LEGISLATIVE COUNCIL

Thursday 1 May 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:01 and read prayers.

LEGAL PROFESSION BILL

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:02): I seek leave to move a motion without notice concerning the conference on the bill.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

FIREARMS (FIREARMS PROHIBITION ORDERS) AMENDMENT BILL

In committee.

(Continued from 29 April 2008. Page 2477.)

Clause 27.

The Hon. D.W. RIDGWAY: I move:

Page 18, after line 37 [Clause 27, inserted section 26B(1)]—

After paragraph (l) insert:

(m) to issue a firearms prohibition order,

For the benefit of members present, this is in relation to the review by the Firearms Consultative Committee, and that committee includes some reasonably well-equipped people. Part 2, division 2, section 7(2) of the Firearms Act provides:

The consultative committee consists of six members, appointed by the Governor, of whom—

(a) one must be a legal practitioner of at least seven years standing; and

(b) one must be a person nominated by the Commissioner of Police; and

(c) one must be a person who has, in the opinion of the Governor, wide experience in the use and control of firearms; and

(d) one must be a medical practitioner; and

(e) one must be a person who carries on the business of primary production and uses a firearm or firearms for the purposes of that business; and

(f) one must be a person who has experience in the administration of, or in participating in, a competitive discipline using firearms being a discipline in which shooters compete at the Olympic Games or the Commonwealth Games.

That gives members present an indication of the breadth of that review committee. In all the consultations that I have had—and I indicated this on Monday when we were dealing with this legislation—the law-abiding firearms owners (I called them LAFOs because it was easy to use that acronym) are concerned that they could be subject to a prohibition order, if the ability to impose firearms prohibition orders is abused in any way. We are not alleging or suggesting that it would be, but, if it is, as a result of an overzealous application of it or a law-abiding firearms owner just doing something that is slightly outside what a police officer might see as being a fit and proper procedure, they could be subject to a prohibition order.

If a person is aggrieved by the decision of the Registrar to issue a firearms prohibition order, this is the first of a number of amendments which gives the Firearms Review Committee the opportunity to reject the decision made by the Registrar. In the debate we had earlier in the week, the minister put on the record that, in the past five years (I think he said) only nine decisions were overturned by that review committee.

What this amendment is doing is putting the administrators of this legislation (and, I guess, the police force) on notice, in a sense, because we expect that there will be very few occasions

where they will get it wrong. In fact, the review committee has said that, in the last five years, it has got it wrong only nine times.

However, if they get it wrong, a law-abiding firearms owner has an avenue to appeal at zero cost. As the bill is set up now, if somebody wishes to appeal a decision of the Registrar they have to go to the District Court. In 99.9 per cent of cases, when they are the undesirable elements in the community, then we all support this legislation being used effectively to control illegal use of firearms and it is an appropriate course of action for people to have to go to the District Court. However, if somebody has inadvertently been captured by this piece of legislation it seems an unreasonable impost to expect them to have to go to the District Court with all of the costs, without going to the review committee, given its breadth of experience.

I see Mr Bistrovich sitting in the gallery; it is not as if the committee has four or five ministerial advisers on it. With all due respect to Mr Bistrovich, there are much more skilful and highly trained individuals on the committee than he. It is a competent body of people who are appointed by the government to carry out a whole range of functions. These include:

- to refuse an application for licence or renewal of a licence;
- to impose or vary a licence;
- to vary a firearms licence by restricting the class of firearms to which a licence relates;
- to vary or revoke for the purpose of an endorsed licence;
- to suspend or cancel a licence;
- to refuse or revoke suspension of a licence;
- to refuse an application for a permit to acquire ammunition;
- to refuse an application for registration of a firearm;
- to cancel a registration of a firearm;
- to refuse to approve the grounds of a recognised firearms club, or a recognised paintball operator, or revoke such approval;
- to impose conditions on approval of grounds of a recognised firearms club, or recognised paintball operator or to vary such conditions;
- to refuse to approve the range of recognised commercial range operators or to evoke such an approval; and
- to impose conditions of approval on a range of recognised commercial range operators or to vary such conditions.

As we can see, the review committee has quite a deal of latitude in what it can and cannot do. It is a group of people who are well trained in their particular fields and have wide experience, whether it be legal, medical, or from a farming background. The Commissioner of Police has a representative and, of course, there are Olympic shooters or Commonwealth Games shooters.

It seems to us, from the opposition point of view, a very reasonable case to argue that, if a law-abiding firearms owner feels as though they have been harshly dealt with, this gives them one opportunity to go to that Firearms Review Committee and say, 'Look; this is what has happened.' I know that the Registrar will provide the same information that he has used to make the decision on imposing a prohibition order. He will then make that same information available to the committee, and I suspect that in 99.9 per cent of the cases it will uphold the decision of the Registrar. I suspect that, on very rare occasions, a mistake will be made. However, it seems reasonable that these groups have raised these matters with us because they are concerned about being inadvertently captured by this legislation.

I have had a number of briefings with Sergeant Les Buckley, who is sitting opposite us here. He has made it very clear that that will not be the police's policy and that the target will be the undesirable elements in the community. I had the good fortune to have a briefing with the Firearms Branch at police headquarters only last week. We discussed a range of issues but not this particular legislation and the review of the act. The branch made it very clear that its policy was that this legislation is aimed at bikies and undesirable elements in the community. It was certainly not aimed at a primary producer who, inadvertently, might leave one round of ammunition in his pocket

which he then puts in the glove box of the ute, or on the parcel shelf or tray, which then rolls out onto the floor.

We understand that SAPOL's intention and the government's intention is to pursue the people that this legislation is targeted at. However, we also understand the concerns of the law-abiding firearms owners in our community. It seems reasonable to us to allow this particular amendment to be passed. I almost expect that the government will not support this, unlike the other amendments that I have moved, but I think it seems reasonable to have support for this to allow people one avenue of appeal. If the review committee agrees with the Registrar then that is two strikes and, by all means, go to the District Court and argue your case there. However, this gives people that one opportunity.

In one sense this is a test case because all the other amendments I have are consequential, or certainly relate to it (other than, perhaps, my amendment No. 8). With those few words I urge members to support the amendment.

The Hon. P. HOLLOWAY: I urge members to oppose the amendment. The government did accept the previous three amendments moved by the Hon. David Ridgway, because it agreed with him that, really, this legislation is not about legitimate firearms owners, but there is a very important principle at stake here. The Firearms Review Committee is appointed, incidentally, by the minister, so it is not independent in that sense, as the court is.

With the appointments, historically (and I have included the president), the people we put on it are the sort of people who are familiar with and a part of, in most cases, the legitimate firearm-owning community and they understand those issues. Their expertise is there to assess issues related to the registration and licensing of firearms. That is their role. However, here we are specifically talking about firearms prohibition orders. We are talking about people on whom there is criminal intelligence, that they may have committed serious crimes or are about to commit a crime and should not have a firearm.

If we were to put these people through the firearms committee first, it would mean that the only way that body could consider these matters would be to have access to criminal intelligence, and there would be no control to prevent the release of that information. Suppose some information became available to police that someone had taken out a contract to kill somebody. In that sort of situation, should you have a firearms review committee whose role is to look at licensing and ensure that people have not been denied, through the ordinary licensing and registration process, access to a firearm?

We know that in the vast majority of those cases the Registrar's decision is upheld. However, if we are talking about that sort of serious criminal intelligence, where life might be at stake, do we really want a body which in most cases does not have any legal expertise and which is not open to the public? Do we really want such a body to have access to this information, particularly when there is no control over it?

It is generally accepted that in relation to matters of criminal intelligence legal expertise is required, and that is why, with respect to firearms prohibition orders, the provision is there that it should go to the administrative division of the District Court, which is the appropriate body. It has the expertise and one can trust the court, with its experience, not to release that criminal intelligence, which could be very damaging and put safety at risk.

Another issue is that, if the committee were involved in these sorts of decisions, its safety could very well be at risk. If it became known (as it often does in these criminal circles) that the review committee was considering a firearms prohibition order, we know that it is not beyond some of the groups of people from whom we are trying to keep firearms away to make threats, directly or through third parties, to overturn the issue. Do we really want to put the committee at risk? This is really just a lay committee appointed to ensure that the operation of the registration and licensing of firearms is done properly.

The final matter is: do we really want the standard of what is appropriate for a firearms prohibition order to be set by six people on the Firearms Review Committee, rather than an independently constituted court that has the proper legal expertise? There is a principle in our community that those sorts of important decisions should be made by the court, rather than by the six members of the Firearms Review Committee, who, incidentally, are appointed by the minister.

So, for all those reasons I think that it is imperative that we reject this amendment. I do not think that any government could really allow a situation where the sort of information that relates to some of the most potentially dangerous people in our community goes to a committee where there

is no control over its release and where it may even put the safety of the committee at risk. The appropriate place for that consideration to be made is the administrative division of the District Court, and that is why it is specifically in this legislation. That is the appropriate body, and that is why I urge members to oppose the amendment.

The Hon. SANDRA KANCK: I indicate that the Democrats will be supporting this amendment and those that follow so that I do not have to make the same remarks again. We are doing so on the basis of what this legislation is about. It imposes a higher standard in terms of being able to possess firearms and, hence, the title of the bill is the Firearms (Firearms Prohibition Orders) Amendment Bill. We are putting in firearms prohibition orders, and we have never had them before.

When we discussed this matter on Tuesday, I went through some of the unintended effects and impacts that these firearms prohibition orders might have, particularly for people in regional and remote areas. It is because of those effects that I feel we need to maximise the opportunities to ensure that any unfairness is properly dealt with.

This amendment would refer the matter to the Firearms Review Committee. It does not mean that the committee will overturn the order; it simply means that it will review it. If, as the minister suggests, there is criminal intelligence that the person under consideration has a contract out on someone who is about to be shot, the Firearms Review Committee will obviously listen to what it is told by the police and will say that it upholds the original decision.

The committee will comprise intelligent people, and the Hon. David Ridgway has gone through the list of the qualities and experience of it members. For example, there will be a legal practitioner, someone nominated by the Commissioner of Police, a medical practitioner, and so on. These are not lightweights in any sense of the word, and they will make a sensible decision.

Surely the government has made certain that the people who are on this committee in the first instance are people who will have the capacity to undertake the review, so I see no difficulty in supporting this amendment. I think that it is important as part of the fairness procedure, and it is important because of the unintended impacts of firearms prohibition orders.

The Hon. P. HOLLOWAY: I will address one issue. The honourable member talks about the expertise of the committee. If this amendment were to get up, when I as minister were considering appointing a committee, I would have to take into consideration the fact that, as I said, its safety could be placed at serious risk.

If this committee is to become a pseudo tribunal rather than just an advisory body in relation to the review of registration and licensing, and is to become an assessor of criminal intelligence, the whole role of this body would change. As minister I would have to consider who to appoint. If it requires legal expertise, you would have to change the whole membership of the committee away from the lay people who we believe make a great contribution in relation to licensing and registration issues and change it to a pseudo tribunal because it would have completely different powers.

These are serious issues. It is nonsense, as we are not talking about somebody who has had a registration knocked back because they did not lock up their guns properly, but about someone who might have a contract out to kill somebody. You are talking about all sorts of issues that put the role of the committee way beyond what is ever envisaged and we would therefore have to consider the nature and type of the committee. You cannot just lump this committee with those sorts of tasks, and that is why I appeal to members to reject it. If this gets up and the review committee is to have these sorts of roles, it would be negligent of me as minister if I did not consider the issues of protections and other things we need to consider. We would have to completely change the nature of the committee.

The Hon. Sandra Kanck says that these were the sorts of people who were on there. It would no longer apply, and you could no longer appoint those sorts of people. You would have to set up a tribunal and alter the whole legislation. If people do not want the bill, this is a good way of doing it.

The Hon. D.W. Ridgway: We want the bill.

The Hon. P. HOLLOWAY: You don't really, because you must know. One of these days you could be minister for police. Are you going to have a situation where you want information about potential criminal actions in the hands of a group of lay people, ordinary firearms owners, who are there to assist the administration of the Firearms Act, to ensure people are not knocked

back unfairly for licensing or registration? They are not there to interpret whether or not somebody is a dangerous criminal: it is far better that the courts do that.

To give an example of the decisions we might need to make, we had the shooting in Wright Street six or seven years ago and the Tonic Nightclub incident with firearms. We are introducing this bill to try to keep firearms out of the hands of those people. It is not about legitimate firearms owners being unfairly knocked back for registration or licensing because of a technicality. Also there was a shooting on Eyre Peninsula. There have been a number of cases where the police need to act quickly and dramatically in relation to firearms and to take those sorts of decisions where you have information, as in the Tonic Nightclub.

I would like to keep the membership of that lay committee, because they do a good job and understand the problems ordinary legitimate firearms owners face. As minister I have tried to ensure that the act moves towards getting firearms away from the hands of people who should not have them, while ensuring that the ordinary law-abiding firearm owner (LAFOs, as the shadow minister put it) is not unnecessarily inconvenienced and should have protection. The whole thrust of the bill is to say that, rather than focusing on the legitimate firearms owner, let us look at the people who use firearms.

Increasingly the firearms used to commit crimes are either stolen from various sources or illegally manufactured or imported, and that is where I want our police attention to go. I want as many police as possible to focus on those criminals not getting guns and not on registration and licensing issues, and that is why we made the changes the other day. We do not want to unnecessarily burden the ordinary firearms owner who goes to clubs and sporting shooters associations. We do not want to inconvenience them. We want police to focus on illegal firearms where the real problem is, and that is why there needs to be a difference and why I would argue for police being able to act quickly with serious criminals to make firearms prohibition orders. The accountability for that should be to the court, which is the expert body to ensure that accountability takes place.

The Hon. A. BRESSINGTON: I will not support the amendment. The comments the Hon. Paul Holloway just made are very legitimate. We have to understand that this bill has been put before us to deal with the criminal element. It is not about interfering with licences of legitimate firearms owners. We have a raft of other legislation before this parliament that targets organised crime and other areas, and I imagine that this is just one piece of the jigsaw puzzle we are debating. It is an unfair responsibility to put on members of the committee, who are doctors and psychiatrists, to have to wear the burden of the information that they would need to know if this amendment and the other two go through. We have to keep a clear understanding of how people in organised crime work. They use intimidation, threats and harassment and, if they want something badly enough, they do not blink at killing somebody.

We need to be careful about placing that sort of burden on normal, average citizens who are basically there carrying out a civic duty to make sure that the licensing process can go through easily. I think we need to be very careful about interfering with this legislation to the degree that we will burden everyday citizens with that information and responsibility.

The Hon. M. PARNELL: The Greens support the amendment. We believe that it is an important and worthwhile additional check and balance over—let's face it—weapons that kill. I am not convinced that the minister is right in saying that the system will be unworkable. I think we need to apply the greatest level of scrutiny to all aspects of firearms ownership and use, and I believe that this amendment is a sensible addition to the regime.

The Hon. D.G.E. HOOD: Family First opposes the amendment. We have supported a number of the opposition amendments, because I think they were good additions. However, in this case we are dealing with people who have firearms prohibition orders against them, which is a very serious matter, indeed, and they are not issued lightly. I have listened to the arguments of the Leader of the Government about the intelligence required to make an informed decision on this matter for a committee which is an advisory body, and which I believe should have some powers (which we discussed the other day), but I think this crosses over the line to dealing with very serious criminals. On that issue, I do not think the police should in any way be restricted in doing the job that they need to do. For that reason, we oppose the amendment.

The Hon. D.W. RIDGWAY: In relation to the role of the committee as set out in the bill, when a person is aggrieved by the decision of the Registrar—and I cite, for example, new section 26B(1)(a), to refuse an application or a licence, or the renewal of a licence or an application for a

permit authorising the acquisition of a firearm—what information does the Registrar provide to the review committee for that group of people to be in a position to review that decision?

The Hon. P. HOLLOWAY: If one looks at what has happened with the existing committee, I am advised that, in the first instance, the committee would just be provided with the short grounds, such as whether it was in the public interest, fit and proper, and so on. I understand that there is a recent case where there was some criticism of the Registrar in relation to the amount of information provided, and I am advised that, as a result of that criticism from the committee, the Registrar is now providing fuller information in relation to that matter. Obviously, we would expect that to continue. But, of course, that is the right thing, where the review committee can request that sort of information, and that is why it is important to have them, to ensure that the legitimate grounds are given.

The Hon. D.W. RIDGWAY: If a person made an application for a licence renewal or a permit authorising the acquisition of a firearm, and some criminal intelligence existed that identified that person as being not fit and proper, or that they were the contractor who was going to undertake a job to shoot someone, that would be information that the Registrar would have and, quite rightly, use to refuse that permit. If that person then went to the review committee, in what form would that information be given to the committee?

