to the Board for the Board's decision as to whether it should make a community treatment order in respect of a person. The persons specified for the

purpose of subclause (3) may also make an application for a variation or revocation of a level 2 community treatment order.

Subclause (6) provides that the Board may, on application, by order, vary or revoke a level 2 community treatment order at any time.

17—Chief Psychiatrist to be notified of level 2 orders or their variation or revocation

The Registrar of the Board is required to ensure that the Chief Psychiatrist is notified, within 1 business day, of the making, variation or revocation of a level 2 community treatment order by the Board.

18—Treatment of patients to whom level 2 orders apply

Under this clause, a patient to whom a level 2 community treatment order applies may be given treatment for his or her mental illness of a kind authorised by a psychiatrist or authorised medical practitioner who has examined the patient.

Authorisation is not required for treatment if a medical practitioner considers that—

- the nature of the patient's mental illness is such that the treatment is urgently needed for the patient's well-being; and
- in the circumstances it is not practicable to obtain that authorisation.

Treatment may be given under this clause despite the absence or refusal of consent to the treatment.

This clause does not apply to prescribed psychiatric treatment (as defined by clause 3), or to prescribed treatment within the meaning of the *Guardianship and Administration Act 1993*.

19—Chief Psychiatrist to ensure monitoring of compliance with level 2 orders

Under this clause, the Chief Psychiatrist must ensure that for each patient to whom a level 2 community treatment order applies there is a mental health clinician who has ongoing responsibility for monitoring and reporting to the Chief Psychiatrist on the patient's compliance with the order.

Part 5—Orders for detention and treatment of persons with mental illness

Division 1—Non-compliance with community treatment orders and making of detention and treatment orders

20—Non-compliance with community treatment orders and making of detention and treatment orders

This clause provides that a person's refusal or failure to comply with a community treatment order is a relevant consideration in deciding whether a detention and treatment order should be made in respect of the person under this Part.

However, nothing in the measure is to prevent the making of a detention and treatment order under this Part in respect of a person without a prior community treatment order having been made in respect of the person if a detention and treatment order is required in the particular circumstances.

Division 2—Level 1 detention and treatment orders

21—Level 1 detention and treatment orders

This clause provides that a medical practitioner or authorised health professional may make an order for the treatment of a person (a *level 1 detention and treatment order)* if it appears to the medical practitioner or authorised health professional, after examining the person, that—

- the person has a mental illness; and
- because of the mental illness, the person requires treatment for the person's own protection from harm (including harm involved in the continuation or deterioration of the person's condition) or for the protection of others from harm; and
- there is no less restrictive means than a detention and treatment order of ensuring appropriate treatment for the person's illness.

The clause also sets out the form in which the order must be made.

A level 1 detention and treatment order, unless earlier revoked, expires at a time fixed in the order which must be 2pm on a business day not later than 7 days after the day on which it is made.

On the making of a level 1 detention and treatment order, the following provisions apply:

- the patient must be examined by a psychiatrist or authorised medical practitioner, who must, if the order was made by a psychiatrist or authorised medical practitioner, be a different psychiatrist or authorised medical practitioner;
- the examination must occur within 24 hours of the making of the order;
- if it is not practicable for the examination to occur within that period, it must occur as soon as practicable thereafter;

- after completion of the examination, the psychiatrist or authorised medical practitioner may confirm the level 1 detention and treatment order if satisfied that the grounds referred to above exist for the making of a level 1 detention and treatment order, but otherwise must revoke the order.

A medical practitioner or authorised health professional may form an opinion about a person under subclause (1) or (4) based on his or her own observations and any other available evidence that he or she considers reliable and relevant (which may include evidence about matters occurring outside the State).

A psychiatrist or authorised medical practitioner who has examined a patient to whom a level 1 detention and treatment order applies may revoke the order at any time.

Confirmation or revocation of a level 1 detention and treatment order must be effected by written notice in the form approved by the Minister.

22—Board and Chief Psychiatrist to be notified of level 1 orders or their revocation

This clause provides that a psychiatrist or authorised medical practitioner making, confirming, or revoking a level 1 detention and treatment order must ensure that the Board and the Chief Psychiatrist are each sent or given, within 1 business day, a written notice in the form approved by the Minister.

Receipt of the notice must be acknowledged in writing by the Registrar of the Board and the Chief Psychiatrist respectively within 1 business day.

23—Copies of level 1 orders, notices and statements of rights to be given to patients etc

A medical practitioner or authorised health professional making a level 1 detention and treatment order must ensure that the patient is given, as soon as practicable, a copy of the order.

A medical practitioner or authorised health professional making a level 1 detention and treatment order must ensure that the patient is given a written statement of rights informing the patient of his or her legal rights and containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that the director of a treatment centre in which a patient is first detained under a level 1 detention and treatment order must cause a copy of the order and statement of rights to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

Subclause (5) provides that if a level 1 detention and treatment order is revoked, the director of the treatment centre in which the patient is detained must—

- ensure that the patient is given, as soon as practicable, a copy of the notice of revocation of the order; and
- cause a copy of the notice of revocation to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

24—Treatment of patients to whom level 1 orders apply

A patient to whom a level 1 detention and treatment order applies may be given treatment for his or her mental illness or any other illness of a kind authorised by a psychiatrist or authorised medical practitioner who has examined the patient.

Subclause (2) provides that the treatment may be given despite the absence or refusal of consent to the treatment.

This clause does not apply to prescribed psychiatric treatment (as defined by clause 3), or to prescribed treatment within the meaning of the *Guardianship and Administration Act 1993*. The administration of prescribed psychiatric treatment (as defined by clause 3) is governed by Part 7 of the measure.

If a medical practitioner authorises treatment of a patient to whom a level 1 detention and treatment order applies that is treatment of a kind prescribed by the regulations, the medical practitioner must ensure that the Chief Psychiatrist is sent or given, within 1 business day, a written notice in the form approved by the Minister.

Division 3—Level 2 detention and treatment orders

25—Level 2 detention and treatment orders

This clause provides that if a level 1 detention and treatment order has been made or confirmed by a psychiatrist or authorised medical practitioner under Division 2, a psychiatrist or authorised medical practitioner may, after further examination of the patient carried out before the order expires, make a further order for the detention and treatment of the patient (a *level 2 detention and treatment order)*.

A psychiatrist or authorised medical practitioner may make a level 2 detention and treatment order if satisfied as to the matters set out as the grounds for a level 1 detention and treatment order.

Subclause (3) provides that a psychiatrist or authorised medical practitioner may form an opinion about a person based on his or her own observations and any other available evidence that he or she considers reliable and relevant (which may include evidence about matters occurring outside the State).

The clause also sets out the form in which the order must be made.

A level 2 detention and treatment order, unless earlier revoked, expires at a time fixed in the order which must be 2pm on a business day not later than 42 days after the day on which it is made.

A psychiatrist or authorised medical practitioner who has examined a patient to whom a level 2 detention and treatment order applies may revoke the order at any time.

Revocation of a level 2 detention and treatment order must be effected by written notice in the form approved by the Minister.

26—Notices and reports relating to level 2 orders

This clause provides that a psychiatrist or authorised medical practitioner making or revoking a level 2 detention and treatment order must ensure that the Board and the Chief Psychiatrist are each sent or given, within 1 business day, a written notice in the form approved by the Minister.

Receipt of the notice must be acknowledged in writing by the Registrar of the Board and the Chief Psychiatrist respectively within 1 business day.

Subclause (4) provides that a psychiatrist or authorised medical practitioner making a level 2 detention and treatment order must, as soon as practicable, provide the director of the approved treatment centre in which the patient is or is to be detained under the order with a written report of the results of his or her examination of the patient and of the reasons for making the order.

On receiving a report under subclause (4), the director must forward a copy of the report to the Board.

27—Copies of level 2 orders and notices to be given to patients etc

A psychiatrist or authorised medical practitioner making a level 2 detention and treatment order must ensure that the patient is given, as soon as practicable, a copy of the order.

A psychiatrist or authorised medical practitioner making a level 2 detention and treatment order must ensure that the patient is given a written statement of rights informing the patient of his or her legal rights and containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that the director of a treatment centre in which a patient is first detained under a level 2 detention and treatment order must cause a copy of the order and statement of rights to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

Subclause (5) provides that if a level 2 detention and treatment order is revoked, the director of the treatment centre in which the patient is detained must—

- ensure that the patient is given, as soon as practicable, a copy of the notice of revocation of the order; and
- cause a copy of the notice of revocation to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

28—Treatment of patients to whom level 2 orders apply

A patient to whom a level 2 detention and treatment order applies may be given treatment for his or her mental illness or any other illness of a kind authorised by a medical practitioner who has examined the patient.

Subclause (2) provides that the treatment may be given despite the absence or refusal of consent to the treatment.

This clause does not apply to prescribed psychiatric treatment (as defined by clause 3), or to prescribed treatment within the meaning of the *Guardianship and Administration Act 1993*. The administration of prescribed psychiatric treatment (as defined by clause 3) is governed by Part 7 of the measure.

If a medical practitioner authorises treatment of a patient to whom a level 2 detention and treatment order applies that is treatment of a kind prescribed by the regulations, the medical practitioner must ensure that the Chief Psychiatrist is sent or given, within 1 business day, a written notice in the form approved by the Minister.

Division 4—Level 3 detention and treatment orders

29—Level 3 detention and treatment orders

Proposed section 29 provides that the Board may make an order that a person be detained and receive treatment in an approved treatment centre (a level 3 detention and treatment order) if satisfied as to the matters set out as the grounds for a level 1 or level 2 detention and treatment order.

A level 3 detention and treatment order may be made, on application, in respect of a person to whom a level 2 or level 3 detention and treatment order applies.

Subclause (6) provides that the Board may, on application, by order, vary or revoke a level 3 detention and treatment order at any time.

30—Chief Psychiatrist to be notified of level 3 orders or their variation or revocation

The Registrar of the Board must ensure that the Chief Psychiatrist is notified, within 1 business day, of the making, variation or revocation of a level 3 detention and treatment order by the Board.

31—Treatment of patients to whom level 3 orders apply

A patient to whom a level 3 detention and treatment order applies may be given treatment for his or her mental illness or any other illness of a kind authorised by a medical practitioner who has examined the patient.

Subclause (2) provides that the treatment may be given despite the absence or refusal of consent to the treatment.

This clause does not apply to prescribed psychiatric treatment (as defined by clause 3), or to prescribed treatment within the meaning of the *Guardianship and Administration Act 1993*. The administration of prescribed psychiatric treatment (as defined by clause 3) is governed by Part 7 of the measure.

If a medical practitioner authorises treatment of a patient to whom a level 3 detention and treatment order applies that is treatment of a kind prescribed by the regulations, the medical practitioner must ensure that the Chief Psychiatrist is sent or given, within 1 business day, a written notice in the form approved by the Minister.

Division 5—General

32—Detention and treatment orders displace community treatment orders

This clause provides that if a detention and treatment order is made in respect of a person to whom a community treatment order applies and the community treatment order is not revoked, the requirements of the community treatment order do not apply for the period of operation of the detention and treatment order (and if the community treatment order remains in force at the end of that period, the requirements of the order will apply again according to their terms).

33—Duty of director of treatment centre to comply with detention and treatment orders

This clause provides that if a person to whom a detention and treatment order applies is in the care and control of treatment centre staff and a detention and treatment order is made in respect of a voluntary patient in a treatment centre, subject to clause 35, the director of the treatment centre must—

- if the person is not already admitted to the centre, admit the person to the centre; and
- comply with the detention and treatment order.

34—Powers required for carrying detention and treatment orders into effect

This clause provides that treatment centre staff may exercise, in relation to a patient to whom a detention and treatment order applies who is present at, or has been admitted to, the centre, any power (including the power to use reasonable force) that is reasonably required—

- for carrying the order into effect; or
- for the maintenance of order and security at the centre or the prevention of harm or nuisance to others.

35—Transfer of patients to whom detention and treatment orders apply

A patient to whom detention and treatment orders applies may be transferred to another treatment centre if the director of a treatment centre considers it is necessary or appropriate, after first arranging with the director of the other centre for the patient's admission to that centre.