The Hon. P. HOLLOWAY: That is a quite different approach. If there was a case where the police became aware of information that the person was a danger to people or to themselves and it was necessary to issue a firearms prohibition order, any existing licence and the registration would automatically be cancelled.

The Hon. D.W. Ridgway: What if they were just coming to apply for a licence?

The Hon. P. HOLLOWAY: Does the member mean someone for which—

The Hon. D.W. Ridgway: Maybe I can ask the question properly, rather than—

The Hon. P. HOLLOWAY: If they have a firearm prohibition order issued against them, obviously, the application would be rejected, and that is when they would be able to apply to the court. If they already had a licence, I think that is the only situation where this would come into play. If the firearms prohibition order is issued, obviously, they cannot have a licence, they cannot have firearms and that is what is covered.

I am not quite sure that I understand where the honourable member is coming from in relation to the question. Once a firearms prohibition order is issued, the matter of registration and licensing does not really come in. It is a matter of whether that person decides to challenge the fact that there is a firearms prohibition order; and, as we have just argued, we believe that the court is the appropriate body for doing that.

The Hon. D.W. RIDGWAY: I think the minister may have misunderstood. In its current structure in the bill, clause 26B(1)(a) provides:

> (1) A person aggrieved by a decision of the Registrar—
>
> (a) to refuse an application for a licence, or renewal of a licence or an application for a permit authorising the acquisition of a firearm;

This was the section that I was amending by inserting a firearms prohibition order, so it is the existing legislation. Two comments ago the minister said that the committee would be given information by the Registrar to support the Registrar's decision that he did not issue a permit for this person to acquire a firearm for the following reasons. My question was: if one of those reasons was that there was some criminal intelligence that suggested this person was not fit and proper—so actually it has nothing to do with a prohibition order; it is about the function and role of the committee—what information in relation to the criminal intelligence, if that exists, would the Registrar give to the committee to review the decision to apply to purchase a firearm?

The Hon. P. HOLLOWAY: I think what the honourable member is asking is: under the current system and the new system, has criminal intelligence ever been part of the assessment process? The advice I have is no. I think that is essentially what the member is asking, that normally if a person is not considered a fit and proper person because of their criminal record and/or history, then they would be refused an application for a licence.

The Hon. D.W. RIDGWAY: Yes, but if they then go to the review committee and appeal that refusal, what information does the Registrar give to the committee to say they are not fit and proper, and for these reasons?

The Hon. P. HOLLOWAY: I am advised that the committee would get a full brief of the facts, basically the same as the Registrar does. So, for example, if someone who had a murder conviction applied to get a firearms licence, all that information would be supplied to the Firearms Review Committee. So, it would get that brief, but that would not include criminal intelligence, and I am advised that it never has done so.

The Hon. D.W. RIDGWAY: So, if the person who has been refused was refused on the basis that the Registrar believed, because of their associates, behaviour, past record, etc. that they were not fit and proper and if it was of a criminal intelligence nature, am I right in assuming that the only information that would be provided to the committee would be that there is sufficient criminal intelligence for the Registrar to recommend that this person does not get a permit?

The Hon. P. HOLLOWAY: I refer the honourable member to new section 26B(3) which provides:

> If a decision was made because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.

I believe the provision in the existing act is essentially the same.

The Hon. D.W. RIDGWAY: So, in effect, in amending this clause and giving the role to the Firearms Review Committee to review a decision to issue a firearms prohibition order, the argument the minister mounted earlier was that it would be inappropriate for that criminal intelligence to be given to the committee, but subsection (3) clearly provides:

> If a decision was made because of information that is classified by the Registrar as criminal intelligence, the only reason required to be given is that the decision was made on public interest grounds.

Surely that would cover the situation where you have inappropriate information of perhaps a risk to public safety being given to the review committee.

The Hon. P. HOLLOWAY: But when that happens the review committee does not have to agree with the decision. If the only information it is provided with is the case now and the case in the future under subsection (3) and that the decision is on public interest grounds, it does not have to agree with it. What we are saying is that firearms prohibition orders should go to the court, because that is where the matter should properly be determined and that is the right body to consider criminal intelligence. That is essentially the situation now. The judge would be the one who would review the criminal intelligence. That is what we are saying; that is where it should be done. So, really, it is not that different from what we have now.

The Hon. D.W. RIDGWAY: I am a little unclear, because it seems that now, if the Registrar refuses a permit to acquire a firearm and the person then appeals to the review committee, if the information that the Registrar used to refuse a permit to purchase was of a criminal intelligence nature, all the Registrar has to do is say to the review committee that the only reason required to be given in that decision is that it was made on public interest grounds.

The Registrar would go to the committee and say, 'As a result of criminal intelligence, and in the best public interest, this person should not be given a permit to purchase a firearm.' I would have thought that that pretty reasonable group of people—a legal practitioner; a person nominated by the Commissioner of Police; a person who, in the opinion of the Governor, has wide experience in the use of firearms; a medical practitioner; a primary producer; and a competitive shooter—could say, 'Okay, there is criminal intelligence that says that this person should not have a permit to buy a gun, and that is why we have imposed a firearms prohibition order.' I would have thought that that reasonable group of people—well-educated and well-equipped to make a decision—would uphold the decision of the Registrar.

The Hon. A. BRESSINGTON: Could the minister clarify this, because I am very confused? The review committee is there to examine licences—just normal old farmers and whoever else, range shooters, for example. They go to the review committee to get a licence. The prohibition orders are put in place separate to that. If someone appealed that, the matter would be reviewed by the District Court—not by the review committee because it is a prohibition order. It is very different to a gun licence. We have this in two bits now: licences and prohibition. The prohibition order is very different, the process is very different, and the reasons are very different, and therefore would they be appealing to the District Court rather than to the review committee just for being knocked back on a licence?

The Hon. P. HOLLOWAY: Yes. I think that the Hon. Ann Bressington has summed it up pretty well. Because the Leader of the Opposition started to raise a number of other questions about clause 7, he tried to confuse the two things. The leader's amendment was to bring the

firearms prohibition order in under this section, but this section, really, is all about licensing. The firearms prohibition orders are in a separate—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Yes, but the leader is trying to change the function. They are in a separate section of the act, and that is why I think there is some confusion. We will try to keep the two separate because they are separate things with different objectives.

The Hon. D.W. RIDGWAY: I will make one last comment. It seems strange where you have someone who wants to purchase a firearm, and the Registrar can refuse that application to purchase a firearm on a range of grounds, one of which is criminal intelligence. If a person who has a prohibition order imposed upon them goes to the review committee and the review committee wants the information and if the Registrar comes to the review committee and says, 'These are the reasons why, and one reason is that we have intelligence which indicates that this person is not a fit and proper person and it is not in the public interest to allow them to have a firearm', they will not get a firearm. I explained this very early in my contribution, but I am concerned about the very small percentage of people who may be accidentally trapped.

We support wholeheartedly the intentions of this legislation, but someone may be accidentally captured as a result of some negligence, I guess, on their behalf. They have a prohibition order imposed upon them and they must then go to the District Court because it has been administered poorly; a wrong decision has been made. This gives them that one opportunity, in our view, to go to the review committee and say, 'Look, I think this is inappropriate.' The Registrar can put his or her case, and I would be certain that, in 99.9 per cent of the cases, the Registrar's decision would be upheld. As the minister said earlier in the week, in the past five years only nine decisions have been overturned by the committee in relation to licensing and all the other functions of the review committee.

I do not want to prolong the debate any further, but it is important for members to be aware that it is only a very small percentage of people who potentially could get captured by this legislation. I know that the policy of SAPOL is not to pursue those people—they are after the bad eggs in our community. We all support that, but I am trying to offer a small level of comfort and protection for the law-abiding firearm owners (LAFOs) in our community.

The Hon. P. HOLLOWAY: If someone is a risk, they will have their licence taken off them. That is the point. If they wish to challenge that, the way to do that through the firearms prohibition order provisions is to challenge it in the courts. The courts can then assess the criminal intelligence. At present and in future we propose that the Firearms Review Committee would not have access to that. If someone is knocked back and it is there, people have other means of challenging it. In that sense, we are really not changing the situation at all. This new bill is all about the introduction of firearms prohibition orders, and there are separate provisions for that. If someone is a risk, they would have their licence cancelled. If they want to challenge that they will do it in the courts, and so they should.

Amendment negatived.

The Hon. D.W. RIDGWAY: I quickly glanced at parliamentary counsel. That was a test amendment. If it had been supported, we would have had to deal with the others because, if we did not pass the other amendments, it would not be fit and proper legislation. I will not proceed with those further amendments.

The Hon. SANDRA KANCK: I move:

Page 20, lines 7 to 21 [Clause 27, inserted section 26C(5) to (10)]—Delete subsections (5) to (10) (inclusive)

This amendment is about criminal intelligence. To my mind, one of the unfortunate things we are seeing in this government is that it is very keen to have the courts making decisions on the basis of secret evidence. The consequence of that, of course, is that the results the courts will give will be based on law, but certainly there is no guarantee that they will be based on justice. We have seen this with a number of different bills that the government has introduced in recent times, including the Serious and Organised Crime (Control) Bill and the Liquor Licensing (Power to Bar) Amendment Bill, as well as, of course, this bill.

Under proposed new section 10B(5), the Registrar can issue a prohibition order on the basis of criminal intelligence. The only reason that needs to be given is that it is in the public interest. Anyone aggrieved by a final decision of the Registrar can ask for the decision to be

reviewed by the Firearms Review Committee, but the wording of section 26B does not actually explain how the Firearms Review Committee would be able to deal with a matter of criminal intelligence. I do not know whether it would get told the same thing, that it was made in the public interest, or whether it would be given extra information. If the committee is simply told that it is in the public interest, does it have to trust that the Registrar has it right?

If the Firearms Review Committee upholds the Registrar's decision there is a further right of appeal to the District Court, which is enshrined in proposed new section 26C before us. I am moving to strike out subsections (5) to (10) of this new provision. The reason I am doing this is, first, that I think we have to be very wary of decision-making based on secret evidence; and, secondly, that the courts have the ability to hear matters in camera under public interest immunity. That is very important for members to consider when they are looking at the bill in its current form. Under those circumstances, I cannot see any reason to apply the provisions in subsections (5) to (10), given that the court can hear such matters in camera.

If we allow the bill to go forward in this particular form, I believe the gains in convictions, which effectively come from legal shortcuts, will be offset by a lack of confidence in our justice system. The bill would give the Registrar the right to apply for secrecy on the basis of criminal intelligence and, if that was refused, to withdraw the information. Now, it is possible that the Registrar might get it wrong, and I remind members of how criminal intelligence was used in the Haneef case by the Australian Federal Police. Quite clearly, in that example, the police got it wrong, the criminal intelligence was wrong. We need to look at examples like that to see the miscarriages of justice that occur.

The court ought to be in a position to sort this out; the government (I assume) appoints our best and brightest people to be the judges in our courts precisely so that they can look at things like this and sort them out. My amendment allows the District Court to decide whether or not information should have public interest immunity, and I think that is about giving the discretion to the court where it traditionally—and rightfully—belongs.

The Hon. P. HOLLOWAY: The government opposes the amendment. Criminal intelligence is defined in section 5 of the act to mean:

> ...information relating to actual or suspected criminal activity (whether in this state or elsewhere), the disclosure of which could reasonably be expected to prejudice criminal investigations, or to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement—

or endangers a person's life or physical safety. For obvious reasons, criminal intelligence cannot be disclosed to the people about whom it relates.

Subsections 26C(5) to (10), which the Hon. Sandra Kanck seeks to remove, ensure that information the court has determined to be criminal intelligence, as per the definition in section 5 of the act, must be kept confidential. That means that the information must not be used except for the purposes of the proceedings, and must be disclosed to the appellant, the appellant's representative, or any members of the public. Evidence and submissions about the information must be received and heard in private in the absence of the appellant and his or her representative and not be disclosed to the public, and the information is not disclosed in the court's reasons for decisions.

These provisions are important; without them information relevant to proceedings under proposed part 4A will be unable to be put before the court, as to do so would risk disclosure of the information to the people about whom it relates. Clauses protecting information—

The Hon. Sandra Kanck: They would know, it is about them.

The Hon. P. HOLLOWAY: They may not know the details of it; it could manifestly change it. However, sections protecting information that would meet the definition of criminal intelligence in the act are by no means unique. Information in the nature of criminal intelligence that is tendered as evidence in court proceedings is protected from disclosure under a number of South Australian acts, including the Security and Investigation Agents Act, the Liquor Licensing Act, and the anti-fortifications provisions of the Summary Offences Act.

South Australia is not alone in recognising the need to protect highly sensitive information from disclosure in court proceedings. Section 76(2) of the Western Australian Crime and Corruption Act 2003, for example, protects from disclosure criminal intelligence tendered in review proceedings under that state's anti-fortifications provisions. I note that this provision has recently been upheld as constitutionally valid by the High Court in the Gypsy Jokers Motorcycle Club

Incorporated v the Commissioner of Police (that would be the Western Australian commissioner, of course).

Subsections 26C(5) to (10) make clear that it is the court, not the Registrar, that determines whether information tendered to the court is criminal intelligence as defined in section 5. I think it is important to note that it is the court that makes that determination, not the Registrar. The government's position is that information that could prejudice criminal investigations, disclose a confidential source of information, or place a person's life or physical safety at risk should not be disclosed to people about whom it relates. For this reason the government opposes this amendment.

Of course, the courts will have full access to that information and they will, essentially, determine what is criminal intelligence—in other words, what can be released. The Hon. Sandra Kanck referred to the Haneef case. All I can say about that is that the new commonwealth government is reviewing that case—and appropriately so—so let us see what is the outcome of that. I think the message will well and truly be that, if there are errors in relation to that, they will ultimately be disclosed. I think the public processes we will see through that review will demonstrate that that protection is there ultimately for the public.

The Hon. R.D. LAWSON: I rise briefly to indicate that the Liberal Party had serious concerns about the use of criminal intelligence. This issue arose originally in relation to the security investigation agents legislation which was debated a couple of years ago. Our concerns were allayed by the fact that, in relation to that legislation, judicial oversight exists over the question of whether or not criminal intelligence is being used and being used appropriately.

Absent that judicial oversight, we would not have supported the unregulated use of criminal intelligence, but there is no doubt that today much information that police rely upon comes from sources that police have by way of informants, and it is in the public interest to encourage informants to provide information to police. However, if the personal safety of informants is risked by their being identified to the people about whom they are informing, clearly that sort of information will dry up to our law enforcement officers. It is important that the police have continued and increased access to that source of information.

We would not support the unregulated use of criminal intelligence to affect the lives of citizens. If there is a mechanism for judicial oversight or judicial discretion, we are satisfied that is appropriate; that is what led us eventually to the view in relation to the earlier legislation dealing with the security investigation agents to support, with an amendment, the proposals that the government was then introducing. For the same reasons, I believe that in relation to this bill we should support the government's position and not support the amendment proposed by the Hon. Sandra Kanck.

Amendment negatived; clause passed.

Remaining clauses (28 to 38), schedules and title passed.

Bill reported with amendments.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (12:04): I move:

That this bill be now read a third time.

I thank the assistants from the Attorney-General's Department for their advice on this bill and I thank the council for its support.

Bill read a third time and passed.

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 April 2008. Page 2525.)

The Hon. S.G. WADE (12:05): Today is a very appropriate day for this council to be meeting to discuss the Workers Rehabilitation and Compensation (Scheme Review) Amendment Bill. Today is May Day and the 119th anniversary of its commemoration as an element of the labour market tradition. International Workers' Day (used interchangeably with May Day) is said to be a celebration of the social and economic achievements of the international labour movement. It arose from a campaign for the eight-hour day in the United States in the late 1800s.

In 1884, a conference of United States and Canadian trade unions decided to launch an intensive campaign for the eight-hour day to culminate on 1 May 1888. The campaign led to a bitter struggle and, on 1 May 1886, at one of the strikes, police attacked striking workers from the McCormack Harvester Company in Chicago. Six people were left dead. On 4 May, at a demonstration to protest the police action, a bomb exploded in the middle of a crowd of police, killing eight of them. Four workers were tried and executed for the incident.

In Paris in 1889, the International Working Men's Association (the First International) declared 1 May an international working class holiday in commemoration of what is now known as the Haymarket Martyrs.

Last year in Australia, a large May Day meeting was held in Melbourne, chaired by a Labor Party pioneer, Dr Maloney, who had been elected the previous year as a representative of the Workingmen's Political League. He went on to serve as a Labor Party MP for 51 years in both state and federal parliaments. I mention those facts because it highlights that the May Day tradition is intertwined with the heritage of the Australian Labor Party.

At about the same time as the May Day commemorations were commencing in this country, the Labor Party was being formed out of a series of political elements that were fostered by the trade union movement. The Labor Party is the political expression of the industrial wing of the Labor movement. May Day is an appropriate day to reflect on the success or otherwise of the political Labor movement in their raison d'être of progressing the interests of working people through the governments and parliaments of Australia.

One indicator is what those workers are saying in their May Day marches. In Sydney this year the May Day March is a rally against the New South Wales Labor government's electricity privatisation. It might be comforting for Labor members to know that the South Australian Labor government is not the only Labor government breaking its commitment not to privatise. In Adelaide the May Day rally is a campaign against the legislation before this council: against legislation introduced by a Labor government to reduce workers' entitlements.

The very party created to defend workers' rights is being attacked by the movement that spawned it. The industrial labour movement is attacking the political Labor movement on the basis that it is betraying its mandate. It is undermining the interests of workers when it was actually put in parliament to promote them.

I note that most of the Labor members of this council are former members of the industrial labour movement. They owe their careers to the union movement. They owe their parliamentary seats to the union movement. They are in this place to give voice to the interests of the worker. What do they say about this reduction in workers' entitlements? Silence. In the other place only three government members spoke on the bill: the minister, the Treasurer and one other. I wonder, as we start the bill in this council, how many government members we will hear from in this place.

As Sir Thomas More said, when he was under attack, silence means consent. Even if there is not one division (but I suspect there will be a few), the silence of Labor members on this bill will shout their complicity. The Premier did not feel the need to speak on this bill in the other place, but he did try to defend it at a recent state Labor meeting. What was the key point that he made there? It was not that workers' entitlements were too generous and not that there was abuse of the scheme: no; he made it perfectly clear to the delegates present that what was at stake was the government's AAA credit rating.

Labor has form here is: Labor's State Bank disaster destroyed our credit rating. The Liberal Party's careful management over a decade led to its restoration. Now, yet again, our credit rating is threatened through another bout of Labor mismanagement. I fear that it will fall to a future Liberal government to restore the finances of this state.

Let us pause and understand what we are seeing here. A so-called Labor premier, head of a government sponsored by the industrial labour movement to promote workers' conditions, is telling us that his top priority is the promotion of the AAA credit rating. I can almost hear Dr Maloney and other Labor Party pioneers turning in their graves. The capitalists have hijacked the party. They have the priorities of a capitalist but none of the skills. Their lack of skill has created the crisis that they now need to deal with.

The Liberal Party condemns this bill, not because it is not necessary but because it should not have become necessary. At the end of the last government a Liberal government was managing the WorkCover scheme and this legislation well. The unfunded liability was coming down. The Clayton report stated:

...the WorkCover scheme was reasonably stable during the late 1990s with the availability of redemptions successfully extinguishing significant amounts of tail liability. At the same time reported claim numbers continued to reduce. During the same period claim payments were well controlled, reducing in real terms throughout the five-year period. The average levy rate stayed at 2.86 per cent of wages, allowing the gradual erosion of the deficit such that the scheme achieved a high point funding ratio of 97 per cent as at June 2000. The scheme began the 2000s in an apparently healthy position with respect to both financial stability and reputation for forward thinking.

The last Liberal government left WorkCover in good shape. The market fundamentals have not changed under this government. As testament to this fact, self-insurers continue to maintain viable schemes under the current legislation.

Nationally, in the same macroeconomic environment, other jurisdictions have been able to reduce levies and increase entitlements. However, this so-called Labor government, under an inept and incompetent minister, has failed to deal with challenges faced by WorkCover, and their inaction has so weakened the scheme that entitlements are now being wound back.

This government is condemned for it is inaction on WorkCover. Ever since the government came to office in 2002, the situation at WorkCover has been known to it and yet has been steadily allowed to deteriorate. The government recognised years ago that WorkCover was under stress yet, rather than taking action, it chose to try to spin, to try to shift the blame on to the previous government. It chose to do nothing.

Labor has never been a good manager. Less than a decade after the State Bank collapse, Treasurer Foley and minister Wright have allowed the WorkCover liability to blow out. The Labor political movement needs to realise that government is not meant to be fun; it is the low-key, out-of-sight, boring elements which are the bread and butter of good government. Government is, first and foremost, about the day-to-day, craftsman-like management of the machinery of government: making sure you keep the costs down and collect revenues so that you can deliver services to people without leaving a debt for the future.

No; the government instead has focused on spin and allowed the WorkCover scheme to deteriorate. What is the result? The bill before the council today. As a result of its own incompetence, Labor is forced to downgrade workers' entitlements. In the corridors of this place, Labor members whisper blame to the board: 'The board is responsible for the situation at WorkCover.' This, of course, was exactly the same tactic that was used in relation to the last Labor Party disaster: the collapse of the State Bank.

What are the facts? The board was selected and appointed by the government. The Under Treasurer has been appointed as an observer at board meetings. The annual report shows that either he or his deputy attended all board meetings of WorkCover. The board is also subject to ministerial direction. Notably, one of Labor's complaints in relation to the State Bank was the lack of power of direction. There is no such excuse on this occasion. Labor was fully informed about the situation at WorkCover. Labor was fully empowered to act. Labor chose not to act. It stands condemned.

The government has an overall political responsibility to ensure that all organisations and organs of government are efficiently and effectively conducted If it does not, this parliament holds it accountable. But no member of this government has taken responsibility. Given that it is formed by members elected to promote the political interests of the labour movement, surely they would resign out of shame even if not parliamentary responsibility.

The government has decided that the people who will pay the price for its incompetence are not the minister, not the government or the members opposite, who owe their careers or their parliamentary seats to the labour movement. No; the government has decided that it is those very workers who have put them there who will bear the brunt of its mismanagement. If the government had acted promptly when it became aware of the deteriorating situation (action that patently needed to be taken as early as 2003), this bill would not be necessary. The workers of this state are paying the price for the maladministration of this government.

It is easy to talk in general terms about the workers, but I would like to highlight the impact on some of the workers in my portfolios. Emergency services workers are acutely aware of the risk of workplace injury and death. In November last year, four firefighters lost their life fighting a warehouse fire in Atherstone on Stour in Warwickshire in the United Kingdom. Only last month, in New Zealand a firefighter lost his life when an explosion engulfed a commercial building while he was investigating a gas leak.

Talking to firefighters, I know how acutely they feel these losses. They are part of a worldwide family and the grief is shared. They have a great sense of duty and service, and that sense of duty embraces their family and those they care for. Whilst they always know that their vocation may cost them their life or wellbeing, they are deeply concerned to ensure that their loved ones are looked after in the event of death or injury.

One firefighter who spoke to me about this bill put it this way: undermining firefighters' entitlements undermines their service. You do not want firefighters going into a fire situation with any nagging doubt that their family will be looked after in the event of their injury or death. Any element of constraint could cost lives.

The United Firefighters Union expressed its concern about this legislation in a press release dated 5 March 2008. Mr Joe Szakacs, the union's industrial officer, states:

> As we were painfully reminded through the tragedy of 9/11, firefighters are the workers who run into burning buildings, crawl through collapsed structures and rescue people from vehicle collisions and other catastrophes.
>
> Firefighters do not complain about their job, they understand and assume the level of responsibility that couples their profession. All that firefighters ask is that if they are injured in the line of duty, the Workers Compensation scheme protects them just as they have protected the public.
>
> Under the changes proposed by Premier Rann, injured firefighters will be financially penalised for putting themselves at risk to serve and protect the public.
>
> Just as the Howard Government sought to marginalise workers through WorkChoices, Premier Rann is further penalising and marginalising injured workers through his proposed changes. He has lost touch with the workers of this state. Firefighters of this state will not accept nor will they tolerate the Rann attacks on the workers of this state.

Firefighters have experienced Labor's mismanagement at agency level, too. According to the 2006-07 MFS annual report, the MFS aims to reduce WorkCover claims by 20 per cent; in fact, it experienced a 4 per cent increase. I understand that earlier this year the MFS was issued with 18 non-compliance items following a WorkCover review.

The government not only cannot manage the WorkCover scheme but it cannot manage WorkCover issues within its agencies. In addition, under this act, CFS volunteers are protected. It is very timely that we should be considering these issues because this is the month the CFS Foundation and the CFS Volunteers Association have set aside to remember and collect funds to support Jeff Byrens.

In November 2006, the life of Mount Bryan CFS brigade firefighter Jeff Byrens changed for ever. Jeff was responding to a fire when a truck he was driving rolled over on a steep hillside. It happened in just a few seconds, but he is now quadriplegic and requires daily therapy and support. Likewise, the CFS family came together on 16 February this year to honour fallen volunteer firefighters of the CFS. This was held on the same day as the 25th anniversary of the Ash Wednesday bushfires, which of course claimed the lives of a number of CFS personnel and which inflicted a number of injuries.

I mention the experience of both the CFS and the MFS because its members feel acutely the fact that they are protected under the WorkCover legislation. They are subject to the risk of death and injury, and both the UFU and the CFSVA have expressed their concern about the legislation.

In relation to another of my portfolio responsibilities, Correctional Services, I refer to the 2006-07 WorkCover annual report. On page 26 of the report, the corporation gives us an indication of South Australia's highest cost industries. I find it noteworthy that the only public sector class of employees in that list is Correctional Services personnel. Of course, the opposition pays tribute to those personnel who run the risk of injury every day as they fulfil their very important duty for the people of this state.

In the three-year period from 2003 to 2006 inclusive, 852 WorkCover claims were made by Correctional Services personnel, with a total claim expenditure of $12.409 million and a total claim expenditure on remuneration of 4.2 per cent, which makes it one of the highest cost industries in this state.

These workers, paid and volunteer, are paying for Labor's mismanagement; had it managed WorkCover properly, this bill would not be necessary and there would be no necessity to wind back workers' entitlements. This has been a difficult issue for the Liberal Party because we have many serious reservations about many elements in the bill.

We accept that the scheme has been put forward by the government, it is Labor's bill; we accept it as a package. The government is responsible for the mismanagement of the scheme. This bill is a government strategy to overcome its own mismanagement. Labor should be ashamed that through this bill its response to its own mismanagement is to ask injured workers to pay the price. It is Labor's mismanagement; it is Labor's so-called solution; it is Labor's shame.

The Hon. J.M.A. LENSINK (12:23): I am pleased to follow that passionate contribution by my colleague the Hon. Stephen Wade. When elected to parliament in 2003, one of the issues I raised and was told I was a bit odd for raising as a serious issue that we needed to be addressing was the issue of the WorkCover Corporation. As members would be aware, my background immediately before coming to parliament was working for the aged care sector, which has a significant number of injuries, so it was an area very much in the forefront of my mind as I entered this place.

I pointed out at the time that the liability rate when the Liberal Party left office was only some $56 million and, at that stage, 1 July 2003, it had blown out to $400 million. If that was not a warning to the government to fix things, when we are looking at close to $850 million as at 30 June last year, I do not know what is. This is chapter and verse a story of the fact that nobody, including Labor's own constituency, can trust Labor with governance where money is concerned. It is reprehensible of people who have been supported and elected to this parliament by working people and the unions to be sacrificing their own and will not even fix the problem, as the Hon. Robert Lawson pointed out in his contribution. It will not fix the problem but will just save this government from some embarrassment. I am so tired of ministers both in this place and another place, because lock, stock and barrel they are incompetent and you would not get them to organise a children's birthday party.

In an interjection yesterday I made a point to the Leader of the Government here that the scheme was in fairly good shape when we left office, and he pointed out that we dropped the average rate. In a presentation provided to the Liberal Party, we indeed dropped the rate and it has remained static at 3 per cent. However, in comparable states—Victoria, New South Wales and Queensland—the rate is lower and in each consecutive year from 2004-05 those rates have been dropped. In New South Wales in 2004-05 the rate was 2.57 per cent and was dropped 12 months later to 2.44 per cent, then 2.06 per cent and 1.77 per cent. Victoria has the same story: 2 per cent in 2004-05; the following year, 1.8 per cent; the year after that, 1.62 per cent; and the year after that, 1.46 per cent. In Queensland in 2004-05 it was 1.55 per cent (half South Australia's rate at that point), and it dropped to 1.43 per cent and subsequently was 1.2 per cent and then 1.15 per cent.

Our system is clearly non-competitive with comparisons interstate, and the fact that other states were able to reduce their rates over those years should have been a signal to this government that it has not been achieving its goals with a scheme of so many millions of dollars. There should have been early warning signs and other action should have been taken.

We have also fallen well short of our strategic plan targets for injury reduction, so presumably, as in other areas of State Strategic Plan targets that have not been met, as the Leader of the Government in this place has referred to on previous occasions as stretched targets (a bit like non-core promises), one assumes that they will be adjusted so the Premier will be able to make a positive announcement at some point in future. This comes at a time when we have had a 50 per cent increase in the number of workplace safety inspectors, so one must question the value of that strategy on behalf of the government.

The primary objects of the WorkCover Corporation Act are:

(a) To reduce the incidence and severity of work related injuries;

(b) To ensure as far as practical the prompt and effective rehabilitation of workers who suffer work-related injuries;

(c) To provide fair compensation for work-related injuries; and

(d) To keep employers' costs to the minimum that is consistent with attainment of the objects mentioned above.

I read those objects in September 2003 and, as far as I can comment, objects (b) and (d) have not been met. Much has been said about the need for early intervention, and people I know who work in the industry in assessments and so forth say it is fairly obvious.

In residential aged care the actuarial calculations show that injuries to workers that cause the worker to spend more two weeks away from work result in more than 85 per cent of claims costs. Obviously, some people would need to spend more time off for whatever reason in relation to their injuries. This has been identified time and again over the years. It is fairly obvious that we ought to be looking at the longer term injuries and trying to get people back to work as quickly as possible. The way the scheme has been operating, it is so bureaucratic that injured workers can have trouble getting hold of their case manager. They are told constantly to make an appointment, and so on. It is not always easy to get appointments with particular specialists.

A case that I have been made aware of involves a lady who had to make a stress claim, which could not be accepted without a psychiatrist's report. She had to make several phone calls in order to obtain one and was not successful. When she finally got hold of her case worker, she was told that she absolutely had to have this report. She was not able to obtain any Centrelink income and she ended up having to flat with a friend, because she had no source of income at all.

I question whether those sorts of situations give any evidence that this government believes in social justice, which is an area that I have complained about before. Quite frankly, there is more protecting of minister's backsides in relation to particular strategies that are taken by this government than caring for people with genuine needs in our community.

I think the issue of the disability payments for equipment highlights that fact. When I was first elected to this place, the government was not even going to match the commonwealth contribution to the Home and Community Care program. In mental health, and in a whole range of areas, this government does not look after the vulnerable; it looks after itself.

The Hon. J.S.L. DAWKINS (12:31): In rising to speak to this bill, I want to commend the comments of my colleagues: first, the Hon. Robert Lawson, as the lead speaker for the opposition in this council. I think a number of us were pleased that, while he covered the legislation significantly, he did not go on for as long as perhaps some people in another place did. However, certainly, he covered the bill very adequately.

I also congratulate my colleagues the Hons Stephen Wade and Michelle Lensink for their contributions. I also want to put on the record my gratitude for the efforts of the member for Morphett (Dr Duncan McFetridge) in another place in his role as the shadow minister. He took over the portfolio only recently, and I think he has handled a very complex issue very well.

The Liberal opposition has been extremely vocal about the ongoing increases in the Labor government's WorkCover black hole over the past six years. In addition, I have become particularly aware of the over-bureaucratic manner in which WorkCover deals with both injured workers and their employers, on which I will elaborate later in this contribution.

It is the opinion of the Liberal opposition that Labor's industrial relations minister, Michael Wright, and his hands-off approach to his portfolio has resulted in the extraordinary blow-out in the unfunded liability of WorkCover. I also wish to put on the record that this government has known about the terrible problems with WorkCover for a long time but deliberately delayed doing anything about it until after the federal election—and that has only exacerbated the problem.

In June 2001, under the former Liberal government, WorkCover's unfunded liability was only $55.6 million and the scheme was 93.5 per cent funded, that is, it was almost fully funded and able to cover nearly all its outstanding liabilities. After six years of a Rann Labor government, the unfunded liability is now almost $1 billion and rapidly increasing.

Due to Labor's poor management of WorkCover, injured workers are now expected to bear the pain of being injured at work and suffer the additional pain of Labor's cuts to their entitlements. In stark contrast to the government's handling of WorkCover, the self-insured or exempt employers, including some government departments, have been able to manage their workers compensation obligations without incurring huge unfunded liabilities.

In comparison to other schemes, South Australia's scheme has been fair but now will not be anywhere nearly as equitable as others such as ComCare, the commonwealth workers compensation scheme. This legislation will also mean that self-insurers and WorkCover will no longer be able to negotiate redemptions or payouts for long-term injured workers who want to get on with their lives.