Subclause (2) states that the director of a treatment centre in which a patient has been detained may give a direction—

- for the patient to be transferred to a hospital, or between hospitals, in circumstances where the patient has or has had an illness other than a mental illness, after first arranging with the person in charge of the relevant hospital for the patient's admission to the hospital;
- for the patient's transfer back to the treatment centre after completion of the hospital treatment.

If a patient to whom a detention and treatment order applies has been transferred to a hospital as a result of a direction under this clause—

- the patient is, while in the care and control of staff of the hospital to be taken to continue in the care and control of the treatment centre staff; and
- staff of the hospital may exercise the powers conferred by clause 34 in relation to the patient as if they were treatment centre staff.

The clause requires that a direction must be given in writing and that specified persons must be notified of a direction.

36—Leave of absence of patients detained under detention and treatment orders

This clause provides that the director of a treatment centre may, by written notice in the form approved by the Minister and subject to any conditions that the director considers appropriate, grant a patient detained in the centre leave of absence from the centre for any purpose and period that the director considers appropriate and specifies in the notice.

A copy of the notice by which the patient is granted leave of absence must be given to the patient before the patient commences the leave.

37—Persons granted leave of absence to be given statement of rights

The clause states that the director of a treatment centre who grants a patient detained in the centre leave of absence from the centre must ensure that the patient is given, before the patient commences the leave, a written statement of rights—

- informing the patient of his or her legal rights; and
- containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that the director must cause a copy of the statement of rights to be sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

38—Cancellation of leave of absence

The director of a treatment centre may, by notice in the form approved by the Minister, cancel any leave of absence from the centre granted to a patient under this Division.

Part 6—Treatment and care plans

39—Treatment and care plans for voluntary patients

This clause requires that the treatment and care of a voluntary patient in a treatment centre must, as far as practicable, be governed by a treatment and care plan directed towards the recovery of the patient.

The treatment and care plan—

- must describe the treatment and care that will be provided to the patient at the treatment centre and should describe any rehabilitation services and other significant services that will be provided or available to the patient at the treatment centre or following the person's discharge from the centre; and
- must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical agent, relative, carer or friend of the patient who is providing support to the patient.

40—Treatment and care plans for patients to whom community treatment orders apply

This clause requires that the treatment and care of a patient to whom a level 2 community treatment order applies must, as far as practicable, be governed by a treatment and care plan directed towards the recovery of the patient.

The treatment and care plan—

- must describe the treatment and care that will be provided to the patient under the requirements of the order and should describe any rehabilitation services and other significant services that will be provided or available to the patient under the requirements of the order or through the patient's voluntary participation; and
- must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical agent, relative, carer or friend of the patient who is providing support to the patient.

41—Treatment and care plans for patients to whom detention and treatment orders apply

This clause requires that the treatment and care of a patient to whom a level 2 or level 3 detention and treatment order applies must, as far as practicable, be governed by a treatment and care plan directed towards the recovery of the patient.

The treatment and care plan—

- must describe the treatment and care that will be provided to the patient while in detention at the approved treatment centre and should describe any rehabilitation services and other significant services that will be provided or available to the patient while in detention at the treatment centre or following the person's discharge from the centre; and
- must, as far as practicable, be prepared and revised in consultation with the patient and any guardian, medical agent, relative, carer or friend of the patient who is providing support to the patient.

Part 7—Regulation of prescribed psychiatric treatments

Division 1—ECT

42—ECT

Under this clause, ECT (electro-convulsive therapy) must not be administered to a patient unless—

- the patient has a mental illness; and
- ECT, or a course of ECT, has been authorised for treatment of the illness by a psychiatrist who has examined the patient; and
- written consent to the treatment has been given—
  - by or on behalf of the patient; or

- if the patient is under 16 years of age or consent cannot be given by or on behalf of the patient—by the Board on application under this clause.

Subclause (2) limits consent to a course of ECT to a maximum of 12 episodes of ECT and a maximum period of 3 months, and any second or subsequent course of ECT for a patient must be separately consented to after the commencement or completion of the preceding course.

ECT administered to a patient in order to determine the correct dose for future episodes of ECT in a course of treatment must be counted as a single episode of ECT in that course of treatment for the purposes of this clause.

Consent to the administration of ECT extends to the administration of anaesthetics required for the purposes of the ECT treatment.

Under subclause (6), consent to a particular episode of ECT is not required if a psychiatrist considers that—

- the patient has a mental illness of such a nature that administration of that particular episode of ECT is urgently needed for the patient's well-being; and
- in the circumstances it is not practicable to obtain that consent.

Notice of the administration of an episode of ECT to a patient without consent in reliance on subclause (6) must be sent or given to the Chief Psychiatrist, within 1 business day—

- advising the Chief Psychiatrist of that action; and
- containing any other information prescribed by the regulations.

Subclause (8) makes it an offence to contravene subclause (1).

Division 2—Neurosurgery for mental illness

43—Neurosurgery for mental illness

This clause provides that despite any other Act or law, neurosurgery must not be carried out on a patient as a treatment for mental illness unless—

- the patient has a mental illness; and
- the neurosurgery has been authorised for treatment of the illness by the person who is to carry it out and by 2 psychiatrists (at least 1 of whom is a senior psychiatrist), each of whom has separately examined the patient; and
- the patient is of or over 16 years of age and written consent to the treatment has been given—
  - by the patient; or
  - if consent cannot be given by the patient—by the Board on application under this clause.

An application for the Board's consent under this clause may be made by a medical practitioner or mental health clinician.

Subclause (3) makes it an offence to contravene subclause (1).

Division 3—Other prescribed psychiatric treatments

44—Other prescribed psychiatric treatments

This clause provides that the regulations may regulate the administration of any prescribed psychiatric treatment (other than ECT or neurosurgery) by imposing requirements for prior authorisations or consents (or both).

Part 8—Further protections for persons with mental illness

45—Assistance of interpreters

This clause states that if—

- a medical practitioner or authorised health professional intends to conduct an examination of a person for the purposes of the measure; and
- the person is unable to communicate adequately in English but could communicate adequately with the assistance of an interpreter,

the medical practitioner or authorised health professional must arrange for a competent interpreter to assist during the examination of the person.

46—Copies of Board orders, decisions and statements of rights to be given

This clause provides that the Registrar of the Board must ensure that the patient is given, as soon as practicable after the making by the Board of an order or decision in respect of the patient, a copy of the order or decision and a written statement of rights informing the patient of his or her legal rights and containing any other information prescribed by the regulations.

The clause ensures that various measures are taken in circumstances where a patient is unable to read or otherwise comprehend the statement and that a copy of the order or decision and statement of rights are sent or given to a guardian, medical agent, relative, carer or friend of the patient as soon as practicable.

47—Patients' right to be supported by guardian etc

This clause provides that a patient is entitled to have another person's support, wherever practicable, in—

- the exercise of a right under the measure; or
- any communications between the patient and a medical practitioner examining or treating the patient or between the patient and the director or staff of a treatment centre in which the patient is treated or detained.

48—Patients' right to communicate with others outside treatment centre

Subclause (1) ensures that a patient in a treatment centre is entitled to—

- communicate with persons outside the centre; and
- receive visitors at the centre; and
- be afforded reasonable privacy in his or her communications with others,

subject to any restrictions and conditions that have been approved by the Director of the centre as being reasonably required for carrying into effect any detention and treatment order that applies to the patient or for the maintenance of order and security at the centre or the prevention of harm or nuisance to others.

Subclause (2) provides that no restrictions or conditions are to be applied under this clause to communications by post between a patient in a treatment centre and any of the following, or to visits to a patient by any of the following:

- the Minister;
- the Board;
- the Public Advocate;
- the Chief Psychiatrist;
- the Health and Community Services Complaints Commissioner within the meaning of the *Health and Community Services Complaints Act 2004*;
- a member of Parliament;
- a legal practitioner (in the practitioner's professional capacity);
- a person representing, or acting on behalf of, a person or body referred to in any of the preceding paragraphs;
- a person of a class prescribed by the regulations.

49—Neglect or ill-treatment

This clause provides that a person having the oversight, care or control of a patient who ill-treats or wilfully neglects the patient is guilty of an offence.

Part 9—Powers relating to persons who have or appear to have mental illness

50—Issuing of patient transport requests

This clause provides that a patient transport request may be issued in respect of a patient as follows:

- if a community treatment order applies to the patient and the patient has not complied with the requirements of the order, a medical practitioner or mental health clinician may issue the request for the purpose of the patient's transport for treatment in accordance with the order;
- if a medical practitioner or authorised health professional has made a level 1 detention and treatment order in respect of the patient at a place other than a treatment centre, the medical practitioner or authorised health professional may issue the request for the purpose of the patient's transport to a treatment centre;
- if the patient is a patient at large, the director of a treatment centre, a medical practitioner or mental health clinician may issue the request for the purpose of the patient's transport to a treatment centre;
- if a detention and treatment order applies to the patient and the director of a treatment centre has given a direction for the transfer of the patient under Part 5 Division 5 to another treatment centre or hospital, the director may issue the request for the purpose of the patient's transport to the other treatment centre or hospital.

51—Powers of authorised officers relating to persons who have or appear to have mental illness

This clause sets out the powers of an authorised officer if—

- an authorised officer believes on reasonable grounds that the person is a patient in respect of whom a patient transport request has been issued; or
- an authorised officer believes on reasonable grounds that the person is a patient at large; or
- it appears to an authorised officer that—
    - the person has a mental illness; and
    - the person has caused, or there is a significant risk of the person causing, harm to himself or herself or others or property or the person otherwise requires medical examination.

The following powers may be exercised:

- the authorised officer may take the person into his or her care and control;
- the authorised officer may transport the person from place to place;
- the authorised officer may restrain the person and otherwise use force in relation to the person as reasonably required in the circumstances;
- the authorised officer may restrain the person by means of the administration of a drug when that is reasonably required in the circumstances (and authorised under the *Controlled Substances Act 1984*);
- the authorised officer may enter and remain in a place where the authorised officer reasonably suspects the person may be found;
- the authorised officer may search the person's clothing or possessions and take possession of anything in the person's possession that the person may use to cause harm to himself or herself or others or property.

The clause sets out that an officer who takes a person into his or her care and control must, as soon as practicable—

- in the case of a patient in respect of whom a patient transport request has been issued—transport the person, or arrange for the person to be transported by some other authorised officer or by a police officer, in accordance with the patient transport request; or
- in the case of a patient at large—transport the person, or arrange for the person to be transported by some other authorised officer or by a police officer, to a treatment centre; or
- in the case of a person requiring medical examination—transport the person, or arrange for the person to be transported by some other authorised officer or by a police officer, to a treatment centre or other place for medical examination.

52—Powers of police officers relating to persons who have or appear to have mental illness

This clause sets out the powers of a police officer if—

- a police officer believes on reasonable grounds that the person is a patient in respect of whom a patient transport request has been issued; or
- a police officer believes on reasonable grounds that the person is a patient at large; or
    - it appears to a police officer that—
    - the person has a mental illness; and
    - the person has caused, or there is a significant risk of the person causing, harm to himself or herself or others or property; and
    - the person requires medical examination.

The clause provides police officers with similar powers to authorised officers, although the powers do not apply to a patient in respect of whom a patient transport request has been issued unless the person has subsequently become a patient at large. An additional power is provided to use reasonable force to break into a place when that is reasonably required in order to take the person into care and control.

The clause also provides that if a police officer has arrested or apprehended a person, the person may, despite any other law, be released from police custody for medical examination or treatment under the measure.

53—Officers may assist each other

This clause spells out that authorised officers and police officers may assist each other in the exercise of powers under the measure.

54—Roles of various officers

This clause contemplates a memorandum of understanding between relevant agencies about the respective roles of authorised officers and police officers.

55—Offence to hinder etc officer

This clause makes it an offence to hinder or obstruct an authorised officer or police officer in the exercise of powers under the measure.

Part 10—Arrangements between South Australia and other jurisdictions

Division 1—Preliminary

56—Interpretation

This clause contains definitions for the purposes of this Part.

57—Ministerial agreements

This clause contemplates intergovernmental agreements relating to the administration of this Part and corresponding laws of other jurisdictions.

58—Requests or approvals relating to actions involving other jurisdictions

The purpose of this clause is to ensure that action is only taken if it is contemplated by the relevant intergovernmental agreement, has been requested or approved by the relevant officer and is in the best interests of the patient or person in respect of whom the action is to be taken.

59—Powers of South Australian officers under corresponding laws or Ministerial agreement

This is a formal provision accepting any conferral of jurisdiction on South Australian officers by a corresponding law.

60—Regulations may modify operation of Part

Flexibility is provided to enable the regulations to adjust the arrangements as necessary to fit in with the law of a particular jurisdiction.

Division 2—Community treatment orders

61—South Australian community treatment orders and treatment in other jurisdictions

This clause enables a South Australian patient to receive treatment under a South Australian community treatment order at an interstate treatment centre.

62—Powers of interstate officers

For the purposes of ensuring compliance with an interstate community treatment order, interstate officers are authorised to exercise powers in South Australia (except any power of forcible entry).

63—Interstate community treatment orders and treatment in South Australia

This clause covers the situation where an interstate community treatment order requires the person to receive treatment in South Australia. The interstate order is to be complied with as if it were a South Australian order on the same terms.

64—Making of South Australian community treatment orders when interstate orders apply

The Chief Psychiatrist is able, under this clause, to make a South Australian community treatment order mirroring an interstate community treatment order for a person who is now in South Australia without the need for a separate medical examination. Such an order is to be regarded as if it were a level 1 community treatment order.

Division 3—Transfer to or from South Australian treatment centres

65—Transfer from South Australian treatment centres

This clause deals with the transfer to an interstate treatment centre of a patient detained in or at large from a South Australian treatment centre at the direction of the director of the South Australian treatment centre.

66—Transfer to South Australian treatment centres

This clause deals with the acceptance in a South Australian treatment centre of a patient detained in or at large from an interstate treatment centre. The patient is to be regarded as subject to a level 1 detention and treatment order.

67—Patient transport requests

This clause provides for the issuing of patient transport requests where there has been patient transfer under the Division.

68—Powers when patient transport request issued

This clause ensures that authorised officers have appropriate powers in relation to a patient for whom a patient transport request has been issued.

Division 4—Transport to other jurisdictions

69—Transport to other jurisdictions when South Australian detention and treatment orders apply

This clause deals with the situation where a South Australian detention and treatment order has been issued but the person is to be admitted to an interstate treatment centre.

70—Transport to other jurisdictions of persons with apparent mental illness

This clause provides for the situation where a South Australian officer has taken into his or her care and control a person who appears to have a mental illness and to require medical examination but the person is to be assessed interstate.

71—Transport to other jurisdictions when interstate detention and treatment orders apply

This clause covers the situation where a South Australian officer believes on reasonable grounds that a person in South Australia is an interstate patient at large. The person—

- may be taken into the care and control of a South Australian authorised officer;
- may be transported to an interstate treatment centre by a South Australian authorised officer;
- may be delivered by a South Australian authorised officer into the care and control of an interstate authorised officer (whether in or outside South Australia) for the purpose of the person's transport to an interstate treatment centre;
- may be taken to a South Australian treatment centre by a South Australian authorised officer and detained there pending the person's transport to an interstate treatment centre;
- may be given treatment for his or her mental illness or any other illness in South Australia, without any requirement for the person's consent, as authorised by a medical practitioner who has examined the patient.

The clause also gives interstate officers powers to deal with the person if found in South Australia.

Division 5—Transport to South Australia

72—Transport to South Australia when South Australian detention and treatment orders apply

This clause provides for the transport of a patient back to South Australia if the patient is at large from a South Australian treatment centre and found interstate.

73—Transport to South Australia of persons with apparent mental illness

This clause covers the situation where a person to be assessed for mental illness has been taken into care and control outside the State but the person is to be assessed in South Australia.

Part 11—Reviews and appeals

Division 1—Reviews

74—Reviews

The Board may conduct a review of an order or treatment as it considers appropriate and is required to conduct the following reviews:

- a review of the circumstances involved in the making and revocation of a level 1 community treatment order if the order was not reviewed by the Board before its revocation (which review must be conducted as soon as practicable after the revocation of the order);
- a review of a level 2 community treatment order that has been made in respect of a child and continues to apply to the person 3 months after the making of the order (which review must be conducted as soon as practicable after the end of the period of 3 months);
- a review of the circumstances involved in the making of a level 1 detention and treatment order if the order has been made within 7 days after the expiry or revocation of a previous detention and treatment order applying to the same person (which review must be conducted as soon as practicable after the making of the level 1 detention and treatment order);
- a review of a level 3 detention and treatment order that has been made in respect of a child and continues to apply to the person 3 months after the making of the order (which review must be conducted as soon as practicable after the end of the period of 3 months);
- any review that is required under the regulations.

75—Decisions and reports on reviews

The Board is required to revoke an order if not satisfied that there are proper grounds for it to remain in operation and may otherwise affirm, vary or revoke an order or make an order for review of a treatment and care plan. The Board is authorised to draw particular matters to the attention of the Minister.

Division 2—Appeals

76—Appeals to Board against orders (other than Board orders)

The following persons may appeal against an order to the Board:

- the person to whom the order applies;
- the Public Advocate;

- a guardian, medical agent, relative, carer or friend of the person to whom the order applies;
- any other person who satisfies the Board that he or she has a proper interest in the matter.

77—Operation of orders pending appeal

The Board may suspend or vary the operation of an order pending an appeal.

78—Representation on appeals to Board

This clause provides for entitlement to legal representation and for the provision of legal representation.

79—Appeals to District Court and Supreme Court

The *Guardianship and Administration Act 1993* provides for appeal from Board decisions.

Part 12—Administration

Division 1—Minister and Chief Executive

80—Minister's functions

This clause provides that the Minister is to have the following functions for the purposes of the measure:

- to encourage and facilitate the involvement of persons who currently have, or have previously had, a mental illness, their carers and the community in the development of mental health policies and services;
- to develop or promote a strong and viable system of treatment and care, and a full range of services and facilities, for persons with mental illness;
- to develop or promote ongoing programmes for optimising the mental health of children and young persons who are or have been under the guardianship or in the custody of the Minister pursuant to the *Children's Protection Act 1993*;
- to develop or promote services that aim to prevent mental illness and intervene early when mental illness is evident;
- to ensure that information about mental health and mental illness is made available to the community and to promote public awareness about mental health and mental illness;
- to develop or promote appropriate education and training programmes, and effective systems of accountability, for persons delivering mental health services;
- to promote services in the non-government sector that are designed to assist persons with mental illness;
- to develop or promote programmes to reduce the adverse impact of mental illness on family and community life;
- any other functions assigned to the Minister by the measure.

81—Delegation by Minister

This clause provides for delegation of Ministerial functions and powers.

82—Delegation by Chief Executive

This clause provides for delegation of the Chief Executive's functions and powers.

Division 2—Chief Psychiatrist

83—Chief Psychiatrist

The Governor is to appoint a senior psychiatrist as Chief Psychiatrist.

84—Chief Psychiatrist's functions

The Chief Psychiatrist is to have the following functions:

- to promote continuous improvement in the organisation and delivery of mental health services in South Australia;
- to monitor the treatment of voluntary patients and patients to whom detention and treatment orders apply, and the use of mechanical body restraints and seclusion in relation to such patients;
- to monitor the administration of the measure and the standard of psychiatric care provided in South Australia;
- to advise the Minister on issues relating to psychiatry and to report to the Minister any matters of concern relating to the care or treatment of patients;
- any other functions assigned to the Chief Psychiatrist by the measure or any other Act or by the Minister.

The Chief Psychiatrist may, with the approval of the Minister, issue standards that are to be observed in the care or treatment of patients.

85—Delegation by Chief Psychiatrist

This clause provides for delegation of the Chief Psychiatrist's functions and powers.

Division 3—Authorised medical practitioners

86—Authorised medical practitioners

This clause provides for the Minister to make determinations as to the persons who will be authorised medical practitioners for the purposes of the measure.

Division 4—Authorised health professionals

87—Authorised health professionals

This clause provides for the Minister to make determinations as to the persons who will be authorised health professionals for the purposes of the measure.

Division 5—Treatment centres

88—Approved treatment centres

This clause provides for the Minister to make determinations as to the places that will be approved treatment centres for the purposes of the measure.

89—Limited treatment centres

This clause provides for the Minister to make determinations as to the places that will be limited treatment centres for the purposes of the measure.

90—Register of patients

The director of a treatment centre is required to keep certain records about patients.

91—Particulars relating to admission of patients to treatment centres

This clause is designed to ensure that any person who has a proper interest in the matter can determine whether a particular person has been or is detained in a treatment centre. The clause also requires information to be provided to the person detained.

92—Delegation by directors of treatment centres

This clause provides for delegation of the functions and powers of a director of a treatment centre.

Part 13—Miscellaneous

93—Errors in orders etc

This clause is designed to ensure that non-substantive defects in orders, notices and instruments do not render them invalid.

94—Offences relating to authorisations and orders

This clause establishes offences for medical practitioners, authorised health professionals and others in relation to the giving of authorisations or the making of orders.

95—Medical practitioners or health professionals not to act in respect of relatives

Medical practitioners and authorised health professionals are not able to act in respect of any of their relatives.

96—Removing patients from treatment centres

This clause makes it an offence to remove a patient who is being detained in a treatment centre from the centre, or to aid such a patient to leave the centre.

97—Confidentiality and disclosure of information

Personal information obtained by a person in the administration of the measure is not to be disclosed except as authorised or required by the Chief Executive or in the circumstances set out in subclause (2).

Under subclause (2) information may be disclosed—

- as required by law, or as required for the administration of this measure or a law of another State or a Territory of the Commonwealth; or
- at the request, or with the consent, of the person to whom the information relates or a guardian or medical agent of the person; or
- to a relative, carer or friend of the person to whom the information relates if—
    - the disclosure is reasonably required for the treatment, care or rehabilitation of the person; and
    - there is no reason to believe that the disclosure would be contrary to the person's best interests; or
- subject to the regulations (if any)—

- to a health or other service provider if the disclosure is reasonably required for the treatment, care or rehabilitation of the person to whom the information relates; or
- by entering the information into an electronic records system established for the purpose of enabling the recording or sharing of information in or between persons or bodies involved in the provision of health services; or
- to such extent as is reasonably required in connection with the management or administration of a hospital or SA Ambulance Service Inc (including for the purposes of charging for a service); or

- if the disclosure is reasonably required to lessen or prevent a serious threat to the life, health or safety of a person, or a serious threat to public health or safety; or
- for medical or social research purposes if the research methodology has been approved by an ethics committee and there is no reason to believe that the disclosure would be contrary to the person's best interests; or
- in accordance with the regulations.

98—Prohibition of publication of reports of proceedings

This clause makes it an offence to publish a report on proceedings under the measure except as authorised by the Board.

99—Requirements for notice to Board or Chief Psychiatrist

This clause makes it an offence for a medical practitioner to fail to send or give a notice to the Board or the Chief Psychiatrist as required.

100—Evidentiary provisions

This clause provides evidentiary aids for the purposes of legal proceedings.

101—Regulations

This clause provides general regulation making power.

Schedule 1—Certain conduct may not indicate mental illness

This clause sets out certain conduct that is not to be regarded on its own as being indicative of mental illness. It is based on the United Nations principles for the protection of persons with mental illness and for the improvement of mental health care and similar provisions appear in the corresponding New South Wales legislation.

Schedule 2—Repeal and transitional provisions

1—Repeal of *Mental Health Act 1993*

The *Mental Health Act 1993* is repealed.

2—Transitional provisions

This clause includes appropriate transitional provisions relating to orders, authorisations, consents and proceedings under the current legislation.

Debate adjourned on motion of Ms Chapman.

## UNIVERSITY OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (15:40):** Obtained leave and introduced a bill for an act to amend the University of South Australia Act. Read a first time.

**The Hon. P. CAICA (Colton—Minister for Industrial Relations, Minister for Employment, Training and Further Education, Minister for Science and Information Economy, Minister for Youth, Minister for Volunteers) (15:40):** I move:

That this bill be now read a second time.

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

Leave granted.

Our Universities need to address significant challenges and have the chance to take up new opportunities to innovate, as well as to their operation. While Universities continue to be principally places of learning, innovation and research, the complexity of decision-making they face means Universities are constantly needing to balance traditional academic goals with operational viability.