The Liberal opposition will examine the effects of that legislation closely and will develop, prior to the next election, an alternative, separate set of proposals to unravel the mess that is WorkCover in South Australia. During that process, I will be urging strong scrutiny of the current

over-bureaucratic system that both injured workers and employers have to endure when dealing with WorkCover, and I will exemplify one or two things. In my work I have come across a range of examples of both injured workers and employers who have had to deal with inordinate delays in dealing with the matters at hand. Along with other reasons for delay, that certainly adds to a situation where many of the injured workers have a problem with their own esteem. They feel bad because their situation is not being dealt with in a timely fashion.

There is another aspect and that is, despite the large number of personnel working in WorkCover, it seems that the management does not have the ability to assign people consistently to deal with the same injured worker, and also with employers. So, in many cases the injured worker, or the person acting on behalf of the employer, has to go back and deal with different personnel in WorkCover repeatedly, which I think most of us would understand is a most frustrating exercise when you have to go back over the same information many times over.

I also am aware of particular cases of injured workers who have been very frustrated by constant changes of direction by WorkCover in relation to the treatment that they are supposed to have, in relation to the attitude about them returning to work (whether it be in a part-time or full-time capacity), in relation to what sort of duties they could be taking up, and also in relation to retraining. As we move forward with WorkCover I think we need to tighten this up, because it is something that I have become more and more aware of over the last several years; and, as I say, I have had representations from injured workers and employers in relation to this.

In closing, I think we must obviously keep foremost in our minds the people who have been injured at work, and we should be trying to do the best we can for them. However, we also need to ensure that we have a body in WorkCover that does not have its unfunded liability continuing to blow out. I remind the council of the position of WorkCover prior to this government's coming to power. I will, as I said earlier, be very vigilant in putting forward what I think the Liberal Party needs in its policy to bring WorkCover back to a situation where it should play the role it was designed to play.

Debate adjourned on motion of Hon. J. Gazzola.

[Sitting suspended from 12:40 to 14:15]

VOLUNTARY EUTHANASIA

The Hon. SANDRA KANCK: Presented a petition signed by 253 residents of South Australia concerning voluntary euthanasia. The petitioners pray that the council will support the Voluntary Euthanasia Bill 2006 to enable law reform in South Australia to give citizens the right to choose voluntary euthanasia for themselves. Such legislation, if enacted, would contain stringent safeguards against misuse of the provisions of the act.

PAPERS

The following paper was laid on the table:

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Review of Health and Medical Research in South Australia—Report, May 2008.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the written answer to question No. 542 of the last session, and questions Nos 112 and 114 of this session, be distributed and printed in *Hansard.*

HOSPITAL BEDS

542 **The Hon. J.M.A. LENSINK** (13 March 2007). (First session).

1. What is the waiting list for admission to:

(a) the 'Woolshed' and

(b) 'Kuitpo'?

2. What is the total number of beds available for detoxification from alcohol in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

1. (a) As at 1 October 2007, there were 44 people waiting for a bed at the Woolshed.

(b) The Kuitpo Community has advised that as at 1 October 2007, there were 39 people waiting for a bed.

2 and 3. A total of 159 beds are funded for alcohol and drug treatment in South Australia. Of these, 52 are in the government sector and 107 are provided in the non-government sector.

COUNSELLING SERVICES

112 The Hon. J.M.A. LENSINK (26 September 2007).

1. Can the Minister for Education and Children's Services advise whether the Department of Education and Children's Services has brokerage funds for counselling services?

2. What level of funding is available?

3. (a) Which providers have received funding; and

(b) How much has each received?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs): The Minister for Education and Children's Services has advised:

The meaning and intent of the honourable member's questions are unclear. The Department of Education and Children's Services (DECS) does not have brokerage funds for counselling services in the normal sense of fees or commission paid to an agent or middleperson for sourcing or providing counselling services.

If the question refers to counselling services for students, then the department provides counsellors to schools through established staffing allocation methods. There is some scope for schools to purchase more specialised counselling services to assist students with extremely challenging behaviours, but uptake has been limited to date and no brokerage is involved.

If the question refers to counselling services for staff, then the department has a contract with ITIM Australia Ltd for the direct provision of a confidential 24 hours a day independent counselling service for staff and their families, where needed. This is not a brokerage service. Schools and preschools may negotiate and pay for additional services as needed. DECS also has Organisational Health Consultants based in Health and Safety Services to provide a range of support, such as mediation, to schools and preschools.

COUNSELLING SERVICES

114 The Hon. J.M.A. LENSINK (26 September 2007).

1. Does Drug and Alcohol Services South Australia (DASSA) have brokerage funds for counselling services?

2. What level of funding is available?

3. (a) Which providers have received funding; and

(b) How much has each received?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I am advised:

1. Drug and Alcohol Services South Australia is a 'preferred provider' under the Police Drug Diversion Initiative (PDDI) which is funded by the Australian Government. Under the PDDI there is in place a process which allows access to brokerage funds.

2. The level of funding available through brokerage funds under the PDDI is capped at a maximum of $500 per request.

3. In the 2006-07 financial year there were twelve approvals given among six organisations with a total amount of $3,330 in brokerage funds distributed.

PDDI BROKERAGE 2006-07	
Agency	Amount
Country Health SA – Clare Office	$375
DASSA	$265
Northern Area Community & Youth Services	$175
Northern Area Community & Youth Services	$305
Northern Area Community & Youth Services	$470
Northern Area Community & Youth Services	$499
UnitingCare Wesley Port Adelaide	$137
UnitingCare Wesley Port Adelaide	$125
Centacare Catholic Family Services	$110
Centacare Catholic Family Services	$360
Centacare Catholic Family Services	$259
Marion Youth Centre	$250
TOTAL	$3,330

VETERANS AFFAIRS MINISTER

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:18): I lay on the table a copy of a ministerial statement relating to the appointment of a Minister for Veterans Affairs made earlier today in another place by my colleague the Premier.

GLADSTONE EXPLOSION

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:18): I lay on the table a copy of a ministerial statement relating to the Gladstone explosion made earlier today in another place by my colleague the Minister for Industrial Relations.

QUESTION TIME

MINERAL RESOURCES

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about foreign investment in our mineral resources.

Leave granted.

The Hon. D.W. RIDGWAY: Minister Holloway led a delegation to China last month that was aimed at boosting China's investment in South Australia's iron ore, uranium and renewable energy industries. His visit coincided with reports that 10 Chinese companies have been forced to withdraw their foreign investment applications to buy into Australian resource companies after pressure from the Rudd government. In fact, one of the companies that has stalled its investment is China Metallurgical, the same company minister Holloway met with last month. My question is: does the minister agree with federal Labor that China's push to buy Australian resource companies is not in the national interest?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:20): The question of foreign investment in Australian companies is, of course, a matter for the Foreign Investment Review Board, which comes under the federal government. That board has been in place for decades now;

I think it was set up originally in the 1970s when there was some concern about Japanese investment into Australia's iron and coking coal industries.

In relation to foreign investment, it is my personal view that the commonwealth government is correct in carefully considering that. If, for example, a company (say, a Chinese company) were to control a major resource company such as BHP or Rio Tinto—and one can argue about what control is, whether it is more than 15 per cent or 20 per cent, and even that is a moot point—obviously that would inevitably raise concerns. However, it is interesting that just recently Sinosteel, a Chinese company which I visited on my trip and which has opened an office here in Adelaide, has taken over a smaller iron ore company within Western Australia. Clearly, China will be the purchaser of about 40 per cent of many of the world's resources, so it is by far the largest player in the resources market.

With rising commodity prices, Chinese companies will inevitably seek an equity position within Australian companies. That could be good in terms of ensuring there is a long-term relationship between these contracts, and that is important for the country. At the same time, if Chinese companies, particularly the government-owned, as many or most of them are, were to control our larger companies, that would be of great concern to this country. So, I believe the commonwealth government is right in giving this matter some careful consideration.

As we have already seen with the Sinosteel case, inevitably, I think each case will be considered on its merits, as happened under the previous federal government which I think refused the takeover of Woodside by Shell because that was deemed not to be in the national interest. I think these matters will need to be determined on a case-by-case basis but, as I said, whatever my personal views might be, which I have shared with the council, the fact is that it is a matter for the commonwealth government, which I am sure will have a much greater level of input into the debate than I have been able to get. I am sure that it will, through its review, come to the right decision.

In relation to my visit to China, I am obviously seeking investment—not necessarily equity or control over companies within the state—through the purchase of their long-term contracts. Foreign companies can be involved in resource exploitation in many ways. It could be through joint ventures on new projects, take-up contracts (long-term contracts) and so on which will, in turn, provide the capital to pay for much of the infrastructure development we need in the state. The debate is much more complicated than one simply about equity or control, but I have full confidence that the federal government will give this matter very careful consideration, particularly in relation to Rio and BHP, and come out with the right decision.

GLENSIDE HOSPITAL, ILLICIT DRUGS

The Hon. J.M.A. LENSINK (14:24): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about drug dealing outside our mental health facilities.

Leave granted.

The Hon. J.M.A. LENSINK: Honourable members may be aware of the issue that I raised recently in that, on the first weekend in April, a number of patients, particularly in the rural and remote unit at Glenside, had levels of THC and amphetamines in their system. Since that has been made public, I have been contacted and advised that a number of patients have complained to staff at the Margaret Tobin Centre that, at the entrance of the centre, they are often approached by people offering them illicit drugs. Will the minister undertake to investigate security arrangements and bring back a report to the parliament on this important matter?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:25): I thank the honourable member for her question. I have heard her make this statement on a number of occasions—

The Hon. B.V. Finnigan interjecting:

The Hon. G.E. GAGO: Yes, that as well. Up to nine patients, some in the rural and remote ward—this is what I believe her to have said—had become extremely disruptive because of the inpatients providing them with cannabis and amphetamines.

I have already gone on record to say that I have been advised that no incident occurred where a number of clients became extremely disruptive due to cannabis or amphetamine use in the rural and remote ward during the time that the member indicated. That is the advice I have received. I challenge the honourable member to bring forward specific details so that we can follow

things up. Countless times members have come in here with inaccurate and badly informed material.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Members opposite regularly come in here with inaccurate information, innuendo and supposition. These things cause ongoing grief to clients and families using these facilities. I have, many times, invited members of this chamber (or the other), if they have any issues or concerns, to bring them forward to me or my officers and they will be investigated immediately. On each occasion when that has occurred—and the honourable members know who they are—I have honoured that agreement every single time.

The member waxed lyrical on radio about these incidents but has not approached me with any specific details. I have tried to glean from the transcripts of the radio program what on earth she is talking about. I have asked the department for information, based on those radio transcripts, and they have advised me that no such incident occurred.

The rural and remote ward at Glenside is an acute inpatient unit which cares for clients of high acuity, with complex mental health issues. It is normal practice on admission to rural and remote to do a drug screen. It is not unusual to have clients test positive to THC or other illicit drugs upon admission. Some clients test positive during the admission process and throughout the admission. Cannabis is detectable for approximately three weeks in a person's system. We continually monitor behaviour and risk through this process if there are significant changes in a patient's mental state. Often the drug screens are repeated.

In all wards in Glenside there is a no drugs policy. Rural and remote is an open unit and if, on occasions, clients are found to have THC on their person it is confiscated. The unit works closely with the co-morbidity consultant to address some of these issues regarding a client's drug use. A whole range of services and programs is provided to clients during their admission to deal with co-morbidity issues in a therapeutic environment. Sadly, we know that co-morbidity, in terms of mental health illness and illicit substance abuse, is linked—we acknowledge that.

An honourable member interjecting:

The Hon. G.E. GAGO: As the honourable member says, 'self-medication'—and, in some respects, he is quite right. Mental illness can cause people to suffer incredible distress and stress. Often the medication associated with the therapeutic treatment of certain types of mental illness has side-effects that are quite unpleasant for the client, and so there is this balance. There is a view that that is one of the reasons for this co-morbidity issue, because people with mental illness or some other illnesses do self-medicate using illicit substances to try to diminish their suffering and some of the effects of their illness.

A great deal has gone into addressing the issues relating to drugs at Glenside campus. Over the past couple of years, the mental health service has put in place a number of initiatives that aim to reduce supply and minimise harm to persons from the use of illicit drugs. Some of these have included the development of policies and procedures focusing on:

- the reduction of risks associated with substance abuse, including supply and harm minimisation;
- access to specialist drug and alcohol counsellors on the Glenside campus and through DASSA;
- the drug and alcohol clinical practice development program; and
- the provision of a specialist co-morbidity education position.

The initiatives put in place have been instrumental in minimising the possession and use of illicit drugs on the campus. Staff are vigilant in the application of the Glenside campus policy of zero tolerance of the possession of prohibited substances by patients, staff or visitors, and I have outlined the testing that occurs.

In addition, as we know, the Glenside campus is visited by other people. A number of the wards are open and, as with any other hospital, we need to be vigilant in relation to drugs on the grounds. Security officers patrol for suspicious behaviour, entry point signs inform that drugs will not be tolerated, and there are unannounced dog squad visits throughout the Glenside wards and grounds, which to date have not found any evidence of illicit drug hotspots.

If staff find illicit drugs on a patient, the substance is placed in a locked drug box that is accessible only by police and, of course, they are notified if patients are found with illicit substances. As members can see, a great deal has gone on in relation to the management of what is a very difficult and often complex problem.

GLENSIDE HOSPITAL, ILLICIT DRUGS

The Hon. J.M.A. LENSINK (14:32): I have a supplementary question arising from the answer. Does that mean that, when I raise these allegations in the future, the minister would rather that I name patients at Glenside from the information I have received on the public record?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:32): The honourable member knows only too well that, if any member of parliament or, for that matter, any member of the public, has any specific concerns, they are invited to bring them to me or any one of my officers and they will be investigated immediately.

The honourable member knows only too well how important it is not to sensationalise aspects concerning mental health. She knows that, and she knows that it is just cheap political grandstanding to sensationalise these types of issues involving some of our most vulnerable community members. As I have put on record before, and I will continue to put on record, if this individual has any problem related to specific patients or individual issues, I invite the honourable member to bring them to me and they will be addressed urgently.

FLEET VEHICLES

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about fleets.

Leave granted.

The Hon. S.G. WADE: A 2007 study by researchers at Queensland's CARRS-Q research centre states that, as over half the new vehicles sold in Australia are for commercial or government use, Australian governments and organisations are 'in a unique position to implement policy that could help them to influence both manufacturer priorities and, in the longer term, the safety of the national fleet'.

In March this year, the Australian Automobile Association called on state and territory governments to ensure that their vehicle fleets contained the latest safety technologies. That month, *The Advertiser* revealed that, on average, South Australian public servants crash seven government vehicles every day. My questions to the minister are:

1. What is the government's policy on South Australian government vehicles having a five star ANCAP rating?

2. Is the government taking any action to encourage local manufacturers to achieve five star ratings on cars supplied to the South Australian government?

3. Will the government consider requiring a five star vehicle rating for all fleet tenders and contracts?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:35): I thank the honourable member for his question.

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: He disrupts every day. Throw him out!

The PRESIDENT: The Hon. Mr Ridgway is not helping.

The Hon. CARMEL ZOLLO: The Hon. Russell Wortley is right when he says that they are a rabble today—I think they may have an audience. Certainly the Rann government is playing its part in contributing to this very important road safety initiative through its financial commitment to and involvement with ANCAP. For the information of the chamber, ANCAP stands for Australian New Car Assessment Program. I am aware that the Hon. Dennis Hood previously has expressed concern about the rating of new vehicles. All new vehicles sold in Australia are required to meet national standards for vehicle design and safety, but beyond these requirements manufacturers are able to build into their vehicles higher standards of engineering and safety. Particular attention to

detail in design in the introduction of new technology by manufacturers can significantly increase the safety of vehicles during crashes, and that is not in dispute.

ANCAP fulfils a key role in improving the safety of new light vehicles sold in Australia, and the results of ANCAP crash testing serve two major purposes: first, it gives information to new car buyers on the level of occupant protection provided by vehicles in serious front and side impacts, and buyers are therefore able to seek out those vehicles. Essentially it is market driven but has high levels of safety. Secondly, that assessment places pressure on manufacturers to achieve higher levels of safety in their vehicles. The possibility of publicity associated with poor crash tests encourages manufacturers to pay more attention to the performance of vehicles in crashes and to conduct their own crash tests before models are released to the public.

During the life of ANCAP the safety star ratings achieved by vehicles crash tested have improved significantly, and this is due in part to the program itself and the publicity it gains. I have been involved on at least one occasion recently that I can think of where those results were made public, otherwise the department is involved, as is the RAA. Crash test results are now widely available and receive coverage by the media when new groups of tests are released. Results are available on the internet and are widely distributed in pamphlets, and an increasing number of consumers expect their vehicles to have either a four star rating or the maximum rating of five stars.