The University of South Australia has recognised that an effective Governing Council plays a critical role in these considerations and has opted for a structure which has appropriate representation, as well as the expertise and decision-making capabilities to effectively govern a contemporary university.

The University of South Australia has acknowledged the valuable contribution made by the Governing Council in its current configuration but has reviewed the current arrangements with a view to best supporting the governance processes for the future. In particular, the University is seeking to facilitate a greater focus on key issues and to improve effectiveness of its decision-making processes. The University has therefore proposed a reduction in the size of the Council from up to 21 members to up to 16 members.

Consequently, this Bill amends the constitution of the University Council, to provide for that reduction in the total number of Members, while maintaining the representational proportions among community, staff and student Members.

In addition, this Bill makes a number of minor amendments to modernise the legislation and which brings the *University of South Australia Act 1990* more closely into line with legislation for the other universities.

In December 2007 the Chancellor of the University of South Australia proposed that the university legislation be amended. A Discussion Paper containing the University's proposed amendments was circulated for consultation to all university staff and students, to various Members of Parliament and to the relevant student and education unions in July 2008. This Bill reflects the University's original proposals with some minor amendments.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *University of South Australia Act 1990*

4—Amendment of section 6—Powers of University

This clause amends section 6 of the Act to enable graduates to surrender an award that has been conferred on the graduate. Such a surrender can occur on any ground the University thinks fit.

5—Amendment of section 10—Establishment of Council

This clause amends section 10 of the Act to reduce the number of Council members from up to 21 members to up to 16 members. This is achieved by reducing the number of persons appointed by the Council from 10 to 8, the number of members of the academic and general staff from 2 each to 1 each, and the number of students from 3 to 2.

The clause also inserts new subsection (3a), providing that an election of a person to the Council must be conducted in a manner, and in accordance with the procedures, determined by the Council.

6—Amendment of section 11—Term of office

This clause amends section 11 to allow the term of office of members of the Council appointed by the Council to be between 2 and 4 years, rather than the current requirement that the term be 2 or 4 years.

7—Amendment of section 12—Chancellor and Deputy Chancellor etc

This clause amends section 12 to provide that the Deputy Chancellor will cease to hold that office if he or she ceases to be a member of the Council.

8—Amendment of section 13—Procedure at meetings of Council

This clause makes a consequential amendment to the quorum provision of the Council, reflecting the reduction in the number of members.

9—Amendment of section 14—Validity of acts and decisions of Council

This clause corrects an omission in section 14 to include a reference to elected members.

10—Amendment of section 19—Audit

This clause amends section 19 to allow an audit of the accounts of the University to be conducted in a manner determined by the Governor, rather than having to be done by the Auditor-General as is currently required.

11—Repeal of section 22

This section repeals obsolete section 22.

12—Amendment of section 25—Power to make by-laws

This clause amends the by-law making power in section 25, bringing into line with the similar section in the *University of Adelaide Act 1971*, and simplifying the provisions related to the *Subordinate Legislation Act 1978*.

Schedule 1—Transitional provision

1—Transitional provision relating to members of Council

This Schedule makes transitional arrangements to validate, if necessary, elections held before the commencement of this measure if there is an inconsistency between the statutes of the University regarding the numbers of members elected, or the methods of election, and the proposed reduced number of Board members.

Debate adjourned on motion of Dr McFetridge.

**The Hon. K.O. FOLEY:** Mr Speaker, I draw your attention to the state of the house.

*A quorum having been formed:*

**KERIN, HON. R.G.**

**The Hon. R.G. KERIN (Frome) (15:40):** I seek the indulgence of the house to make a personal statement. I would like to take this final opportunity to put on the record my thanks to many people who have helped me over the past 15 years in this place. I will start with my family. I would not be here if it were not for my father. As the member for Bragg knows well, I was asked to stand and over about 12 months kept saying no. I did not know that my father had been spoken to—the correct term is that he had been 'done over'. He prevailed. I thank my father for making me do it. He and my mother have been great supporters; they have been terrific.

Cathy, the girls and the grandchildren have been amazing. As everyone knows, once you are a minister and live well away from home, the wife bears the brunt of nearly everything. Cathy has done a great job of raising the kids. Incidentally, Hannah is just finishing year 12 and she was actually in preschool when I started here. She has missed out on a lot, but I think I have missed out on a lot more. They have been terrific.

To the extended family—I have seven brothers and sisters—everyone of them has been totally supportive all the way through, and my many friends in Crystal Brook, as the member for Schubert knows, are like an extended family in a small community like that. The broader electorate has been incredibly supportive and kept sending me back here. It has also been incredibly understanding of the fact that, as a minister and in other positions, you are were not always in the electorate as much as they would have liked; but they totally understood that. The Liberal Party support that I have had within the electorate, doing a lot of the tasks that are necessary, is greatly appreciated. If I start naming names, I will leave someone out; so, too all of you, thank you very much.

In general, to the public of South Australia, as some on this side and, certainly, on the other side know, as a public figure you go around to a lot of areas, and it can be a pretty full-on existence. To have people come up and show respect, friendship, and make you feel at home, and whatever, is very important when you are on the road and out there a lot. I have certainly been very well treated in that respect, particularly by the people of the regional areas in South Australia, where, because of my portfolios, I spent a lot of the six years as minister. I had some absolutely fantastic times and met many people, probably more so than you would in most portfolios. For example, you go to a field day, a country show, or something like that, and you go home having met hundreds of people in a day, which is something that I have always greatly appreciated.

To the many industry and community people who worked with me in the portfolio areas, my way of operating was very much to try to work with industry. The guys in the food industry and in the fishing industry—most of the time—and the other industries with which I was involved gave terrific support, and to this day a lot of them are my very good friends.

To my many staff—here, I will make an exception. Vicki Manners has worked with me since the day I came into this place. She has basically been the local member. Vicki is an exceptional individual, who has done a magnificent job, and really does treat the job with incredible seriousness and conscientiousness. To her I owe so much, because she really has been absolutely sensational, and she has done so much for so many people in the electorate, more than most local members could hope to do. She really does chase down issues. Many ministers would have received many letters from her. She has been absolutely sensational.

To all the other staff in various roles, I have been incredibly lucky, and there are dozens of them. Many of them are still good friends. I have been to many of their weddings, and whatever, but they have been sensational. Ministers know about the amount of time that you spend with staff and how reliant you are on them, because you are only as good as your staff a lot of the time, and I have been incredibly lucky like that.

To the departmental staff I had, again, many of them are still friends. The respect and response I always had from them was always terrific, and I really enjoyed working in the portfolios

that I had. I think I can say that, in the leadership roles, that extended further into the Public Service. Really, I have been incredibly fortunate to have worked with so many like-minded people who have the goodness of the state at heart.

Earlier this afternoon I spoke for a few minutes with former governor Marjorie Jackson-Nelson. What a fantastic lady. I had the honour of swearing her in. We were absolutely honoured to have her in that role. I also worked very closely with Sir Eric Neal, another fantastic person. When I was sworn in by Dame Roma, Hannah was still at the toddler age. I well remember that I was worried that she was going to knock over a vase, or whatever. Dame Roma came over and started talking to Hannah, and Hannah asked her, 'Oh, are you the Emperor?' which set Dame Roma back a little bit. She was absolute quality.

The dealings that I have had with the present governor, Kevin Scarce, have been exceptional. I think he will prove to be a great Governor. Having had him in my electorate, I have seen the way he works with people and understands them. He automatically commands respect but, at the same time, he has the 'Call me Kev' type of attitude, and I think that will wear very well. In my time, I have seen four magnificent governors, and it has been an absolute honour to work with each and every one of them.

Much of my time over the past 15 years has been spent in this particular building. I have always found the staff incredibly helpful, friendly and efficient. They get the job done without getting in your face. I will not mention all the areas because there are so many staff in this place who play a whole range of roles. I really do appreciate them, although I probably look as though I appreciate the catering more than anything else! I must admit that I have not taxed the library staff all that heavily over the years. I appreciate everyone here for the role they play and the way Hansard tidies us up. I appreciate the friendly nature within the house, although there can be pretty high stress levels here sometimes.

To my colleagues opposite in both chambers, to the Independent members and to those I have served with, thank you for your friendship and respect over the years. The public see question time on the television and very little else, and I think they would be surprised at some of the camaraderie and the dealing for the benefit of the state that has gone on over the years. Certainly, I have been involved with many of those from the other side and from the cross benches during a lot of that. At the end of the day, wherever you sit in this place, if you just keep at the front of your mind why you are here and who you are here for, then the institution is a better place and South Australia is a better place. I think that is very important. To those members, many of whom I have spoken to over the past couple of days, thank you for the sentiments you have expressed.

To the Liberal Party, its membership and party headquarters staff, thank you for the support and the opportunities you have given me. To my Liberal colleagues over the last 15 years, thank you for your friendship, support and camaraderie. To Dean Brown, John Olsen, Iain Evans and Martin Hamilton-Smith, thank you for your leadership and your efforts on behalf of the party and the state. It was Dean Brown and John Olsen who gave me the opportunity to be a minister and to do what I have probably valued most during my time in parliament. To the members who entrusted me with the roles of deputy premier, premier and leader of the opposition, thank you for your trust and support and the hard work you put in behind me during those times.

It has been an interesting journey over the past 15 years, and I thank each and every person who has helped me along the way. To all those I leave behind, good luck and good health and please look after the wonderful institution that we jointly own very well. As I said, it has been an interesting journey, and certainly the people you get to meet and work with are probably the highlight of any person's career in this place. I look forward to watching with interest what happens not only over the next 12 or 18 months but also over future years. I do not want one of those obituaries too soon—although I am sure you would all speak well of me! Thank you for everyone's friendship, and all the best for the future.

**Honourable members:** Hear, hear!

## CRIMINAL INVESTIGATION (COVERT OPERATIONS) BILL

Adjourned debate on second reading.

(Continued from 14 October 2008. Page 366.)

**Mrs REDMOND (Heysen) (15:55):** It is my pleasure to be the lead speaker on behalf of the opposition in relation to the Criminal Investigation (Covert Operations) Bill. I start by thanking the Attorney and advisers for the two briefings that I was able to have in relation to this bill. In

particular, I make special mention of Assistant Commissioner Tony Harrison, who has a deep understanding of the practical aspects of the matters that arise under this bill, and also Matthew Goode, who is unfailingly polite and helpful, and provided me very promptly with some information that I had sought in relation to the bill.

The bill covers a range of things, most notably, undercover operations, although that largely is replacing something we already have in the Criminal Law (Undercover Operations) Act 1995, that is, assumed identities, witness identity protection and mutual recognition. I will come back to each of those in due course.

I indicate to the house that the opposition at this stage is lending its support to this bill, although it does so on the basis that we are still awaiting some responses in relation to inquiries that we have made. In particular, I wrote to the Law Society, the Bar Association, the Office of Consumer and Business Affairs and the Registrar of Births, Deaths and Marriages (for reasons which will become obvious), and at this stage I have received only one response, and that I received just this afternoon. So I have to confess that I have not really had time to get my head around the detail of it. The Law Society has responded. It referred the matter to its Criminal Law Committee.

**The Hon. M.J. Atkinson:** The usual suspects.

**Mrs REDMOND:** —and they have written quite an extensive letter.

**The Hon. M.J. Atkinson:** Enemies of the people.

**Mrs REDMOND:** I note that the Attorney calls out that he considers the Criminal Law Committee to be 'the usual suspects' and 'enemies of the people', but, indeed, they are very well versed in the practice of the criminal law and, therefore, I am inclined to want to consider quite deeply the advice that they offer on topics such as this. I would be disinclined to simply disregard their advice when they have gone to the bother of making an extensive submission expressing some concerns.

That having been said, as I indicated, the opposition has the view that we should support the legislation. Certainly we support the principle of the legislation, and it may be that although it passes through this house we might want to explore in more depth some of the issues that might arise either from the criminal law section of the Law Society or from other responses that we may receive in relation to the matter.