In the past few years we have seen that the number of four or five star vehicles available in Australia has risen significantly since the ANCAP program began. Crash testing protocols used by ANCAP are standardised internationally, so that tests from the testing programs in other countries are consistent. That means that crash test results from another country are applicable to the particular model if it is sold in Australia, without the need for ANCAP to repeat the testing. ANCAP publicises these results from overseas, along with its own crash testing results in Australia.

ANCAP is funded jointly by the Australian state and New Zealand road authorities as well as Australian and New Zealand motoring organisations and the international FIA Foundation. The Rann government plays its part in contributing to this very important road safety initiative.

FLEET VEHICLES

The Hon. S.G. WADE (14:39): Sir, I have a supplementary question. Does the Rann government contribute by using its purchasing power to drive five-star ratings?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:40): When we talk about ratings, we look at things such as electronic stability control, and we support in principle the fitting of electronic stability control and side curtain airbags into all new vehicles as a proven safety message. We certainly agree that adopting ESC should involve a nationally consistent approach.

The Chair of the Road Safety Advisory Council, Sir Eric Neal, and I, as the Minister for Road Safety, have written to car manufacturers to encourage them to install ESC as a standard feature. The Road Safety Advisory Council, in particular, supports ESC technology and side curtain airbags as vehicle features because they have great potential to reduce road trauma.

I advise the chamber that, at a departmental level, the Department for Transport, Energy and Infrastructure implemented a fleet leasing policy on 1 April this year. The aim of the policy is to enable a more rigorous safety focus approach to light vehicle leasing across the department's light vehicle fleet. The application of the policy is about improving the safety of the departmental fleet, but it is also acting as a strategic approach to improving the safety of the entire private vehicle fleet, and we as a government are progressing fleet policy with respect to safety rating—the electronic stability control that we are talking about and the front airbags—with a view to extending it to all government fleet cars. I suggest that we watch this space.

ECTOTHERMS

The Hon. I.K. HUNTER (14:41): I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about South Australian ectotherms basking in the spotlight of international fame.

Leave granted.

The Hon. I.K. HUNTER: South Australia is an arid and sunbaked state (most of the time, at least, if not today) and is home to some remarkable reptile species. These specialists in desert

survival often enthral the young and can scare the bejesus out of the rest of us. However, their evolutionary significance is much greater than that, as most of us know—at least, those of us who believe in evolution. It is so significant, in fact, that renowned nature documentary maker David Attenborough visited South Australia for the filming of his series *Life in Cold Blood*—a title, I might add, that is scientifically a little out of date, but it is no doubt more media friendly than a more accurate title, such as *The Life of Ectotherms*, or perhaps *Poikiotherms Under the Spotlight*! But perhaps I will take my leave from the opposition's usual attitude to question time, and be no stickler for accuracy. Will the minister inform the chamber of the significance of David Attenborough's visit and the documentary he produced as a result?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:43): I thank the honourable member for his in-depth and well researched question, and his ongoing interest in these very important policy areas. I am sure that those who managed to see the show will agree that it was an amazing insight into South Australia's reptile population, and an unparalleled opportunity to showcase South Australia to the world.

As Minister for Environment and Conservation, I cannot overstate the importance of having a conservationist of the calibre of David Attenborough visit South Australia, let alone his dedicating such a significant portion of one of his nature documentaries to our reptile life. Thanks to this visit, hundreds of millions of viewers around the world will now have a better understanding of some of the reptiles that have managed to master this very harsh and often unforgiving land.

Filming this documentary was a quest that took Sir David to some of the most remote places in the world and, as one would expect, no definitive study of reptiles is complete without a visit to Australia. Funnily enough, despite our better known reptiles, such as the frill-necked lizard and the goanna, one of our rarest and, until recently, presumed extinct reptiles that caught Sir David's eye (I have had the rare pleasure of holding one of these amazing little lizards, and I can tell members that they are truly remarkable creatures) is the pygmy blue-tongue lizard, thought to be extinct for about 30 years until rediscovered in the Mid North in the early 1990s. DEH has been working with local land-holders ever since to identify and protect these colonies.

The lizards are so small that they live in abandoned trapdoor spider burrows and, even more remarkably, show a maternal instinct rarely seen in lizards, with the mother sharing their burrow with their young until they are old enough to fend for themselves. This is an important and historical document about these extremely rare lizards, and I am sure it will be a fantastic educational tool for years to come.

However, another local cold-blooded star featured in this documentary that is worthy of recognition is the common sleepy lizard. It is remarkable how a reptile as common as the humble sleepy might now go on to captivate a world audience, and it goes to show how lucky we are here in South Australia. I am sure, for many, it will come as a revelation that this lizard is monogamous, often partnering with the same mate for up to 20 years or more, which is a rarity amongst reptiles. Sleepys give birth to live young (I know you are impressed, Mr President), a characteristic which has evolved as a means to combat the extreme cold that we experience in our deserts. Not only that, but the live young are quite advanced in their development at birth—the process is the equivalent of a human giving birth to a three year old child, Mr President (I know you are impressed), according to Sir David on Monday night. It is truly remarkable.

While his visit was primarily for the filming of this documentary, it is also fantastic recognition for the hard-working DEH staff who are so passionate about preserving these amazing reptiles, and I congratulate all those who have taken it upon themselves to preserve these unique 'dragons of the dry'.

ECTOTHERMS

The Hon. M. PARNELL (14:46): I have a supplementary question. Can the minister tell the chamber whether Sir David Attenborough visited the Mount Bold area, and is the minister aware of any endangered lizards that will be threatened by the expansion of the Mount Bold Reservoir?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:47): I am not aware whether on his last visit Sir David went to Mount Bold. In terms of any threatened species or any environmental impact that the proposed expansion of the Mount Bold Reservoir might have, as the honourable member knows, a full environmental impact study will be done. It

will be extensive, and any and all environmental impacts will be thoroughly investigated if it goes ahead.

TRANSPORT EMISSIONS

The Hon. A.L. EVANS (14:47): I seek leave to make a brief explanation before asking the Minister for Police, representing the Minister for Sustainability and Climate Change, a question about motor vehicle emissions and the State Strategic Plan.

Leave granted.

The Hon. A.L. EVANS: There are two targets in the State Strategic Plan that recently caught my interest. One target calls for an increase in the use of public transport to 10 per cent of metropolitan weekday passenger vehicle kilometres travelled by 2018—which I understand equates to a near doubling of public transport use by that year. Another target calls for a reduction in greenhouse gas emissions of 60 per cent by 2050. These targets are related, because an increase in public transport use results in decreased greenhouse gas emissions—and I note that the report into the proposed extension of the rail line to Seaford estimated that that move alone would reduce emissions by 9,500 tonnes of carbon dioxide per year.

Despite these targets, little appears to have been done to achieve them. Indeed, even though we continue to build more and more roads for cars, budgeting for mass transport options continues to stagnate. Indeed, rail operations and maintenance budgets have declined from $107 million in 2005-06 and $106 million in 2006-07 to $98 million in 2007-08. Total mass transport boarding has been almost static for the past 10 years, from 46.37 million boardings in 1994-95 to an almost identical 46.38 million boardings in 2004-05. The number increased marginally to 49.43 million boardings in 2006-07.

However, that modest increase goes nowhere towards meeting the State Strategic Plan target. Family First has estimated that a saving of 200,000 to 300,000 tonnes of carbon dioxide could be saved if South Australia had an integrated mass transit network, which is the equivalent of shifting approximately 50,000 people to 100 per cent renewable energy. My questions to the minister are:

1. Does he agree that significant emission savings are possible if the government were to implement a comprehensive mass transit scheme for Adelaide, along the lines of the one proposed yesterday by the Hon. Dennis Hood MLC?

2. Does he agree that Adelaide desperately needs such a scheme?

3. Does he envisage meeting either strategic plan target without budgeting or planning for an integrated public mass transit system?

4. If the government does not support a public mass transit scheme, doe he simply concede that the targets have no hope of being met?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:51): I certainly would not concede that those targets have no hope—

Members interjecting:

The Hon. P. HOLLOWAY: Look, the opposition transport spokesman, the member for Morphett—whose electorate covers Glenelg—actually opposed the extension of the tramline into the city. It is one of the rare cases I can recall where a local member acted actively against the interests of his constituents. It is probably the worst example of a local MP letting down his electorate that I have ever seen.

Members interjecting:

The Hon. P. HOLLOWAY: No wonder you are getting excited! You should be ashamed of him. He should be ashamed of himself for so badly letting down his electorate. Every day he is attacking the trams. Every day he is in the newspaper attacking the trams that he opposed. What we faced when we came to government were trams that were built in 1929 when the system opened, and they were not integrated; they ended in Victoria Square.

This government has taken a number of steps towards integration. For example, they link up now with the railway station as well as go past the O-Bahn bus stop. That is at least the first

level of integration; the first step has happened under this government. Also, this government has put significant money into the resleepering of our railway system.

Members interjecting:

The Hon. P. HOLLOWAY: It is all very well for members opposite who are interjecting to talk about these things—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Of course, *The Advertiser*—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: That's right. That is why I am equalling the balance in here by talking about how the member for Morphett has badly let down his electorate—a shameful example!

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Well, yes, but so what? At least this government is delivering. At least I will go home and sleep easy tonight. Okay, the Adelaide *Advertiser* might decide to help members opposite, it might decide to suppress good news, it might decide to highlight stories for whatever reason, but the reality is that there have been more advances in public transport in this state in the past six years than there were for many years. How long was it since there was an extension to the public transport system?

The Hon. J.S.L. Dawkins interjecting:

The Hon. P. HOLLOWAY: Yes, before your time. And why did we have that? Because you put no investment into it at all. This government is investing hundreds of millions of dollars into resleepering our rail lines. Sleepers on our rail system have been there since the 1950s and 1960s. Unfortunately, the backlog has been so extensive that it will not happen overnight, but this government is spending tens (if not hundreds) of millions of dollars on resleepering, which is the basis for extending our railway system.

That is why we have these goals. Yes, we do have goals, to get back to the honourable member's important questions. I am pleased that the Hon Andrew Evans has read the State Strategic Plan. He mentioned that we have targets for 2050. He also talked about targets for increasing the use of public transport.

What members opposite are attacking at the moment is the fact that our policy has been so successful and that too many people are using the trams, which they opposed. They opposed the tramline extension; the Hon. Andrew Evans did not, and neither did the Hon. Sandra Kanck and, I think, the Hon. Mark Parnell and others, and that is why we got it through. The Liberal opposition opposed that tramline extension. That was even though the transport spokesman himself represents the seat that is most advantaged by that; he acted directly against the interests of his constituents. It is a shameful case.

The question is important. Yes, these targets are to increase that use of public transport. It will be difficult, and it will involve hundreds of millions—if not billions—of dollars of investment over the coming years. We have begun the process of correcting the massive neglect that has occurred over decades not just by the previous government but also by governments before that which allowed our public transport system to run down. In relation to that, we also need changes in our planning system and, as I have indicated, those will be announced at some stage in the future. It is an important question; yes, this government does recognise the need for greater public transport, and it has already begun the process.

BEULAH PARK FIRE STATION

The Hon. J.S.L. DAWKINS (14:56): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question relating to MFS recruitment.

Leave granted.

The Hon. J.S.L. DAWKINS: Early last month the minister announced that the government would provide funding for a crew to staff the new Beulah Park MFS station in the next financial year. As most members would realise, the Beulah Park station was opened two days later. The opposition understands that the current MFS recruiting process will be completed on 1 July and

that the recruited cadets will not complete their training until 1 October this year. My questions to the minister are:

1. When will the 22 new crew members of the Beulah Park station be trained and operational?

2. Will the crew be drawn from the recruit course which runs from July to October; if so, what current positions will remain unfilled?

3. Will the establishment of the new crew be delayed until the next recruitment course after the July to October course?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:57): I thank the member for his important question. It again allows me the opportunity to place on record this government's commitment to our emergency services—in this case, in relation to the Metropolitan Fire Service—and also place on record that it is this government that has actually increased recruiting in the Metropolitan Fire Service, after it was gutted by the previous government.

It is correct that I was very pleased to open the new Beulah Park Fire Station and, at the same time, place on record that a station is also being built at Paradise, which means an extra—and I repeat, extra—station in the north-eastern area. We do have ongoing recruitment courses taking place in the MFS, and that is the difference between this and the previous government. In relation to the placement of crews, I leave that to the chief officer of the Metropolitan Fire Service—

The Hon. J.S.L. DAWKINS: I rise on a point of order. I cannot hear the minister because there is a certain member sitting right behind her who is constantly belly-aching.

The PRESIDENT: Order! Honourable members will come to order—and that means the Hon. Mr Stephens as well.

The Hon. CARMEL ZOLLO: I can repeat all that; would the honourable member like me to do so?

The Hon. J.S.L. Dawkins: Not all of it; just the last bit.

The Hon. CARMEL ZOLLO: In relation to the placement of crews, I certainly do not dictate (and would never dream of dictating) to the chief officer of the Metropolitan Fire Service. The allocation of crews is up to him—in consultation, I am sure, with the UFU. As I have said, this government has increased funding to the MFS—indeed, to all our emergency fire services—but, in particular, it has made an enormous commitment to the recruitment of staff to the MFS with 194 new firefighters. I think there is also another group graduating on 8 October (although I am not 100 per cent sure of that); however, they are going through the process right now. We do have recruiting going on on a continual basis; again, that is the difference between this and the previous government.

BEULAH PARK FIRE STATION

The Hon. J.S.L. DAWKINS (15:00): I have a supplementary question. As the minister has not provided a specific answer to my question, will she bring that back in a timely fashion? I would appreciate it.

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:00): I have answered the question. I am not quite sure what the honourable member wants. What do you want?

The Hon. J.S.L. Dawkins: You said you had to ask the Chief Officer.

The Hon. CARMEL ZOLLO: I hope the honourable member is not suggesting we would not staff our stations.

MULTICULTURALISM

The Hon. J.M. GAZZOLA (15:01): I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Multicultural Affairs a question about multicultural affairs.

Leave granted.

The Hon. J.M. GAZZOLA: Multiculturalism has proved to be a wonderful success in our state. The government continues to support new initiatives and opportunities that foster a good relationship between the many communities that make up our society. Will the minister inform the council about progress being made in the area of multicultural affairs?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:01): I thank the honourable member for his important question. I think I heard a groan on the other side, but I am sure that was not the case. This government has long held the view that multiculturalism is one of our greatest achievements. South Australia has been (and continues to be) a leader in this process, and I am pleased to say that multiculturalism has enjoyed bipartisan support in our state since its inception.

Recently I attended two functions that reinforced this very important message. The first was a reception held by the South Australian Multicultural and Ethnic Affairs Commission (SAMEAC) which brought together members of the commission's Women's Advisory Committee and Youth Advisory Committee. The second was the launch of a community harmony project organised by the Australian Refugee Association.

During the SAMEAC reception, I took note of the words of the chairman, Mr Hieu Van Le, who is also Lieutenant-Governor of South Australia. He is providing outstanding leadership in the commission. Even though the commission includes many dedicated experts, they recognise the need to listen to others for specialist advice. That is why SAMEAC works closely with the women's and youth advisory committees.

Mr Le wants to break down the misconception that multiculturalism is for people from a culturally and linguistically diverse background, and he has asked Multicultural SA to ensure that multicultural events are accessible to all South Australians. The exposure of cultural diversity is going far beyond the ethnic cultural events which predominantly have ethnic audiences.

Multiculturalism has been featured in the Christmas pageant, the Australia Day parade, the ANZAC Day Eve Youth Vigil, and the International Police Tattoo in the Marion shopping centre and Rundle Mall. I understand that the multicultural forum held in February was the most successful ever. It was attended by an eminent group of South Australians who came together to focus on multicultural issues.

The event at Cowandilla Primary School, organised by the Australian Refugee Association, was to launch a community harmony project involving Clarendon and Cowandilla Primary Schools and the St John Bosco and St Andrew's Schools.

As I said at the launch, the success of multiculturalism depends on people from different backgrounds getting to know each other and sharing their different traditions. The community harmony project is bringing together young people, teachers and parents from diverse backgrounds so that they can find out about each other's cultures—the way they do things; their arts and crafts, foods, histories and languages; attitudes to school and work; sport and recreation; and their traditional stories and beliefs. The more we find out about each other, the more we find out about ourselves. This project will contribute to the community because our youth will be able to understand and appreciate different cultures, rather than feeling uneasy about them because we do not understand others around us.

I commend the Australian Refugee Association for the important range of services that it provides to refugees. I am sure council members would agree that the South Australian Multicultural and Ethnic Affairs Commission and organisations such as the Australian Refugee Association are the crucial players in making multiculturalism so successful in South Australia, and they deserve high praise.

MULTICULTURALISM

The Hon. S.G. WADE (15:04): I ask the minister to clarify what she was referring to when she said that the council 'will include cultures other than ethnic origin'. Is she referring to subcultures such as the Goths or cultures in relation to sexual preference? What is the minister referring to when she says multiculturalism is no longer going to be limited to ethnic origin?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:05): When we talk about multicultural affairs we are referring to people of cultural diversity. What I mean, of course, is that for multiculturalism to be successful it needs to

go outside ethnic origins. That is why we talk about it being featured in something like the Christmas Pageant, the Australia Day parade or the ANZAC Day Eve Youth Vigil. It needs to encompass the whole community otherwise it will not be successful.

DRUG EDUCATION

The Hon. A. BRESSINGTON (15:06): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question—

Members interjecting:

The Hon. A. BRESSINGTON: Control yourselves—on funding for drug education.

Leave granted.

The Hon. A. BRESSINGTON: I note the minister's interest in the common sleepy lizard and the educational film that was made about it. I commend her for that. I have a submission from a production organisation called Fat Lip whose director is Michael Edgecomb. This organisation wants to produce an educational film for students on Ecstasy. The material states, 'Feel the pain; she's dead because of a drug overdose; left behind a mum, brothers and others.' As I understand it, this is based on the true-life story of a 14-year-old girl who died of an overdose. It is about the friends and family who were left behind.

The reason behind this film is to get the message across to kids that these drugs are dangerous and that they do do harm. The company is seeking assistance to raise about $280,000 for this film, to be targeted specifically at high school students and other educational outlets. Will the Minister for Mental Health and Substance Abuse give us some indication as to whether the state government is prepared to support such a very important initiative?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:07): I thank the honourable member for her question and her ongoing interest in these important policy areas. Indeed, education programs are a very important part of our policy to manage harm minimisation in relation to illicit substances and also potentially harmful substances such as alcohol and cigarette smoking.

We have a number of current education campaigns, and we are just about to launch a very important campaign targeted at youth binge drinking. That will come out fairly soon. The federal government has also put aside funding for a range of advertising and public education programs as well. I am not aware of the particular educational program that the honourable member mentions, but I will be very pleased to look at that more closely if she can give me some details and I will investigate the matter further.

We are always very keen not to reinvent the wheel where we do not have to. We have often borrowed templates from other campaigns from other states and countries and modified them, where appropriate, to meet our own local needs. I am happy to look at that. Obviously, any initiatives that have funding implications will need to be considered in the light of the full budgetary process. However, I will be very pleased to receive the details and investigate it.

YALATA BUS SERVICE

The Hon. C.V. SCHAEFER (15:09): I seek leave to make an explanation before asking the Minister for Road Safety a question on the Yalata bus service.

Leave granted.

The Hon. C.V. SCHAEFER: I have a publication, entitled *The Anangu Lands Paper Tracker*, which is a computer-generated news sheet by and for the Anangu communities. The article states:

> The need for the Yalata community to have access to safe, reliable and affordable public transport is long-standing and well-documented. In March 2005, the Federal Government funded a six-month trial of a weekly bus service operating between Yalata and Ceduna. Additional state funding allowed the service to operate for another year. Since December 2006, the people of Yalata have not had access to any regular public transport to and from Ceduna.
>
> In 1997, a South Australian report into 'Aboriginal road safety issues'—

and we all know that the percentage of Aboriginals involved in road accidents is disproportionate to the percentage of the population—

highlighted the pressing need for people living in Yalata to have access to appropriate transport services when journeying to and from Ceduna to reduce the risk of drink driving and pedestrian injury.

According to the report, the significant distance between the two communities—around two hundred kilometres—encourages people to take whatever transport options are available to them no matter how unsafe or unreliable they may be.

The report continues:

The provision of a community bus service would ensure a safer alternative mode of transport for people...to access medical, shopping, entertainment and other facilities not available in the remote communities. Such a service may also prevent intoxicated pedestrians from being hit by passing motor vehicles while attempting to walk home along major roads and reduce the need for community members to purchase the cheap vehicles that are so often unroadworthy.

The saga has gone on since that time, with a six-month trial being funded by the then federal government and a further 12 months funded by the state government. A review done at that time states that the service was a major success. However, since December 2006 it has stopped, despite repeated appeals by the member for Flinders and the Yalata Community Council.

At various times they have been assured by the Minister for Aboriginal Affairs that the bus is in need of some repairs (and, frankly, it would be by now, because it has been in dock for 18 months). They have also been assured that police will trial the presence of a community constable on the bus service and that they are working on longer-term co-ordinated solutions for a range of challenging areas on Eyre Peninsula, including the Yalata bus service.

However, they have not been provided with a bus, nor have they been provided with any explanation of why the service is no longer funded. I realise that this is a broad question but, in my view, it certainly falls under the umbrella of road safety, particularly for the people of Yalata. My question is: can the minister provide or obtain a report on why funding for the service has ceased in spite of its success?

The PRESIDENT: The honourable member's explanation was fairly broad, too.

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:14): I thank the honourable member for her question in relation to a community bus service for Yalata. I certainly have a great interest in the matter raised by the member, because of the road safety concerns she has expressed. I am not the minister responsible for bus services, but I will undertake to raise the issue with my colleague in the other place (Minister for Transport), as well as the Minister for Aboriginal Affairs, and bring back a report to the honourable member.

I was pleased to visit Yalata last week and have a chat with the administrator and community members. The issue was not raised with me but, as I said, I will undertake to get some information for the honourable member and bring back a response. Underneath the Road Safety Advisory Council we have an Aboriginal Road Safety Task Force established as well, so that is another avenue for me to follow up.

PETROLEUM EXPLORATION

The Hon. B.V. FINNIGAN (15:15): My question is to the Minister for Mineral Resources Development. Will the minister provide information on how the government is stimulating further petroleum exploration investment in our state?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:16): I thank the honourable member for his question. With the world oil price currently pushing to levels above $100 a barrel, the matter of oil and gas exploration supply is critical to South Australia's future economic development. South Australians recently experienced retail petrol prices of more than $1.50 per litre, putting an immense strain on the budgets of working families and the running costs of small and big businesses alike. Part of the answer to the increasing worldwide demand for energy that has contributed to the record worldwide oil price is to secure new sources of supply.

A new release of Otway Basin acreage was announced at the annual conference of APPEA (the Australian Petroleum Production and Exploration Association) recently held in Perth. Three blocks, OT2008 A, B and C, with potential for both oil and gas, are being offered to explorers on the basis of work program bidding. One of the blocks lies on an oil trend and another is adjacent to the gas producing field at Katnook.

The offer of acreage in the Otway Basin complements onshore exploration in the Cooper and Officer Basins in South Australia. While the Officer Basin, which is the area roughly west of Coober Pedy, is recognised as Australia's onshore petroleum province with the greatest potential for major oil and gas resources, the Otway Basin is one of the best known and actively explored basins spanning the southern coastline of Australia. Indeed Primary Industries and Resources SA geoscientists regard this area as the second most prospective basin in South Australia after the Cooper Basin.

As some potential exists for larger hydrocarbon accumulations, a reinterpretation of well and seismic data by PIRSA has shown that the structural evolution of the Otway Basin is analogous to basins elsewhere in the world found to contain at least one giant oil field. Bids close on 27 November 2008, and the seven-month bidding period has been designed to enable thorough industry evaluations and promotion of this investment opportunity by PIRSA geoscientists at a number of important national and international industry events.

Gas and oil discoveries in South Australia during the past 20 years, coupled with successful exploration in the Victorian sector of the onshore Otway Basin, continues to provide cause for optimism about the resource potential of this area. Although there have been several oil field discoveries in the onshore Otway Basin, the majority of discoveries have been gas. The current production is restricted to the Katnook gas field, which is relatively mature and produces gas and condensate, so new oil discoveries in the area will have the potential to attract renewed interest in oil exploration opportunities.

South Australia's petroleum industry continues to excite, and this latest acreage release is a further very important forward step in developing its full potential. At this time of high world oil prices it is hoped that this release will attract multiple bids from national and possibly international explorers seeking prospective acreage.

WORKING WOMEN'S CENTRE

The Hon. SANDRA KANCK (15:19): I seek leave to make an explanation before asking the Minister for Urban Development and Planning, representing the Minister for Industrial Relations, a question about funding for the Working Women's Centre.

Leave granted.

The Hon. SANDRA KANCK: The Working Women's Centre has operated in South Australia since 1979, almost 30 years, and as an indication—

Members interjecting:

The PRESIDENT: Order! Members will cease talking during the last few minutes of question time.

The Hon. SANDRA KANCK: As an indication of its success, during 2006-07 alone 3,700 women were assisted with employment issues. In addition to that direct advocacy, the centre has taken on a community education role around issues relating to women in the workplace, such as paid maternity leave, workplace bullying, outworkers, the impact of legislative changes and the impact of domestic violence on women and their workplace.

It has been advised informally that there will be no more federal funding. It has been told that it will not be invited to extend its contract with the workplace authority. The centre has been attempting to negotiate with the Deputy Prime Minister's office since November last year. It has said that, with the reduction in funding, it will not have to close at this stage in South Australia, but it will have $97,000 less to operate on. My questions are:

1. Does the minister recognise the role of the Working Women's Centre in assisting with research and projects on work/life balance, retaining women in employment and supporting and promoting the role of women in leadership positions, and does he agree that the contribution of the Working Women's Centre is valuable and deserving of ongoing funding support?

2. Will the minister consult with his federal counterpart, Julia Gillard, and advise her of the value of this work?

3. If federal funding is cut, what increase in state funding would the minister consider providing?

4. If the Working Women's Centre has to close, where does the minister suggest women who are experiencing workplace bullying should seek assistance in the future?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:21): The honourable member draws attention to a very important area and, of course, my colleague in another place (the member for Hartley, Grace Portolesi) has chaired a committee that specifically looked at the very important question of work/life balance. In relation to the specifics of funding, I will refer that question to my colleague in another place and bring back a reply.

ANSWERS TO QUESTIONS

PERPETUAL LEASE FREEHOLDING PROGRAM

In reply to the **Hon. C.V. SCHAEFER** (18 October 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised:

1. No compulsory acquisitions of waterfront land have been undertaken as part of the PLAF (Perpetual Lease Accelerated Freeholding project). Applications to freehold Crown leases under the PLAF project have been made on a voluntary basis. As a condition of freeholding waterfront leases, lessees have surrendered a portion of their leasehold rights to enable the establishment of an adequate public waterfront, in accordance with the recommendations of the Select Committee on the Crown Lands (Miscellaneous) Amendment Bill 2002.

2. A total of 80 lessees along the coast and River Murray have been offered leases for conservation purposes over surrendered waterfront areas.

3. As at 26 February 2008, 45 lessees have accepted the offer of a Conservation Lease and two of those applications have been completed. Six lessees have withdrawn their applications to freehold, two applications have been lapsed/terminated, 14 lessees have declined the offer of a Conservation Lease and 13 lessees are still to advise if they accept the offer of a Conservation Lease.

4. The Coastal Protection Branch has not compulsorily acquired any land as part of freeholding under the PLAF project.

5. The Select Committee on the Crown Lands (Miscellaneous) Amendment Bill 2002 recommended that 'the Government will investigate practical solutions where there are significant improvements within the 50 metre boundary, on a case-by-case basis' (Recommendation 21). Where buildings are located within the proposed 50 metre public waterfront strip, an alternative boundary is determined according to individual circumstances.

WATER SUPPLY

In reply to the **Hon. C.V. SCHAEFER** (2 May 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): The Minister for Water Security has provided the following information:

Water accounts received by SA Water customers in the first part of 2007 included a charge for water use for the six months prior to the reading of their meter. Reading of the meter generally takes place two to three weeks before the bill is received.

This means a customer receiving their bill at the start of April would be billed for water use from about mid-September to mid-March.

For the 2006-07 year, this period covered an unprecedented dry winter and spring, which led to householders watering at a time of year when, in normal circumstances, they would have been able to rely on rain.

The comparative period in the 2005-06 year, included months with above average rainfall for much of the State.

This is why most customers see a difference in the comparison.

GLENSIDE HOSPITAL, ILLICIT DRUGS

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:22): I seek leave to make a ministerial statement about the Margaret Tobin Centre.

Leave granted.

The Hon. G.E. GAGO: Earlier today during question time, an allegation was made that people have been approached and offered drugs outside the mental health facility on the Flinders hospital campus. I am advised that the Director of Mental Health Operations has spoken to the Executive Director, Mental Health, of the Southern Adelaide Health Service, who has advised that the service has not received any complaints regarding people attempting to sell illicit drugs at the entrance of the Margaret Tobin Centre. Further, the entrance is monitored by a surveillance camera as well as reception desk staff.

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2590.)

An honourable member interjecting:

The Hon. SANDRA KANCK (15:23): I am glad they are all sitting here listening, and I hope they will be.

The PRESIDENT: The Hon. Ms Kanck has the call. Honourable members will sit down or leave the chamber.

The Hon. SANDRA KANCK: Mr President, I would expect government members to be sitting here and listening. It is their legislation; they want it through. Today is 1 May, otherwise known as May Day, and it is a day that is recognised by the union movement as a day to celebrate hard-won rights. Some of those hard-won rights include workers compensation. So, it is extremely ironic (I did not choose it) that, on this very day, on May Day, I am speaking about a bill that is aimed at cutting back some of those rights. So, rather than a celebration, it becomes a day of protest and anger. There is an even bigger irony in what is happening in that it is a Labor government that is doing this.

Eight years of a Liberal government never saw such attacks on workers' rights. Most voters have an understanding (and it seems to me that it is now very misconstrued) that the Labor Party is there to represent the workers. Clearly, with the passage of this legislation, that will no longer be the case. It seems to me that the Rann government is taking a calculated risk in introducing this bill. It has enraged many workers, and even some of its own backbenchers in this parliament. But it is doing it two years out from an election, and I guess the bet they are making is that by the time we get to March 2010 the voters will have forgotten and, if they have not, the Premier will be clever enough to come up with some sort of scare campaign or smokescreen to frighten those voters back to the fold.

In approaching this bill I do not come at it from either a pro or anti union base. In fact, my party has a history of holding up workers compensation legislation. Back in 1986 we held up the legislation for about four months (I have forgotten exactly how long). At that stage I was employed by Ian Gilfillan, who had carriage of that legislation for the Democrats, and I took all incoming phone calls about the issue. I can assure members that I was the recipient of much abuse from unionists at the time. It is rather unfortunate that those unionists forgot that I, too, was a worker. I recall that the UTLC, as it was then, had a rally in which it hanged an effigy of Ian Gilfillan. So it got extremely nasty, and I was very unimpressed with the unions' tactics back then in 1986. Having said that, I also indicate that I have been a unionist. When I taught in New South Wales I was my school's representative at district meetings of the New South Wales Teachers Federation, and a couple of times I was the delegate to its annual conference in Sydney.

Before I talk about the legislation itself I want to talk about the processes leading to our debating this bill. The review took place last year, some of it in the lead-up to the federal election when, ironically, one of the campaigns that was being conducted to support the ALP was the Your Rights at Work campaign. But, because the emphasis last year was on the federal election, I do not think a lot of people were aware that the review was even occurring in relation to WorkCover—and I have to say I certainly was unaware of it.

Nevertheless, the Clayton Walsh report was released on 26 February and we almost immediately had a statement from the Premier about how dire things were and how necessary it was to take action. That may be the case, but what was very surprising was that, within two days of the Clayton Walsh report being released, we had this bill being introduced into the House of Assembly. Two days is a very short period of time to draw up a bill of 76 pages in length. It seems

to me that the chances are that the bill was drawn up a long time previously, and maybe the Clayton Walsh report was just the excuse to introduce it at that time. I know that members here who have had bills drawn up are aware that they do not happen overnight.

Anyway, in the House of Assembly the government used its numbers to push it through in just nine sitting days, which meant that adequate debate did not take place. I am distressed at the way the government is now treating the members of this chamber as if we have had the Clayton Walsh report for a long time, when in fact we have not, and that we have had a draft copy of this legislation for a long time, when in fact we have not.

I was briefed by Julia Davison, the Chief Executive of WorkCover, for whom I have a great deal of respect. She told me that they have spent the past 12 months looking at it. Well, we have not had the same opportunity to spend the past 12 months looking at it. In fact, the first I knew that we would have legislation coming was with the public resignation of Janet Giles from the WorkCover Board so that she would be free to campaign against this legislation on behalf of SA Unions, but we are being required to process this bill now as if we had been on the case for the past 12 months.