As I said, I think the bill divides fairly neatly into four main areas. The first of those is that of undercover operations, and in the first instance in relation to undercover operations it repeals the provisions of the undercover operations act which was known as the Criminal Law (Undercover Operations) Act 1995. That legislation, as I understand it, and, indeed, I think it is stated in the second reading, has operated quite well since its inception. It is clear that, in order to really address problems of organised crime, and in particular bikie gangs and so on, it is necessary for us either to infiltrate those organisations or to have people who are genuine members of those organisations basically turn themselves over to the side of light and goodness and give evidence against the organisation.

I think I have mentioned in this chamber before that I read a book (which is available in the library or it certainly was available through the library) called *Angels of Death*. Having read that book, it is quite an insightful exposition of the development of the Hells Angels as a particular group, arising as they did in the US post 1945, essentially. There was no doubt in my mind when I read that book that these organisations are nothing if not good at what they do and they are extremely careful about allowing people into the organisation. No doubt, it is an issue of potentially sudden death if someone were known to be infiltrating the organisation.

Indeed, when I read the book, I thought you would almost have to start at kindergarten to build up enough of a background to satisfy a group such as the Hells Angels, or any of the other numerous bikie gangs that are involved largely in serious criminal activity, you would have to start so far back. It is not just a matter of setting up a flat and saying, 'Well, here I am, this is my background and I can now set myself up to become a member' (whichever organisation it might be) because these people have tentacles reaching into all sorts of organisations. They will know more about you than you know yourself within a very short time in terms of being able to check on people's background, their tax affairs, their family and everything else.

Indeed, in my opening comments, I indicate that I absolutely take my hat off to any of our police force who undertake this type of work, because it seems to me to be fraught with significant

personal risk and risk to family potentially, and it also seems to me to be an area where they are genuinely putting their lives on the line daily in the course of trying to disrupt this serious criminal activity which is so detrimental to all of us and they are the ones out there doing the front line work. I do take my hat off to them.

When I read this book *Angels of Death*, it made me think, 'Boy, why do I want to get up in here and speak out against these people,' because I have no doubt that they operate under a completely different regime as to what is right and wrong and so on. As I said, I take my hat off to the people who do that. Undercover operations, as I said, are basically repealing but reinstating in this new piece of legislation what we already have in the Criminal Law (Undercover Operations) Act that has been in place since 1995. I believe that the second reading speech did indicate that there have not been any particular difficulties with that legislation and, indeed, there have been no complaints from the judiciary, the defence bar, the police, or other sources about whether that legislation was operating. It appears to all intents and purposes to be operating perfectly well.

In order to undertake undercover operations, it is then necessary to have assumed identities, because, as I said in relation to the organisations which we are trying to infiltrate with undercover operations—and not all undercover operations involve infiltration of organisations, but a significant number of them do—it is necessary to have an assumed identity. For me, therein lies the biggest dilemma of this bill.

Basically, an assumed identity (as the name would suggest and as people probably know from watching television) allows an undercover operative to infiltrate organised criminal groups and potentially engage in controlled operations to uncover criminal activity, and that virtually necessitates the use of false identity documents, such as driver's licences, birth certificates, credit cards and so on. The problem this bill seeks to overcome is that there is currently no law in South Australia which enables the lawful use of documents like that.

I turn for a moment to what I find the most difficult aspect of the bill, which is found in clause 12. Clause 12(1) provides:

> The Supreme Court may order the Registrar of Births, Deaths and Marriages to make an entry in the register under the Births, Deaths and Marriages Registration Act in relation to the acquisition of an assumed identity under an authority or corresponding authority.

The order has to be made only on application by the chief officer of a law enforcement agency (for most purposes, the head of our police) or the chief officer of a law enforcement agency under a corresponding law, and I will get onto the mutual recognition provisions and so on in due course. The court can also order only if satisfied that the order is justified, having regard to the nature of the activities undertaken or to be undertaken by the officer or person under the authority or corresponding authority.

What that contemplates, in essence, is that the police commissioner can request the court to have a hearing in closed court (and the provisions allow for the matter to be heard in closed court), and they can make a decision that it is reasonably necessary for the purposes of these undercover operations for someone to have an assumed identity and, to that end, it is necessary for them to have some sort of false document created.

My dilemma in this, and the issue I have been exploring most fully in the briefings I have had, has been that it seems to me that, if you have court sanctioning of the falsifying of entries in your Births, Deaths and Marriages Register, you have then lost the validity of your whole Births, Deaths and Marriages Register. I still have some degree of dilemma about that. However, I am somewhat comforted by the fact that Matthew Goode, following the second briefing I had, was able to supply me with copies of legislation from the various other states, and they all seemed to allow the same thing to occur, although in some cases they do not even require the court to make the decision; they seem to allow the police commissioner to make the request direct to the Registrar of Births, Deaths and Marriages.

However, I do have some difficulty with that idea, notwithstanding that it appears in all these other jurisdictions, that is, once you have the state authorising the issuing of false documents, does that in any way diminish the veracity of the whole register, in essence. As I have said, I still have a question about that, but I understand the purpose of the legislation and I understand the need for assumed identities to undertake these undercover operations.

I also understand the need for this to be done so thoroughly. As I have said, having read the book *Angels of Death*, if you turned up with anything but a genuine birth certificate and they were not able to check it against the actual register, that could put someone's life at risk. If they had

a document which purported to be a birth certificate but which, when checked against an actual register, turned out not to be actually registered there, that could put someone's life at risk, and I have no wish to do that. It is clear that these organisations do go to that level in their checking.

There is a range of issues which arise from that, which I hope to explore more fully in committee. I indicate to the Attorney that I do not intend to propose any amendments, at least in this house, especially given that we have not had responses to the other inquiries we have made and given, as I said, that I have not had time to read in detail the Law Society's full response, although I will probably read a fair bit of it onto the record.

There is a range of practical aspects of the application of this that I want to explore in committee. For instance, a police officer may have a false birth certificate which has the seal of the state. The legislation allows for all that to be removed in due course when that person ceases to operate as an undercover operative and ceases to use the assumed identity. However, that police officer could go bad and take copies of the documents which have been certified.

I do not know about the Attorney-General's Office, but every day my office would certify many copies of birth certificates, which have been certified by a JP, quite genuinely, apparently, reflecting the truth of the situation that they are certified copies of genuine birth certificates, and the extent to which that can become problematical is an issue which I will explore in the committee stage.

The main purpose of the bill regarding assumed identities is to legitimise and make lawful the use of false identity documents. As I understand it, similar legislation was enacted by New South Wales in 1998, Queensland in 2000, Western Australia in 2002, Victoria in 2004 and by the commonwealth in 2001. So, we are certainly not on our own in approaching this matter.

The regime for obtaining and using a false identity is set out in the bill. It encompasses quite a range of things. It is only available, as I already said, on the request of the chief officer, which will usually be the Police Commissioner, although that can be delegated to a certain level. It can authorise an officer of the agency or another person who is to be under the supervision of an officer to be the person given the false identity documents.

I think it is reasonably obvious when you think about the nature of the work that these people do that sometimes it will be better to put someone other than a police officer into the situation of using an assumed identity for an undercover operation, but there must be a reason why someone other than a police officer is to be authorised.

The court has to be provided with details of the reasons why the assumed identity is required and the extent to which it will be used, and there must also be details of the issuing agency. So, it might not be just restricted to births, deaths and marriages, there might be a driver's licence issued and so on.

The details of any order made under section 12, which deals with the Office of Births, Deaths and Marriages, must be recorded, and the chief officer must be satisfied that the proposed assumed identity is necessary, that the risk of abuse of the assumed identity is minimal, and where it is going to be taken by someone other than a police officer that it would be impossible or impracticable for an officer to assume the identity.

In the case of someone other than a police officer, an assumed identity will only stay in force for a maximum of three months, although I gather—and again it is something I will explore in committee—that that can be extended. In the case of an officer it remains in force until cancelled. The effect, essentially, is that the Police Commissioner can compel the creation and supply of false documents from people such as the Registrar of Motor Vehicles, but if he wants to get a false birth certificate, death certificate or marriage certificate (and I can imagine circumstances where any one of those certificates might be necessary for the creation of an assumed identity) he must go via a closed session of the Supreme Court.

The assumed identity once issued must be used in accordance with its authorisation, and there are also provisions for breaching the confidentiality of this. I think I raised during the briefing sessions that even in a closed court a certain number of people have to be in the loop so that there is not just the judge and the Police Commissioner. It will probably, in fact, not be the Police Commissioner in person: it will probably be someone to whom he has delegated the authority in accordance with the act. The judge does not just get to walk into court. Someone must be contacted. A registrar will be involved; a listing officer will be involved; a court reporter will be involved (not a court reporter in the sense of *The Advertiser's* court reporter, or something, but the

people who actually take the notes of what is said in the courts); and a judge's associate will be involved—all sorts of people will be involved.

The act does provide for some degree of protection in the sense that penalties are imposed for breaching the confidentiality, basically, of the assumed identity. Again, I was able to question Assistant Commissioner Harrison in relation to this aspect in the second briefing, and he indicated that he felt that the penalties imposed in the bill were generally satisfactory. I expressed some concern as to whether they were heavy enough. There is also a provision requiring that agencies issuing false documents be indemnified by the police, and, again, it is an area I will want to explore in committee.

I indicate also that I particularly want to explore clauses 19, 20 and 21 of the bill in relation to the various indemnifications that are offered, and so on. However, I go back to the general thrust of the bill first. As members will recall, I indicated that the first section is 'undercover operations', which is basically replacing what we already have with a new format but without any significant change to it except for one thing, which I will come to in a moment. There is then the 'assumed identities' and then 'witness identity protection'. That is not witness protection in the sense of our Witness Protection Act. The Witness Protection Act that exists in this state deals with people who are to be placed permanently into a witness protection program which provides more or less the mechanism to enable them permanently taking on a new identity or life.

Generally, because of the evidence they have given, it is for someone whose life is likely to be at risk or that of their family members. We already have the Witness Protection Act 1996, and that sets up that witness protection program. What we are talking about in witness identity protection is different from that: it is about giving legal recognition to allow a witness in court proceedings to give their evidence without disclosing their true identity.

In other words, the undercover operation takes place and the person is doing their work in that undercover operation under an assumed identity, and the provisions of this bill enable that person to give their evidence about what they have observed, become aware of, and so on, without having to disclose the fact that they were using an assumed identity.

Sometimes they will be able to continue to use their assumed identity for other purposes, but mostly it is a protective thing. The measures that the bill includes are: holding part of the proceedings relating to identity in private; suppressing publication of evidence relating to identity; excusing the witness from disclosing identifying details; and enabling the person to use a false name or a code during court proceedings. It will be obvious to most people that it would be simple to dismantle the veracity of someone's evidence if the first thing they could be asked was a question about their true identity and their true identity be disclosed in evidence. First, it would dismantle the veracity of what they would then say, if they had not told the truth in swearing an oath, but, secondly, it could place them at extreme risk once their true identity is known and, if the relevant organisation duped by them finds out about it, they could be at risk.

I now turn to what the Law Society is saying about this bill. I had a brief glance at its letter this afternoon. It starts out by saying that the policy behind the bill is worthwhile. It recognises—as do we—that there is a worthwhile basis for the intention of the bill. The letter states:

> However, there are a number of provisions to do with protection of the identity of a witness that are of concern. These provisions in part 4 represent a substantial departure from the common law position and therefore considerable care needs to be taken in the implementation of such legislative proposal…such a departure should only occur in exceptional circumstances. That policy has most recently been recognised by the House of Lords decision in R v Davis (2008) UKHL 36 delivered on 18 June 2008.
>
> Those fundamental principles are worth restating and include the following:-
>
> - It is a long established principle of the common law that a defendant in a criminal trial should be confronted by his accusers so that he/she may cross-examine them and challenge their evidence. The principle originated in Ancient Rome and has been recognised throughout history and even in cases where the problem of witness intimidation has been extreme.

The letter does not elucidate further on that statement. It continues:

- That right is recognised in the United States as a constitutional right. It is an essential and fundamental requirement for a fair trial.
- It is an important right that has been recognised in New Zealand, Canada, Australia and South Africa and elsewhere.

I think there might be a typo in the next dot point:

- The right to confront a witness is basic to any civilised nation of a fair trial.

I think it should be 'any civilised notion of a fair trial'. It continues:

- That right includes the right for an accused person to ascertain the true identity of a witness where questions of credibility are in issue.

That is the question mark I have over this matter. Up until that point, I would say nothing in the bill actually obviates the right of an accused to confront and cross-examine the person, whether or not they are giving their evidence under assumed identity. The letter continues:

- Protective measures for witnesses are recognised, such as with a closed court, suppression orders and other current provisions in the Evidence Act for giving of evidence by CCTV or other ways that protect a witness.
- It is not a new problem and hence demonstrates how such processes have historically been recognised as infringing fundamental rights.
- Such protective measures were recognised by the House of Lords decision as hampering the conduct of the defence in a manner and to an extent which was unlawful and rendered the trial unfair.

I have yet to read the House of Lords case of R v Davis, but I will do so—hopefully, before this bill is passed in the other place. They do, however go on to state:

> The question is whether the legislation goes too far or whether it achieves the correct balance. The trial process will require consideration of the witness identity protection certificate which is disclosed to the parties and which is to include certain information. The nature and quality of that information may not be as sound and comprehensive as is required. The certificate seeks to identify matters that go to the credibility of the protected witness. However, those matters may not be sufficiently, accurately or comprehensively identified.
>
> It is likely that there will be matters outside the contents of the certificate, which may be discovered, disclosed or uncovered which go to the credibility of the witness. Therefore, the breadth of the certificates should include any information as to whether the protected witness has been the subject of an allegation of the commission of an offence—

And they go on to say—

> (as distinct from being convicted or found guilty of the same because an allegation may be sufficient to attack the witness' credibility).

I am not going to read the rest of their letter, because they go on to specify various aspects of particular parts of the bill, and I think it is probably better if I go through those in the committee stage. But they do make a fairly strong argument as to what alternatives might be looked at, and, indeed, we will consider more fully, before the matter gets to the other place, just what they have to say about all of that.

Moving on to the last aspect of this bill, and this is probably its most important aspect: mutual recognition or cross-border recognition. Of course, our state police, our state courts and our state Registrar of Births, Deaths and Marriages, and so on, do not have extraterritorial operation; but, those undertaking significant criminal enterprises frequently operate beyond any one state's borders. So, it is self-evident that we need a scheme of mutual recognition among the various states and territories.

If someone is operating in South Australia under an assumed identity and is, for instance, infiltrated into a bikie gang, which then goes interstate and has that person go with them, or requires that person to go interstate, clearly, it then is necessary for that person to maintain their assumed identity. It is just bureaucratically cumbersome to have to constantly go through a process of trying to get that assumed identity recognised interstate. In fact, as I understand it, there is not really provision for that to occur at the moment.

Indeed, one of the main thrusts of this legislation is to make it clear that people, such as our police officers, who do this incredibly difficult work of going undercover and undertaking these covert operations in order to catch criminals, do need to have that false identity recognised wherever they might go in Australia. Again, in committee I indicate that I will probably want to explore issues of: what if they have to go overseas?

As I understand it, within this bill we do not have any mutual recognition with the commonwealth. Therefore, one wonders, once you have a false birth certificate, whether you get a false passport, and so on; so there are all sorts of other issues that arise from it. But it does seem that allowing law enforcement authorities, using a false identity validly obtained under this legislation here, to use that identity elsewhere within the other states and territories will be a sensible and helpful step forward.

As I indicated, the main section that I personally have any concern with is clause 12, that is, the issue of the Registrar of Births, Deaths and Marriages, in relation to the issuing of false certificates. I recognise that the other states and territories appear already to operate under that system. Quite frankly, I cannot think of an alternative way to manage it.

I want to consider further the issues raised by the Law Society in its response and, in due course, the issues, if any, raised by the Bar Association, the Registrar's Office and the Office of Consumer and Business Affairs. That said, like the Law Society, we endorse the principle of the bill. So, pending responses and consideration of the response that we have already received from the Criminal Law Committee of the Law Society, I indicate to the house that the Liberal opposition will support the bill.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

**Mrs REDMOND:** I note that the definition of 'chief officer' includes, as I suggested in my second reading contribution, the Commissioner of Police, and no doubt that will be the most common one. I was a little puzzled about why the Australian Crime Commission warrants a mention. My understanding was that this legislation will not have a federal mutuality provision. On the other hand, for the purposes of this state legislation, we will recognise the Chief Executive Officer of the Australian Crime Commission, yet we will not, for instance, recognise the Commissioner of the Australian Federal Police. I was curious about why the CEO of the Australian Crime Commission makes it into the definition.

**The Hon. M.J. ATKINSON:** The answer is: because the Australian Crime Commission conducts investigations on behalf of South Australia Police.

**Mrs REDMOND:** The definition of 'corresponding authority' states that it is an authority under a corresponding law and so on. The next definition refers to 'corresponding law', which means 'a law of another jurisdiction declared by the regulations to correspond to this act'. Having had the benefit of the information supplied by your office in relation to the corresponding law, they are obviously not all identically worded and, as I indicated, there are differences. In some cases, for instance, the Commissioner of Police can directly order the creation of a false birth certificate, death certificate or whatever in certain circumstances in other states.

Is it intended that all the other states and territories will be declared to correspond to this act and thereby all the laws in those other jurisdictions will be considered corresponding laws? They are not identical, as they would usually be, when we are doing legislation where everyone is doing the same thing at the same time. These are not legislatively identical, but is it the intention that they all automatically will be prescribed to be included?

**The Hon. M.J. ATKINSON:** There are two aspects to this. The first is that, if the interstate (or even foreign) law is included in the regulations, legally it is deemed to be a corresponding law, whether or not it is similar. The second aspect is to say that, so far as the issuing authorities are concerned, we would talk to them about whether it would be a good idea to deem the laws or systems of other jurisdictions.

**Mrs REDMOND:** I notice that further down there is another definition called 'participating jurisdiction'. I am curious as to why it is called a participating jurisdiction, because that definition makes reference to corresponding law. So we have corresponding approval, corresponding authority and corresponding law. Is there any reason for its being called a participating jurisdiction rather than a corresponding jurisdiction?

**The Hon. M.J. ATKINSON:** The member for Heysen is a stickler for correct terms, and to describe New South Wales or Victoria as a corresponding jurisdiction would not really be the correct description. It is better to call them a participating jurisdiction. It may be a corresponding law, but it is a participating jurisdiction. The jurisdiction does not correspond with South Australia.

**Mrs REDMOND:** It is just that the term 'participating jurisdiction' in some way presupposes an overarching legislative framework in which everyone is participating in some way, and I am not entirely persuaded that that is what we have here. Nevertheless, I will accept the Attorney's answer and move on.

Clause passed.

Clause 4.

**Mrs REDMOND:** As I understand it, and I do not have a copy of the previous act in front of me, undercover operations under this legislation are virtually identical to undercover operations under the Criminal Law (Undercover Operations) Act 1995 but with the addition of mutual recognition into other jurisdictions. First, can the Attorney confirm that my understanding of that is correct?

**The Hon. M.J. ATKINSON:** Yes.

**Mrs REDMOND:** It seems much shorter than the Undercover Operations Act 1995. Is there anything not actually repeated in here?

**The Hon. M.J. ATKINSON:** The absence of the formal clauses in the 1995 act from this bill accounts for its being thinner, otherwise it is almost identical.

**Mrs REDMOND:** My question is about clause 4(2)(d). First, clause 4(1) provides:

A senior police officer—

and that is later defined as being someone above or beyond the rank of superintendent—

may approve undercover operations for the purpose of gathering evidence of serious criminal behaviour.

Subclause (2)(d) provides:

An approval may not be given unless the senior police officer—

(d) is satisfied on reasonable grounds that the undercover operations are properly designed to provide persons who have engaged, or are engaging or are about to engage, in serious criminal behaviour an opportunity—

(i) to manifest that behaviour; or

(ii) to provide other evidence of that behaviour,

without undue risk that persons without a predisposition to serious criminal behaviour will be encouraged into serious criminal behaviour that they would otherwise have avoided.

I take it that what that is intending to talk about is that the idea is not to entrap people. There could be a question in a court, for instance, about entrapment arising from these sorts of provisions. I want to explore how that works in practice. For example, how can anyone with the rank of superintendent be satisfied that a person might be about to engage in serious criminal conduct, presuming that they have not yet engaged in and are not currently engaging in serious criminal conduct? There is no evidence they have done anything yet; there is no evidence they are doing anything currently, but for some reason the superintendent has an expectation that they might. How is it assessed that someone can then be infiltrated into that circumstance without creating the likelihood that this person, who has not done anything yet, will allege entrapment, or is that not something that actually happens in practice?

**The Hon. M.J. ATKINSON:** These operations are not organised out of the blue. The police must have intelligence that something is going down; they must have some idea about how the criminal intent is to be put into effect. So, there must be some substratum of fact there before the superintendent embarks on one of these operations.

The key phrase there is 'persons without a predisposition to serious criminal behaviour'. I do not think the member mentioned that collection of words in the main body of her question, and I think they are the key words which explain what that clause is about.

**Mrs REDMOND:** I apologise if I did not, but I thought I did. Subclause (4) provides that the approval has to be in writing; it has to be signed by the senior police officer; and it has to specify when it takes effect—it has to be forward in time; it cannot be post fact—and who is approved to authorise. Subclause (4)(iii) provides:

The nature of the conduct in which the participants are authorised to engage;

I wonder how specific it is intended that that will be. More importantly, I want to explore this issue in placitum (iv), which provides:

A period (not exceeding three months) for which the approval is given.

I note that subclause (5) provides:

A senior police officer may renew, from time to time, an approval for one or more further periods.

So, although the period set out in placitum (iv) is quite specifically not exceeding three months, it appears from the next provision that it could nevertheless be renewed ad infinitum three monthly. I want to confirm whether that is the case.

**The Hon. M.J. ATKINSON:** The answer to the latter question is yes.

**Mrs REDMOND:** Then what is the purpose of putting in 'not exceeding three months'? Why would you not say 'for a period for which the approval is given'. Rather than putting in three months and then specifying that it has to be renewed every three months, I would have thought, for instance, that it might be known on some occasions that it is going to take at least six or 12 months, or whatever, to do a particular job. I am just a bit curious because, on the one hand, it sounds as though there is an intention to restrict it to a relatively short time; and then, on the other hand, the very next clause seems to completely override that.

**The Hon. M.J. ATKINSON:** Some operations will require more than three months, some will not. The requirement for three-monthly renewal is to goad the officer into reviewing every three months whether it is necessary to apply to renew. I think it is better that the police be goaded by this law into contemplating the need for renewal, rather than just letting the authority stay indefinitely, even though it is not being used. I think an indefinite authority would be more likely to be abused. We will be keeping statistics on renewals, so the member can monitor the matter by asking us the question.

Clause passed.

Clause 5.

**Mrs REDMOND:** I have two questions on clause 5. Firstly, I want to be clear about exactly what it is that subclause (1) is saying, that is:

Despite any other law, an authorised participant in approved undercover operations incurs no criminal liability by taking part in undercover operations in accordance with the terms of the approval.

So, if, for instance, someone gets an assumed identity and they join a particular outlaw motorcycle gang, and as part of that gang they are then required to participate in all sorts of activities, some of which may be relatively harmless, such as riding their motorcycle without a helmet, which is against the law but is more likely to kill them rather than anyone else. It could be anything from that to—

**The Hon. M.J. Atkinson:** Murder.

**Mrs REDMOND:** —something very serious. As the Attorney says: murder. Does the section intend that in that circumstance a person who is in the situation of using an assumed identity and taking part in undercover operations, and their instructions have been: 'Infiltrate this organisation. We want to get these people and prove that they are really involved in drug running, prostitution or whatever it is.' To what extent are they actually covered by the protection supposedly given by clause 5?

**The Hon. M.J. ATKINSON:** The key words in the subclause are 'in accordance with the terms of the approval' and that refers to the previous clause:

(4) The approval must—

(a) be in writing; and

(b) be signed by the senior police officer giving the approval; and

(c) specify...

(iii) the nature of the conduct in which the participants are authorised to engage;

**Mrs REDMOND:** My problem is that the nature of the conduct is a fairly generic thing, I would have thought. The nature of the conduct, I would have thought, would not be very specific in terms of writing the authority. Now, I may be wrong about that, but it seems to me that the nature of the conduct would be more along the lines of becoming a member of the Bandidos, or whatever organisation it is they are going to infiltrate, and so on. To what extent is an officer protected? Everything has been done properly. He has the false identity properly and he has been authorised to infiltrate the gang. To what extent is he actually protected from criminal liability if he is told to murder someone, to take the Attorney's example?