Yesterday afternoon in this chamber we had a bit of a stand-off with the Minister for Urban Development and Planning. The minister did not want the bill to be adjourned. He told me yesterday that he wanted to put this bill into committee today, which disturbed me greatly, because that could well mean that, if he gets his way, it could go into committee before a number of members have had the opportunity to put all their concerns on record and, in that process, to allow the minister and his staffers to look at all those concerns and address them in his summing up.

I want to place on the record that I am making this speech under sufferance. As non-government members, we are being pressured and bullied before we have had adequate time to consult on this legislation, and I resent that very much. I am sure that other members of this chamber who are lone representatives for their parties, such as the Hon. Mark Parnell, and Independents, such as the Hon. Ann Bressington and the Hon. John Darley, are in the same position. I take this opportunity to remind the minister that four of us in this chamber handle all portfolios. We are dealing with all the government bills.

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: We do not have a department to back us, minister. When the minister sends us a note and tells us that the firearms bill is a priority, we drop the research we are doing on something else and do the work on the firearms bill. I also remind the minister that, for nearly four weeks, he has been advising us that the Serious and Organised Crime (Control) Bill has been a priority. I have turned up here, I think for eight sitting days in a row, carrying my folder on that bill, with all the notes that I have prepared ready to do it, and the government does not proceed with it.

Each time the minister has adjourned that bill, despite advising us that the Serious and Organised Crime (Control) Bill is a priority bill—

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: The minister can interject, but the fact is that we are left guessing what he means by 'priority'. If he lists a bill as a priority and he continues to adjourn it day after day, how are we to know what he means by a bill being a priority? He sent us a note last week indicating that he wants this to be a priority bill. What he means by 'priority', I do not know. It simply lists—

The Hon. P. Holloway interjecting:

The Hon. SANDRA KANCK: The minister interjects and says that it was a No. 1 priority.

The ACTING PRESIDENT (Hon. R. Wortley): Order! I make the comment that accusing someone of telling lies is not appropriate.

The Hon. SANDRA KANCK: I did not say that.

The ACTING PRESIDENT: I did not make that comment to the Hon. Ms Kanck. I asked the Hon. Ms Kanck to be quiet while I made the comment that it is not appropriate for anyone to accuse someone of telling lies. Can we please listen to the Hon. Ms Kanck in silence and let her have her say.

The Hon. SANDRA KANCK: The email that came to us gave us three bills on the list that the minister said were priority bills, and that included the firearms bill which we dealt with this morning, and we gave it priority. I indicate to the minister that I have been giving this bill priority, but his idea of what priority means is not understood by us when he indicates a bill is priority and then adjourns it day after day. It seems to me that it is like the old story of the boy crying wolf. We get to a point where we do not know what he means when he says it is a priority.

An honourable member interjecting:

The Hon. SANDRA KANCK: No, it does not mean that at all. The fact is that the government does not want this bill hanging around for too long, because the longer it hangs around the more members of the public and the more former Labor voters get to understand what is happening—and the angrier they get. It is very painful for the government, but it brought it on itself, and I have no sympathy. However, just because it is painful for the government is no good reason for us to rush this through. The government should not be placing pressure on members of this chamber because it wants its dirty work swept under the carpet, and wants it swept under the carpet quickly.

That is my concern about the process, but let us look at the bill itself. My position is that the bill has some good and some bad, and I will be supporting the second reading. However, my support for the third reading of the bill will be dependent upon what amendments are successfully made in this chamber. Bullying us to give our second reading speeches, minister, will not help the position of the government.

There is no doubt that this system needs reform. Our return to work rates are the worst in the country, and it is not good for injured workers if they are unable to get back to work. I guess the question that is crucial to this legislation is how you shorten the tail but still properly compensate the worker, because we know that well-run insurance schemes have short tails.

When the Premier made his ministerial statement on WorkCover on 28 February this year he told us that unfunded liabilities stand at $843.5 million. What are unfunded liabilities—what does that term really mean? It assumes that everyone currently receiving WorkCover benefits will continue to receive them until age 65. That is absolute nonsense. It is a mythical figure. There is an assumption in there that not only will they all have to be paid until they are aged 65 but that there will be a lump sum payment to all those people on WorkCover right now. That is not going to happen, either.

I turn to a paper prepared for SA Unions and written by Dr Kevin Purse entitled 'Getting WorkCover Back on Track: A discussion paper'. Dr Purse explains it well, as follows:

> An unfunded liability is the gap between a scheme's *estimated* liabilities and its assets. As workers compensation is a long-tail form of insurance, where claims liabilities may extend over several decades, it is very difficult to accurately predict these long-term liabilities. For this reason unfunded liability estimates should not be taken at face value.

Of course, our Premier has. The paper continues:

> An unfunded liability is not a debt in the conventional sense but rather an estimate of the amount that WorkCover might, or might not, need to...pay out over the next 40 to 50 years for existing claims—depending on how well the scheme is managed over this period. It is not an amount that needs to be paid out at any one point in time. It is also important to note that WorkCover is more than capable of meeting its current obligations to injured workers and service providers as they fall due.
>
> In WorkCover's latest annual report its unfunded liability was reported as $694 million, up $42 million from 2004-05. This headline figure of $694 million has captured the attention of the media, politicians and employer groups; it also forms the basis of demands on the South Australian government to slash entitlements to injured workers. The problem with the unfunded liability concept as a measure of financial performance is that it only looks at one side of the equation. WorkCover's estimated liabilities may have increased, but so too have its assets—from $1.120 billion in 2004-05 to $1.288 billion in 2005-06, an increase of $168 million. As the increase in its assets was greater than the increase in its estimated liabilities, WorkCover's financial position in fact actually improved last financial year. This improvement has largely been ignored though because of the fixation with the headline unfunded liability figure.
>
> A more useful tool to assess WorkCover's financial position is its funding ratio—the value of total assets as a percentage of total estimated liabilities—since this provides a measure of the extent to which the scheme is fully funded. On this basis WorkCover was 65% funded in 2005-06, compared with the 63.4% of the previous year. Although, not a large improvement it was certainly a step in the right direction. This upward trend has continued and as of February 2007 the scheme—with assets of $1.445 billion, estimated liabilities of $2.153 billion and an unfunded liability of $708 million—was 67.1% funded.

I think that puts a very different perspective on what is happening compared to the line that the government is giving. Currently, 80 per cent of pay is paid out for a period of 12 months for injured workers and, with this bill, we would see that reduced to just 13 weeks.

This is basically cost-shifting; it pushes people out of a state-based WorkCover system onto a federally funded social security system. One wonders what the impact of that will be on those people. Whether or not they are part of a state-based system, the fact is that, once you put people on a pension, they tend not to move away from it. From my perspective, it is better that we keep it state based and then we can get people back to work.

There is no doubt that many workers who are injured would accept a payment for the loss and then move on to other things. There are some good things, as I said, about the Clayton-Walsh review, which are contained in the bill. I refer particularly to the maximum lump sum payment for non-economic loss which is to be increased from $230,000 to $400,000.

I think the establishment of a code of workers' rights and a WorkCover ombudsman are both very good ideas, although the LGA has written to us seeking an assurance that it will not duplicate existing roles. When I read that I thought it was a good question to pose to us, because South Australia already has its Employee Ombudsman. Unfortunately, because we are being pressured and rushed, I have not been able to get back to the Employee Ombudsman to find out whether this could be a task that he could perform.

I will also be interested to hear from opposition members in regard to the WorkCover ombudsman whether they will attempt to amend the title, because I remember that we had a bill to set up a health and community complaints ombudsman but the opposition at that time insisted that there really was only one ombudsman, so that legislation was amended because of that philosophical perspective of the opposition.

The bill, in aiming to decrease WorkCover premiums, is asking the workers to pay the bill. The question we need to ask is: are the workers to blame? If the government members have not been receiving emails and letters from workers, I can assure them that a lot of angry workers out there will tell them that it is not the workers who are to blame.

One woman who contacted me told me that she thought the doctors were to blame. She got, for a workplace injury, $16,000 for pain and suffering. She has been out of the workforce now for 2½ years and has had to see a variety of doctors in that time.

However, she says that during that period of time the health practitioners that she has seen have been paid something like $2.6 million. Recently, she arrived 10 minutes late for an appointment. She was too late to see the doctor but the doctor put in a claim to WorkCover for that missed appointment for $270.

I have no doubt that some workers exploit the system. The employers say that it could be as high as 5 per cent. If it is that high, then there is 95 per cent who are not exploiting the system. It is a very blunt instrument to cut the benefits of injured workers because of that 5 per cent. It is the same as when I was at school and teachers kept the whole class in because one child had misbehaved. It is called collective punishment and it is something we should not tolerate.

There is a question about how our rehabilitation scheme is working. I will look at that a little later. If that is the part that is not working then perhaps that is the part that we should be addressing. Robin Shaw, from the Self Insurers of South Australia Association, had a very apt comment in respect of what this legislation is all about. He said, 'It's social legislation measured in terms of financial outcomes.' I do not believe that WorkCover should be fulfilling that particular role.

The SA Union submission to the review had the following response to the board's recommendations:

> The board recommendations are focused almost solely on reducing the entitlements of injured workers. There are no recommendations about changes in legislation that relate to the agent, employers or other players in the scheme. There are no recommendations to look closely at the management of injured workers, the practice of claims managers, or the operation of the agent and key professionals, such as rehabilitation providers and medical practitioners. Workers compensation is a complex matter. It is well known and acknowledged that there needs to be a focus on all elements and participants of the scheme in order to ensure that it operates effectively. Just focusing on financial viability and employee entitlements gives a warped view of the issues and the solutions. We also need to look at employer behaviour and agent behaviour in managing claims, and the role of rehabilitation and medical treatment.

I think that this bill fails on that. Let me say that, first of all, we do need a scheme which gets everyone to the table quickly. I think everyone acknowledges that. We need a scheme that avoids

red tape and we need a scheme that is cost-effective. There are some of those hallmarks in this legislation but still, ultimately, it is making the injured worker pay the cost.

One of the positives is the introduction of provisional liability so that when a claim is lodged the rehabilitation providers should be providing rehabilitation within two weeks of the claim being lodged. This follows the New South Wales and Tasmanian legislation. That is a positive. However, the LGA, in one of its letters to members, indicated a concern about this. Its concern is that if the case is not upheld then the wages that have been paid in that time period will be virtually unrecoverable. I would have liked to explore this a little further before I made my speech but, unfortunately, government pressure is not allowing us the time to do that.

The bill is going to close down redemptions. There is no doubt that some workers prefer redemptions rather than fighting the system. It is interesting that, back in 2003, Clayton said that the use of redemptions was good. However, since that time, the Mountford review has recommended getting rid of redemptions. The LGA uses redemptions in its self-insured workers compensation scheme. It says in a letter to members:

> We support the involvement of unions and employee representatives in negotiations and, as such, believe that there are ample safeguards to ensure a reasoned and successful use of this provision on a sparing basis.

The LGA indicated to us that it wanted an amendment that would allow it to continue to use redemptions. In its submission to us, the Law Society also argues in favour of redemptions. It states:

> The Law Society believes that redemption by agreement should remain in the legislation. The society does not agree with the view that the existence of redemptions and the ability to redeem creates a compensation culture. The ability to finalise liability is important in appropriate cases. Indeed the proposed section 42(2)(e)(iii) acknowledges this. Moreover redemption was not introduced into the act until amendments in 1995. Despite that there were frequent media reports of a so-called compensation culture in the late 1980s and early 1990s well therefore redemption was introduced into the legislation.

The Australian Lawyers Alliance has also written to MPs, and I will read what it has to say about redemptions, as follows:

> At present a long-term injured worker may have future weekly payments and medical expenses redeemed by payment of a capital sum. This recognises the fact that many long-term injured workers may be able to use such capital sums to further rehabilitate themselves or even to set up a small business, for instance, and get on with their life.
>
> The new proposed redemption provisions provide that such capital sums will only be paid where either the rate of weekly payments does not exceed $30 or the worker has attained the age of 55 years or more, or where the tribunal determines, on the basis of a joint application by the worker and WorkCover, that the continuation of weekly payments is contrary to the best interests of the worker and as such a capital sum should therefore be paid.
>
> In practice this will severely reduce the discretion of the parties to settle upon a redemption payment...It should be noted that many exempt employers make such payments in excess of the usual payments made by WorkCover. Such employers have no 'unfunded liability'.

It seems to me that, if injured workers are able to take a lump sum in this way and get out of the system, and get out of the system quickly, it means that going to court, and all the things that happen in this process, will be very quickly terminated, resulting in one fewer person for the government to worry about in terms of its unfunded liability.

Medical panels are the next issue I want to look at, and it is a contentious issue. We know that they were envisaged in the drafting of the 1986 act, so it is an idea that has been around for a while. However, the complaints that have come to me suggest that it will be a kangaroo court held in secret; it will lack accountability; transcripts will not be available; there will be no right to legal representation; there will be no say in the composition of the panel; and there will be no rights of appeal, other than an application to the court for a judicial review, which is expensive and complicated.

I have been told in lobbying that the requirements in this bill are foreign to the way that doctors are training. The point has been made to me that the current tribunal does a good job. There is no backlog, and there is a concern that, with the new medical panels, a logjam will be created, and that would be very unfortunate if there is none at the present time.

Julia Davison, the Chief Executive of WorkCover, told me that the current situation encourages doctor shopping, and she talked to me about a case with 27 different doctors involved. On the weekend in a social context I was talking to somebody who is in a senior management position with one of the self insured companies, and he raised with me his concerns about how some workers with an injury will be back at work in a very short space of time and others with a

similar injury hang around for a long time not getting better. His view was that the doctors were complicit with those particular workers, and for someone like that he sees the medical panels as a way forward.

SA Unions, in its submission to the review of the scheme, said, 'South Australia has had the medical panel concept in place previously under the current scheme. It was abolished for good reasons and should not be reintroduced for the same good reasons'. There are then six dot points, stating:

- traditionally treating practitioners have been reluctant to participate in medical panels in other jurisdictions;
- the constitution and process of medical panels moves away from the strong regard held for an injured workers' treating practitioners;
- there is no appeal process;
- there is no accountability of the sitting members giving their medical opinion (no cross-examination);
- there will be little scope to bring medical disorders and injuries to the panel for a test that falls on the fringes of traditional injuries; and
- in other common law jurisdictions the judiciary is charged with determining questions of a medical nature.

Most members have been provided with a paper entitled 'Assault on Injured Workers', presented to the Australian Lawyers Alliance seminar on 13 March this year by Graham Harbord of the law firm Johnston Withers. Some of the things he mentions give me cause for concern, as follows:

> The proposed panels appear to have much wider powers than was ever envisaged in the past. Section 98E describes 17 different so-called medical questions, which the medical panel may consider. In addition, any other prescribed matter may be added to this list.

That is very concerning. He continues:

> The list includes issues as to causation, questions as to incapacity for work, questions as to whether a disability is permanent and questions concerning rehabilitation and return-to-work plans. It is hard to envisage what significant issues under the act may not be considered by such a medical panel. It is clear that these panels will in fact be considering not only medical issues but legal issues, which are involved in determining causation, incapacity, suitable employment and reasonableness of rehabilitation provisions—issues on which the courts and tribunal have set down guiding legal principles over many years. The legal issues in relation to these matters are beyond the scope of a medical practitioner's expertise.

From my perspective, having been pressured to make a speech, I am still unclear on this issue and I want to explore it more. It is unfortunate that we are being bullied into progressing the legislation without looking at all of the issues.

Dispute resolution is another issue. I am told at the moment (and the government may present me with evidence to the contrary) that conciliators have good settlement rates. Those that are not resolved by conciliation go to judicial determination, and the arbitration proposed is unnecessary and a costly step in this process. Again, I refer to the paper by Graham Harbord, which states:

> Currently under Section 92D of the Act where the parties have not reached an agreement at conciliation then proceedings must either be referred for arbitration before a Conciliation Arbitration Officer or for judicial determination before a Deputy President. A new Section 92D provides that all matters must now first be referred to arbitration. The matter may only be referred to judicial determination once arbitration has been completed. This will inevitably lead to further delays to resolving disputes and added costs to all parties and to the WorkCover system.

If it is going to add to the costs and we are trying in this legislation to cut back the costs, why are we going down this path? Mr Harbord further stated:

> There is no reason why the current system should be changed. The Clayton Report at least recommended that the amount of legal costs at arbitration should be increased to recognise the proposed greater emphasis on arbitration. Whether or not this recommendation will be picked up in the regulations is yet to be seen.

I invite some comment from the minister when he sums up as to whether or not that is the case. I think one of the other things that we need to look at is how effective our scheme is. According to the Labor Lawyers, on average, across Australia, Australian workers get 51.8 per cent back into their pockets. South Australian workers are getting better than that average, with 62.9 per cent, and Queensland is the best at 65.6 per cent. So, from that perspective, one would have to say that the South Australian scheme is not doing too badly.