**The Hon. M.J. ATKINSON:** I think that if a superintendent of SAPOL wrote an authorisation, which included authority to murder, he would be out of the force quickly. To get the

protection of the section, police officers will have to act in accordance with the terms of the approval, and the approval must be quite specific, because clause 4(4)(c) says 'specify', and that is what the superintendent will have to do.

**Mrs REDMOND:** What I am concerned with, really, is the protection of the officer. I am not trying to dismantle it all: I am concerned with what happens if an officer has gone undercover and the approval they have got is either generic in setting out the nature of what they are to do, or it simply does not address the specific issue which confronts them. However, that officer, it seems to me, could easily be in a situation where he says, 'If I do not do what I am being told to do now, I face significant risk myself because they will realise that I am a plant and their form of justice will come down heavily upon me instantly,' or 'I do what I have been told to do.' If an officer is confronted with that circumstance whilst undercover, will this clause protect the officer? That is the issue I am trying to get at.

**The Hon. M.J. ATKINSON:** If it is not specified in the authorisation, the legal answer is no.

**Mrs REDMOND:** I have one other question on clause 5 and that relates to subclause (2), which provides:

> This section operates both prospectively and retrospectively.

Not surprisingly the word 'retrospectively' sprang out at me. Why is it necessary for this section to operate retrospectively? If we already have in place a Criminal Law (Undercover Operations) Act which is operating successfully and which will be abandoned only when this comes into place, why do we need anything under this legislation to operate retrospectively?

**The Hon. M.J. ATKINSON:** Retrospective protection is included in the 1995 act. If the member for Heysen goes back to the interpretations clause, Clause 3 provides:

> approved undercover operations means—
>
> ...
>
> (b) undercover operations approved—
>
> (ii) by a law enforcement authority before the commencement of the repealed act that are of a type that could reasonably have been approved under the repealed act if the repealed act had been in force when the operations commenced;

It seems to me that it is a transitional provision.

**Mrs REDMOND:** I am still a little confused as to why we need a transitional provision when one will replace the other. I am happy for this clause to be dealt with.

Clause passed.

Clause 6.

**Mrs REDMOND:** I am probably showing how I lack imagination, but subclause (1) provides:

> [For a law enforcement officer to apply for a person] to do either or both of the following:
>
> (a) acquire an assumed identity;
>
> (b) use an assumed identity.

I am unable to conjure in my mind in what way or in what circumstance anyone would ever need to acquire an assumed identity without using it.

**The Hon. M.J. ATKINSON:** Adelaide being a small place, someone working undercover has one assumed identity. The person first applies for authority to acquire the assumed identity. The officer might then use it to infiltrate the Rebels motorcycle gang. He might finish that job and then work against a drug operation, say, operating amongst an ethnic group in Adelaide. He will then apply to use the assumed identity but in a different context.

**Mrs REDMOND:** Am I correct in understanding that the Attorney is actually agreeing with the question that I was asking; that is, you never actually acquire an assumed identity without using it? You might acquire it and use it in different ways, but, surely, the whole point of acquiring an assumed identity is that you are going to use it. There is just no point in acquiring an assumed identity even if the only thing you ever do with it is show your fake driver's licence. You still use it in that sense, but there is just no point in having a false identity unless you use it. So, when it states,

'do either or both of the following', it will always be that, if you acquire an assumed identity, you will in some way use that assumed identity.

**The CHAIR:** I think your knee is affecting your head. If you read clause 1 you will have your answer. We are being very indulgent here with liberties relating to three questions. We need to move on.

**Mrs REDMOND:** That is only my second question on clause 6, Madam Chair.

**The CHAIR:** I know; I counted. We have a few leftovers from clause 4, not to mention clause 3.

**Mrs REDMOND:** That is the only one that I am pursuing on clause 6.

**The Hon. M.J. ATKINSON:** We do not intend to have 'shelf' identities; you are right. If you ask the Deputy Leader of the Liberal Party, she will tell you that she eventually took 'Catch Tim' down off the shelf and used it.

Clause passed.

Clause 7.

**Mrs REDMOND:** I want to clarify that the process for the determination of the application set out in clause 7, which provides that the chief officer of a law enforcement agency receives the application and has to be satisfied that the assumed identity is necessary, and that (under subclause (2)(c)) it would be impossible or impractical for someone other than a police officer if the application is for someone other than a police officer to have the assumed identity.

Under clause 7(2)(b) the chief officer also has to be satisfied that the risk of abuse of the assumed identity by the authorised person is minimal. I am curious as to how the chief officer becomes satisfied about that. Is there any risk to the chief officer if it turns out that the person who takes the false identity does abuse it?

I accept that 99 per cent of the time there will be no reason for the chief officer to suspect that his or her officers applying for an assumed identity for covert operations will be anything other than good, appropriate and responsible people who do the right thing. But how will it be determined whether the risk of abuse by the authorised person is minimal, particularly, I suppose, in the case of people who are non-police officers taking on an assumed identity? Is there a risk that the chief officer could in some way become liable if the chief officer fails to make appropriate investigations to satisfy himself or herself that the risk of abuse is minimal?

**The Hon. M.J. ATKINSON:** I think the value of that paragraph in clause 7 is self-evident. As long as the chief officer acts honestly, he or she will be protected by the usual immunity provisions for public sector employees.

**Mrs REDMOND:** I refer to subclause (5) which provides:

> An authority may also authorise any 1 or more of the following:

Subclause (3) provides:

> If an authority is granted in respect of an authorised civilian...

So, we are talking about an authority that has been granted. The authority can also authorise 'an application for an order for an entry in a registrar of births, deaths or marriages under section 12 or a corresponding law'. Am I correct in my understanding that, when the decision has been made under clause 7, that is the time at which the chief officer has to receive the application under clause 6, take into account these things that are set out in subclause (2) and the other subclauses and then make a determination that they will apply under clause 12—and that is the application to the Supreme Court for the order for the register of births, deaths and marriages to be adjusted?

**The Hon. M.J. ATKINSON:** The answer is yes.

Clause passed.

Clauses 8 passed.

Clause 9.

**Mrs REDMOND:** My question relates to subclause (2), that is, that an authority for an authorised civilian cannot exceed three months. That appears to say that it actually cannot exceed three months no matter what. If it is an authorised civilian, it can never exceed three months. The

only provision is that it can be cancelled sooner, so it may not extend to three months. But, as I read it, whilst the officer who has an authority can go three months, three months, three months ad infinitum, an authorised civilian cannot go any longer than three months under any circumstances. Am I reading that correctly?

**The Hon. M.J. ATKINSON:** With a civilian, SAPOL could go through the entire process again and renew the civilian's authority for undercover operations afresh. I think the reason that civilians are being treated differently from members of SAPOL is that you would normally not want to hang out a civilian in an undercover operation for more than three months, whereas you might renew an experienced officer any number of times.

**Mrs REDMOND:** I appreciate the Attorney's answer. Whilst I understand why you would not want to do that, it seems to me that there could again be some risk to an undercover operative if they are there for three months and they are suddenly pulled. As I understand the Attorney's answer, although it states that the authority for a civilian (as we will refer to the non-officer person) cannot exceed three months, in fact you could have consecutive three-month new appointments, whereas with an officer you would simply have renewals every three months.

**The Hon. M.J. ATKINSON:** The member for Heysen is correct.

Clause passed.

Clauses 10 and 11 passed.

Clause 12.

**Mrs REDMOND:** This is the clause about which, as I indicated, I have some misgivings. It seems to me that it is problematic, to say the least, to have state-endorsed making of false documents, although, as I indicated, I cannot think of an alternative way around the problem for false identities. I just wonder how it will work in practice, in the sense that it seems to me to set up a regime where the chief officer, the commissioner or the person authorised under the act to make the application, makes an application to the Supreme Court and the Supreme Court agrees, having found all the things in place that are set out for the making of the false entry.

I assume that the false entry is then just mixed in with all the other births, deaths and marriages. For the purpose of discussion, the most common one I think is likely to be a false birth certificate. That birth certificate, of its nature, has to look the same, be the same and be recorded in the same way as every other birth certificate but, presumably, somewhere there has to be a register to keep track of what we have issued as false birth certificates. Is that how it is going to operate?

**The Hon. M.J. ATKINSON:** I do not know for sure, but it seems sensible to me.

**Mrs REDMOND:** I worry about what will happen. Without wishing to impugn anyone's character, there would be, I suspect, a temptation occasionally for someone who has a false birth certificate—

**The Hon. M.J. Atkinson:** To engage in bigamy.

**Mrs REDMOND:** No, if they engage in bigamy they might have to pay spousal maintenance and all sorts of things. Perhaps they could take advantage of the possession of a false certificate to create certified copies of the false certificate which would enable them, well after the expiry of any period during which they were working as an undercover operative (and let us assume it is a civilian because I do not want to impugn our police), to set up all sorts of things with their false identity post having obtained it, even though, I assume, there is a provision for the eventual destruction of the original and the removal of that document or record of birth, or whatever it is.

Once you have a certified copy of a document, largely, that is accepted by banks, for instance, and all sorts of people. So you could, for instance, set up a false bank account and get false credit cards and all sorts of things, relying on a certified copy of a document which is no longer valid. I want to explore how that is going to work in practice and how you keep control over the process once you issue a state-endorsed document with the seal of the state on it saying that this is the birth certificate of this person.

**The Hon. M.J. ATKINSON:** If the undercover operative misuses certified copies and the false identity, he or she will be guilty of serious criminal offences under the identity theft provisions

that this government put through parliament a few years ago and be subject to condign punishment in the normal way.

The second aspect is we could set down in the act how the Registrar of Births, Deaths and Marriages is going to cope with this law. We think it wiser not to do so. If she comes back to us and says she wants a system in legislative form, we can do it by regulation.

**Mr HANNA:** I would have thought that it would be essential for the registrar to have some record of alterations that are made in the register pursuant to this legislation, because when it does come time to cease the assumed identity, the registrar will need to have records of what was there before. It seems to me that it is absolutely essential to have something that matches up the old identity with the assumed identity so that the transformation can take place the other way, if need be. I only make that comment in support of the member for Heysen's concern.

**The Hon. M.J. ATKINSON:** The member for Mitchell is wrong.

**Mrs REDMOND:** I was happy until I heard the answer to the last question. My understanding is that there has to be some way of recording which of the false identities. There has to be a record of the false identities, otherwise, when you have finished using the false identity, how on earth can you find it again in the thousands of birth certificates that are registered in this state?

**The Hon. M.J. ATKINSON:** The member for Mitchell's assertion relies on a false assumption, and that is that, if a superintendent of police acting under this proposed law says, 'Create a false identity for Maurice Chevalier' and Maurice goes off and infiltrates a drug gang, and then at some stage the superintendent decides, 'No, we do not need Maurice Chevalier any more, let us get rid of that identity and do all the associated paperwork under the law,' that the real name of the man who played the role Maurice Chevalier is Bert Newton does not matter: it has nothing to do with Bert and his birth certificate. That is why the member for Mitchell is wrong.

Clause passed.

Clause 13.

**Mrs REDMOND:** This deals with the cancellation of authority affecting entry and register of births, deaths and marriages, and essentially sets out that, if the chief officer of a law enforcement agency cancels an authority for an assumed identity and there is an entry in the births, deaths and marriages register, then the chief officer has to apply to the Supreme Court for an order to cancel the entry. So, that is all a given. However, the word which puzzled me was at the beginning of subclause (1), that is, the clause applies 'if' that happens. I would have thought that it would always be 'when' that happens. There will never be a circumstance where the chief officer does not ultimately cancel the authority because no-one who will be working as an undercover operative under an assumed identity in this clause will stay under that permanently.

**The Hon. M.J. ATKINSON:** I am advised 'if' means 'when'.

Clause passed.

Clauses 14 to 18 passed.

Clause 19.

**Mrs REDMOND:** This clause refers to the legal immunity of authorised persons acting under authority. It provides:

> Where an authorised person does something (whether in this state or elsewhere) that, apart from this section, would be an offence, the officer or person is not criminally responsible for the offence if—
>
> (a) the act is done in the course of acquiring or using an assumed identity in accordance with an authority; and
>
> (b) the act is done—
>
> (i) in the case of an authorised officer—in the course of his or her duty; or
>
> (ii) in the case of an authorised civilian—in accordance with any direction by his or her supervisor under the authority;

I understand all of that. I follow the first part of clause 19, until I get to paragraph (c), which provides:

> (c) doing the act would not be an offence if the assumed identity were the person's real identity.

Mr Goode and I went through this in our briefing, but I am still confused by this paragraph. Basically, it seems to say, 'All right, you have an assumed identity. The person is not going to be responsible for the offence if they are doing something in the course of acquiring or using the assumed identity.' So, they have their false driver's licence or they are using, for instance, their false birth certificate to acquire a false driver's licence. I can understand everything down to paragraph (c). I just want an explanation on the record of what is the effect and use of paragraph (c).

**The Hon. M.J. ATKINSON:** We have moved on from part 2—Undercover operations to part 3—Assumed identities. So, the immunity we are talking about here is the immunity someone gets for using an assumed identity, not for undercover operations. So, if one has been given a false name and one swears a statutory declaration or affidavit using the false name, then one is in the clear. However, if one commits some other offence unrelated to the assumed name, one does not have immunity, by reason of clause 19.

**Mrs REDMOND:** I take it, from what the Attorney says—and I understand that we have moved on from undercover operations and we are using assumed identities—to take the Attorney's example, if a person using their assumed identity swears an affidavit that although swearing an affidavit under a false identity would normally be an offence, this section protects them from that, but it would not protect them, for instance, from the falseness of the statutory declaration if what they put in the statutory declaration was false.

**The Hon. M.J. ATKINSON:** That is correct.

Clause passed.

Clause 20.

**Mrs REDMOND:** Clauses 19, 20 and 21 are the main clauses I want to explore. The indemnity for authorised persons, clause 20, is an issue that I explored to some extent during the briefing. I want to get on the record what the intention of the legislation is. What clause 20 allows for is that, where someone is acting under this false identity authority, then the law enforcement agency must indemnify that person under the authority for any liability incurred by the person, including reasonable costs because of something done by the person, whether in this state or elsewhere, if it is done in the course of using their assumed identity and in the course of their duty, or what they have been authorised to do, if it is a civilian.

Following on from the Attorney's answer on the previous question, that suggests to me that all that is indemnifying them for is using the assumed identity. It is not indemnifying them for other things that they may do in the course of the undercover operation in which they are involved in using the assumed identity. This is limited to indemnifying them for something that they are doing using the assumed identity. Is that the case?

**The Hon. M.J. ATKINSON:** The member for Heysen is right again.

**Mrs REDMOND:** If someone set up a credit card using their assumed identity in the course of infiltrating an organisation and then used the card to acquire goods of whatever kind, be it a flash motorbike or whatever, is that sort of cost covered by this, or would that person have to look to other parts of the bill—and if so, where—to protect them from liability for what they may purchase?

**The Hon. M.J. ATKINSON:** It all turns on whether the act is done in the course of acquiring or using an assumed identity in accordance with the authority. If it is necessary to buy a Harley-Davidson on a credit card in the name of the assumed identity, the answer is yes.

**Mrs REDMOND:** I assume that the chief officer of the police would be the person who makes the assessment ultimately on recommendation from whoever actually authorised the identity as to whether something was a reasonable cost for the purposes of that section?

**The Hon. M.J. ATKINSON:** The answer is yes.

**Mrs REDMOND:** Clause 21 then provides:

Sections 19 and 20—

and they are the two sections about which I have just been asking questions—

do not apply to anything done by an authorised person if—

(a) a particular qualification is needed to do the thing; and

(b) the person does not have that qualification.

(2) This section applies whether or not the person has acquired as evidence of an assumed identity a document indicating that he or she has that qualification.

We can take a ridiculous example of qualifications, namely, theoretically someone might obtain an identity which qualifies them as a doctor of medicine, for instance. If that is part of the identity they have set up and clauses 19 and 20 (which are those offering legal immunity and indemnity) do not apply, what protection does a person have who has gone undercover with their assumed identity and their false qualification if they are then placed in a situation where they are expected to perform in accordance with their pretend qualification?

Probably being a qualified doctor of medicine is an unlikely example, but, for instance, if it were driving a B-double and they had a fake B-double licence but they really were not licensed to drive one of those, or to do some other thing, what protection is there for the officer who has to pretend to have particular qualifications, has the necessary documents, but who is then expected to act in accordance with that qualification if clauses 19 and 20 do not apply to give them any indemnity or immunity?

**The Hon. M.J. ATKINSON:** In the case the member for Heysen raises, clauses 19 and 20 do not apply.

**Mrs REDMOND:** I realise that clauses 19 and 20 do not apply, and I think I said so in the question. Clause 19 gives legal immunity and clause 20 gives indemnity for people acting in pursuance of their authority using their assumed identity.

**The Hon. M.J. ATKINSON:** I have mentioned this provision before—and I will mention it again. Section 65 of the Police Act provides:

(a) A member of SA Police does not incur any civil liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty conferred or imposed by or under this or another act or any law.

Clause passed.

Clauses 21 and 22 passed.

Clause 23.

**Mrs REDMOND:** The mutual recognition, which I indicated in my second reading contribution appears to be one of the main elements of this bill, allows officers of this state who are undertaking this hazardous work to go interstate. Clause 23 still requires the requesting of information. Subsection (1) provides:

The chief officer of a law enforcement agency granting an authority [presumably in South Australia] may, if the authority authorises a request under this section, request the chief officer of an issuing agency of a participating jurisdiction specified in the authority—

(a) to produce evidence of the assumed identity in accordance with the authority; and

(b) to give evidence of the assumed identity to the authorised person named in the authority.

I take it that means that our chief officer, when authorising someone to go undercover and have an assumed identity, at the time of making that authorisation must include the provision for requesting mutual recognition in another state. Is that the way in which it will work? Will it happen at the time of someone getting an assumed identity? I had envisaged that someone would go undercover and, if became necessary for them to go interstate, then they would make the application and get recognition of the false identity in the state to which they were travelling. It struck me that the intention is that from the outset, when someone sets up a false identity, it will go nationwide and that there would be some sort of automatic indication of a request for all the other jurisdictions to recognise that identity and allow that person to go freely wherever they need to go. I am curious as to how it is meant to be interpreted in practice.

**The Hon. M.J. ATKINSON:** Nationwide.

**Mrs REDMOND:** I have just one other question on clause 23. In relation to this whole regime, as I indicated, my understanding is that this will relate to the other jurisdictions, being the other states and, I assume, territories, but not necessarily the commonwealth and certainly not New Zealand. If I am correct, is there any intention to try to broaden the application so that there is recognition through other commonwealth territories and, potentially, across the Tasman because of the nature of the relationship between our two countries?

**The Hon. M.J. ATKINSON:** The bill is written in such a way that there is no impediment to including any jurisdiction in the world.

Clause passed.

Clause 24 passed.

Clause 25.

**Mrs REDMOND:** For the misuse of assumed identities, there seems to be a relatively minor penalty, being a maximum penalty of imprisonment for two years if someone intentionally misuses an assumed identity. The clause covers 'recklessly misusing', and so on, as well. I think it is a far cry from someone who recklessly misuses an assumed identity. For someone who intentionally misuses an identity, there does not appear to be any sort of recognition of any gradient higher than two years maximum imprisonment, regardless of whether someone recklessly misuses an identity or deliberately sets about to misuse an identity. Am I correct in my interpretation?

**The Hon. M.J. ATKINSON:** The member for Heysen is correct.

Clause passed.

Clause 26.

**Mrs REDMOND:** In terms of the disclosure of information about an assumed identity, I seem to recall two provisions. One is that the person is guilty of an offence if the person intentionally, knowingly or recklessly discloses information that the person knows about an assumed identity. It goes on to provide: 'in connection with the administration or execution of this act or a corresponding law' and so on. Again, the maximum penalty is imprisonment for two years.

I would like some clarity on the difference between subclauses (1) and (2). Subclause (1) basically provides that, if the person discloses information about someone with an assumed identity that could harm them, imprisonment for two years is the maximum penalty, but subclause (2) provides: 'the person intends to endanger the health or safety of another' or 'the person knows, or is reckless as to whether, the disclosure of the information endangers or will endanger the health or safety of another'.

I was just not clear on how one distinguishes between a person who intentionally, knowingly or recklessly discloses information that could have very significant consequences and a person who intends to endanger the health or safety of another person. I want the Attorney to put on the record how one determines the difference between subclause (1) and subclause (2). Subclause (2) clearly has a much more significant maximum penalty.

**The Hon. M.J. ATKINSON:** If the prosecution can prove that the accused intended the damage or was reckless as to the damage, then the much higher penalty applies.

**Mrs REDMOND:** That is how I initially read the clause but, when I reread it, it did not seem to me to be in any substantive way different from the beginning of subclause (1), that is, a person is guilty of an offence if a person intentionally, knowingly or recklessly discloses information. Is the essence of it the difference in consequence, in that it is possible for the assumed identity of someone to be revealed but there are no significant consequences? Is that how the difference between those two subclauses will be determined?

**The Hon. M.J. ATKINSON:** Yes.

Clause passed.

Clauses 27 to 32 passed.

Clause 33.

**Mrs REDMOND:** I will go back to the letter which, as I said, arrived this afternoon from the Criminal Law Committee of the Law Society. Clause 33 deals with the certificates, but I will refer briefly to clauses 30 and 31. Clause 30 is just an interpretation provision about witness identity protection. As I said, witness identity protection is not about setting people up permanently with an alternative identity because they have given evidence which places them at risk permanently and they become a new identity. It is about people being authorised to give evidence in a court of law using their assumed identity. Essentially, clause 30 sets out some definitions.

Clause 31 provides that the chief officer can give a witness identity protection certificate to a local operative. So, that person gets a certificate (known as a witness identity protection

certificate), and that can then be used when they go to court to give evidence. Clause 32 says that a decision to give a witness an identity protection certificate is final and cannot be appealed against, reviewed, called into question, quashed or invalidated in any court. I attended a recent lecture about clauses such as that, which was very interesting.

I just wanted to cover what those clauses are about to get us to clause 33, which is the form of witness identity protection certificates. The Law Society states:

> The certificate seeks to identify matters that go to the credibility of the protected witness. However, those matters may not be sufficiently, accurately or comprehensively identified.
>
> It is likely that there will be matters outside the contents of a certificate which may be discovered, disclosed or uncovered which go to the credibility of the witness. Therefore, the breadth of the certificates should include any information as to whether the protected witness has been the subject of an allegation of the commission of an offence (as distinct from being convicted or found guilty of the same because an allegation may be sufficient to attack the witness's credibility)—

The Law Society's suggestion is that therefore clause 33(1) should include reference to that type of information.

Clause 33(1) sets out the form of the witness identity protection certificate and says that the chief officer of the law enforcement agency has to include certain information. It sets out the name of the law enforcement agency of which the person is the chief officer, the date on which the certificate is given and the grounds for giving the certificate. If the local operative is known to a party to the proceedings or a party's lawyer by a name other than the operative's real name, the certificate must state that assumed name or the local operative's court name for the proceedings (if they are not known by some other assumed name). The certificate must also state the period during which the local operative was involved in the investigation to which the proceedings relate; whether the local operative has ever been convicted or found guilty of an offence in this state or elsewhere and, if so, the particulars of each offence; and whether any charges against the local operative for an offence are pending or outstanding and, if so, the particulars of each charge.

I have not read all the provisions of the form of witness identity protection certificate, but the Law Society seems to be suggesting that, where a witness has been subject to the allegation of the commission of an offence, that should be included in the certificate. My question is: does the Attorney, at this stage (and I assume he has also received this letter, since it is marked that copies have been sent to him), have any view on the suggestion being made by the Law Society in relation to clause 33?

**The Hon. M.J. ATKINSON:** I am of the view that any old allegation will not do and, of course, it will be in the interests of those who are trying to crack the real identity of the operative to cast the net of allegations as widely as possible.

Progress reported; committee to sit again.

At 18:00 the house adjourned until Thursday 13 November 2008 at 10:30.