Dr Kevin Purse, who I have already quoted, in terms of the discussion paper that he prepared for SA Unions, was also published in the *UniSA Education News* of 18 February. In that article, Dr Purse suggested that the outsourcing of claims management has created one of the key financial problems in the scheme. The article states:

According to Dr Purse the cost of administering the WorkCover scheme in 1994, before outsourcing began, was $49.7 million. 'The move to outsourcing was supposed to deliver cost savings of up to 15 per cent a year' he said. 'Not only was the target never met—there were never actually any cost savings at all, even though the number of WorkCover claims fell dramatically from the 39,500 in 1995 to 22,020 in 2007. Instead there was a blow-out in scheme administration costs and by 2007 after adjusting for inflation, South Australian employers had paid an extra $75 million in administration—in effect, an "outsourcing loading" of more than 10 per cent a year.'

So, why is it that we are blaming the workers? The number of claims managers has been progressively reduced since then, so we are now down to one claims manager, and that claims manager has a five-year contract beginning in 2006. However, despite that contract requiring the single agent, EML, to reduce the WorkCover liability by up to $100 million in the first two years, the figures are tending upwards and, according to Dr Kevin Purse, liability has instead increased by $300 million in that time. So, what is it that the people in WorkCover are doing?

Members have received lots of emails from injured workers, and I could go on for the rest of the afternoon, I suppose, just reading them.

The Hon. M. Parnell: The government needs to hear them.

The Hon. SANDRA KANCK: Yes. An email came from someone called Fi, and she said:

To punish injured workers by cutting their entitlements is downright cruel. The injured workers in no way asked to be put in the position that they find themselves. I have a partner who has been in the WorkCover system for almost 2½ years. He is currently receiving full income support from EML. Kicking him off the system would, for us, mean losing two-thirds of our weekly income. An income that we are struggling to survive on as it is. And we are not alone in that scenario.

My partner's experience in his dealings with EML and WorkCover have not been positive. The stress of dealing with the system has caused him to suffer from depression. There have been times when I [have] been waiting for a phone call or a knock at the door to inform me that he has killed himself.

Yes, there are huge problems with the system that we have now, no-one would argue otherwise. However, the problems lie in the management not with the injured workers.

During my partner's 2½ years he has not been offered any retraining, nor has any of the retraining suggestions he's made himself been approved or even looked into. In fact only a couple of weeks ago he was told that they are not interested in any retraining that will take longer than a couple of weeks, but no suggestions of what training he could have for those couple of weeks.

He found himself a commission only paying sales job. With this job he was paid monthly in arrears. When he phoned his case manager to inform them of what he earned for the previous month (less than $200) it caused his payments to be messed for about four weeks. He had to phone up several times each of those four weeks to chase his payments up. For those four weeks his payments were a week behind. In the end his case manager told him to quit the job as it was too hard to sort out.

So much for rehabilitation! Fi continues:

Does this sound like a system that is trying to get injured workers back to work?

We have seen next to no effort in trying to get him re-employable. Surely if the effort was put into training then that in itself would get many people off of the system and back into the workforce.

Look at the other states. What are they doing to get their injured workers back to work? How does South Australia's return to work rate compare?

How many of you have had contact with someone that has been on WorkCover long-term? What did they tell you about how the system is treating them? What does this tell you about how the system is managed?

Can you honestly say that the management of our system is working 100 per cent as it should? Shouldn't we get this right before anything else?

Yes please fix WorkCover, but please treat the cause, not the symptom of a system that doesn't work.

Levies are an issue that we are dealing with in this bill. We are told that the issue is a levy of state competitiveness, and the argument is that if the return to work rate is improved the levy will drop. I return to Dr Kevin Purse's report for SA Unions, 'Getting WorkCover back on track'. I want to address this issue of retraining, which is an essential part of return to work. What we just heard in that email from Fi shows that WorkCover is not doing particularly well at getting people back to work. Dr Purse says:

The reluctance by WorkCover to embrace retraining as an integral part of its return to work philosophy is a major barrier to improved scheme performance. At present, retraining occurs rarely and only where an application made by an injured worker's rehabilitation provider is approved.

What is needed is a systematic approach to retraining—one which provides tangible benefits for both the scheme and injured workers. Candidates for retraining would need to be carefully selected against a set of criteria designed to maximise return to work outcomes.

He goes on to say:

The selection...should be carried out within a broader framework that looks at the 'streaming' of long-term claimants. This should involve a redefinition of what constitutes a long-term claimant, as the current definitions based on 1-3 years' duration reflect a passive approach to rehabilitation rather than the proactive approach necessary to improve the scheme's return to work rates.

It seems to me that one should expect that retraining would be part of return to work if the injury is such that the employee can no longer do the job they were doing prior to the injury, yet retraining is not guaranteed in this bill. It seems to me that that is a major deficiency if we are to have reforms. Implicit in so much of this is that, if we can get workers off WorkCover one way or another, the employers' premiums will drop and then everyone will be happy.

Again, I return to this document from Dr Kevin Purse. At page 10, under the heading 'Summary points—competitive premiums', his paper states:

- It is frequently suggested that WorkCover premiums need to be 'competitive' with premiums in other states; otherwise there will be an exodus of firms from South Australia and an associated loss of jobs.

Before I continue reading all those points made by Dr Purse, in a sense we have a race to the bottom, with each state arguing that 'ours is higher and therefore we need to get lower'; and, if we keep on lowering the premiums, of course, we will not have any money in the scheme to be able to pay injured workers. I think that what Dr Purse does is to expose some of the arguments about the competitiveness. His paper further states:

- Though superficially attractive, this claim is not supported by the evidence.
- Investment, and business relocation, decisions are made on the basis of a mix of financial and strategic considerations, not marginal differences in average WorkCover premiums of 1 per cent-1.5 per cent of payroll.
- In terms of overall business competitiveness Adelaide outperforms Sydney, Melbourne and Brisbane.
- Adelaide is also highly competitive internationally and was rated among the top three of 99 cities—from the Asia Pacific region, Europe and North America—in a survey conducted by KPMG in 2006.
- Reductions in employer premiums should only be supported on the basis of better workplace health and safety performance and improved return-to-work outcomes [and I do not think the legislation address that].
- Artificial reductions in premiums by cuts to workers' entitlements is an approach described by the Industry Commission as a form of 'invidious competition'.

I have one concern about the legislation that probably comes out on the side of the employees, that is, the return to work coordinator (new section 28D). I am surprised, in fact, that I have not heard from employers about this. The employer must appoint a rehabilitation and return to work coordinator. The first thing that comes to my mind is that it seems that, on occasion, there would be a conflict between rehabilitation and return to work.

I think that you must get these in the right order, and returning to work without rehabilitation having occurred may be, shall we say, medically contrary indicated. New section 28D provides that this coordinator must be an employee in that business, firm or company. I was thinking of a husband and wife deli where they might have one employee, and I can think of one in particular. If that employee was injured, certainly you could not make the injured employee take on the role of a coordinator. Even if a second shop assistant worked in the deli, it would take a lot away from the business for the second employee to be filling this role for the injured employee.

The government says that it is trying to make things better for an employer, but, certainly, this would not do that, because it takes away labour that could actually be doing something in that business.

The Hon. R.D. Lawson interjecting:

The Hon. SANDRA KANCK: The legislation does not say that. I want to address that, because new section 28D(7) provides that the regulations can exempt a certain class of employee—and, presumably, that would be based on size. Even with 30 employees, it is still an impost on the business to have to put someone on the payroll to take on this role. In addition to

that, before they even put them there, they will have to pay out to ensure that that coordinator has adequate training to allow them to undertake the role. As I said, I have not heard anything from employers about this, and I expect that is because the legislation is being dealt with way too fast.

The Hon. Mr Lawson interjected a short time ago and said that it is only for those with 30 employees or more. However, if that is the case why is it being left up to the regulations? Why is it not being put into the bill?

As I said at the outset, I think the Premier and his ministers are taking a calculated gamble: first, that rusted-on Labor voters will continue to vote for them no matter what they do in this parliament, and, second, that those voters who are very cheesed off by what is happening at the moment will, come the election in March 2010, return to the fold when Mike Rann puts up some sort of scare tactics about what the opposition might do.

I support the second reading, knowing that there are some good reforms of the system in the bill but also knowing that the bill has some considerable weaknesses. I expect to be supporting a lot of amendments, and I note that the opposition failed to support the amendments of the member for Mitchell in the House of Assembly. I hope that was purely for convenience, and that the opposition will reconsider its position when we deal with the committee stage of the bill in this place.

The Hon. R.D. Lawson interjecting:

The Hon. SANDRA KANCK: Yes; you have a chance for redemption, Mr Lawson. This is an opportunity for members of the Legislative Council to show the people of South Australia what a valuable role we perform and show how effective we are. Members of parliament, with very little warning, have had to get their heads around the Clayton Walsh report, the Mountford—

An honourable member interjecting:

The Hon. SANDRA KANCK: It was only on 28 February that you introduced this legislation. In that time, as well as dealing with other government legislation, we have had to get our head around the Clayton Walsh report, the Mountford review, the 2004 Infinity Consulting report, a PricewaterhouseCoopers assessment, submissions from and/or meetings with the Law Society, SA Unions, the Local Government Association, the Australian Lawyers Alliance, Group Training Australia, the Self Insurers of South Australia and, of course, WorkCover.

When we hear a claim from one group we have to go chasing back to another group to ask for their perspective on that particular claim, and so on. So, we should not be rushing this through, as the government is trying to make us do. We are still trying to consult and others are still trying to consult with us. The LGA, for instance, in its fax to us on 3 April, said that it was providing us with some initial comments but that it was still consulting with its member councils—and it needs to do that before it can get back to us with further feedback.

This bill is being pushed through solely at, and for, the government's convenience without full input from the community. The Legislative Council can provide the accountability that the government is failing to provide, and I look forward to a much more forensic and less hurried examination of the bill than the government would allow in the lower house. In the process I hope that we in the Legislative Council can make this a better bill.

Honourable members: Hear, hear!

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:19): I rise to speak to the second reading debate on the bill, the correct title of which is the Workers Rehabilitation and Compensation (Scheme Review) Amendment Bill. I was pleased to hear the minister interject some little while ago to say that the government has to have this through by the end of the financial year so that the changes could take effect. That gives me some comfort, because we have a little longer to deal with this than we were, perhaps, first led to believe.

The Hon. Sandra Kanck: It has to be through before August for the Labor state convention.

The PRESIDENT: Order!

Members interjecting:

The Hon. D.W. RIDGWAY: Would you like to speak Bernie?

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway will cease to respond to out of order interjections.

The Hon. D.W. RIDGWAY: Thank you, Mr President. I would like to make a few comments. The Hon. Robert Lawson is the opposition's lead speaker and he has put forward our position. He was, of course, the minister responsible for WorkCover in the former Liberal government—

The Hon. B.V. Finnigan: For about a month.

The Hon. D.W. RIDGWAY: Well, I suspect that is a month longer than you will ever be minister, so I would be quiet if I were you.

The PRESIDENT: Order! The Hon. Mr Ridgway will cease responding to out of order interjections.

The Hon. D.W. RIDGWAY: If they were sensible interjections I probably would not respond, Mr President. I would like to take members back to the formation of the Rann government in 2002, and the appointment of the Minister for Industrial Relations back at the start. Of course, it was the Hon. Michael Wright—who, incidentally, is the son of the father of WorkCover, and it is a shame that some of his father's qualities are not apparent in the minister. I remind people—

The PRESIDENT: Order! It is derogative to say that the son does not have the qualities of his father. The honourable member will not personalise his statements but just get on with his speech.

The Hon. D.W. RIDGWAY: Thank you, Mr President. Perhaps I will just highlight the qualities of his father and let those who read *Hansard* make their own judgment. I quote:

> In a 2004 speech to Australian Workers' Union delegates, state secretary [and, I think, friend of the President] Wayne Hanson called Jack Wright 'the conciliator, the dealmaker, the fixer and the architect of the workers compensation legislation that was friendly to injured workers.' In a sentence he said, 'Jack Wright was the workers champion.' The same union is certain to be at the forefront of the labour movement's campaign against the government—

That is, when it comes to its opposition to this particular legislation. So, I draw the comparison between the minister and his father and leave people to make their own judgment.

I think one of the things of which the Hon. Michael Wright should be extremely proud during his time on Yorke Peninsula is that he actually won three Mail medals. That is for the best and fairest player in the football league, and I am sure he was a brilliant footballer in his day. It is a shame that in his next role as a minister he does not have the people in the pack working hard and getting the ball for him, and delivering, so that he can work his magic on the football field—or as Minister for Industrial Relations. Clearly, he has been asleep at the wheel with this particular responsibility.

The Hon. R.D. Lawson interjecting:

The Hon. D.W. RIDGWAY: The Hon. Robert Lawson interjects that his lawns are looking very nice. So they should, because they are being constantly watered.

It is interesting to look at some of the things that have happened under the stewardship of the minister. We had a new board, a new CEO and a whole range of changes to the administration of WorkCover, yet the deterioration in the unfunded liability is the key reason why the government is bringing in this legislation.

The Premier recently said that, if the legislation was not passed unamended, we would be facing the potential catastrophe of another State Bank. The Hon. Angus Redford, before he departed this place, some other colleagues and I often talked about how if this were not addressed, we would end up with another State Bank. We were laughed at by the government and assured that this would never end up as another State Bank, yet the Premier is now saying to his own caucus, so we are told, that if they did not support the proposed changes and the proposed legislation, then we would be facing another financial crisis. It is just a bit cute that the Premier is able, on the one hand, to have his team laugh at us when we proposed some years ago that this could develop into a real financial crisis for the state, and now that is one of the reasons we have to deal with this legislation at present.

It is interesting to consider that, after the new board was appointed, on Friday 14 March, the WorkCover Board Chairman, Mr Bruce Carter, said in a radio interview that he knew WorkCover had significant problems within a month of becoming chairman. He has been the

chairman for some years now, and we had a briefing with Mr Carter, the CEO of WorkCover, and other representatives from WorkCover and the minister's office last Tuesday evening.

I would like to describe from a farmer's perspective how I think they should have managed WorkCover, and I will use the analogy of rolling a large tractor tyre down the road, and I am talking about one that is 6 or 8 feet high. That is a pretty easy job to do while it is balanced but, as soon as it gets out of balance, you have to get it straight back up again, because once it gets further over you cannot hold it and it becomes extremely heavy; in fact, you usually end up with it lying flat on the ground.

So, it surprises me that the chairman of WorkCover, Mr Carter, said that within a month of becoming chairman he knew we had significant problems yet, years later, we are now faced with a situation where we have nearly $1 billion of unfunded liability and we now have to get to the point where, unfortunately, it is the injured workers of this state who will have to do the heavy lifting to lift the great big tyre of WorkCover back up again. So, you had a board, a chairman and a minister. I will ask this question of the minister sitting opposite, although I am sure he would will not answer it because he will say anything that is discussed in cabinet is confidential. Surely, from the moment that the chairman said he discovered there was a problem (within a month of becoming chairman), he would have reported to the minister that we have a problem, and surely the minister would have gone to cabinet and said, 'Comrades, we have a problem. We have to do something'.

Years later we are now faced with this problem, and clearly it is that the minister has been asleep at the wheel for the entire time he has been Minister for Industrial Relations. This should not have happened; it should never have been left to get to this point. There were indicators. As I said, members of the opposition in both houses have been pursuing the government over WorkCover for the past six years because we could see this deteriorating trend. Clearly, it is the minister and the other ministers in the cabinet, because I am sure he was reporting to them regularly, who have sat there and done nothing.

Two Independent members have joined this government in the Minister for Water Security and the Minister for Agriculture, Food and Fisheries. They have been part of the whole government. The Minister for Agriculture, Food and Fisheries has been part of the government for about 5½ years now and the Minister for Water Security has been part of the government for about four years or more. They have been there for that length of time and, if the reports have been coming through, which we would hope a minister of the Crown would do and that he would be speaking to his colleagues in cabinet to let them know what the problems are, they have all sat on their hands asleep at the wheel. At the end of the day, people need to remember that this is a situation we should never have got ourselves into.

Mr President, I will not actually name anybody because I think that would be inappropriate and I am sure you would call me to order, but also there have been significant conflicts within the board and some of the services that some board members offer to WorkCover. The board made a recommendation well over 12 months ago to the minister that he reject the set of proposed changes to fix the problem—and I assume that included cabinet, the ministers opposite and ministers McEwen and Maywald—and I cannot understand why the board did not resign.

At the end of the day, the board is appointed, in conjunction with the CEO and the minister, to manage and provide advice on the WorkCover Corporation. Their advice was not accepted. I cannot for the life of me understand why they did not resign on the spot, yet they all continued. I know they get paid, and it is probably not an insignificant amount of money that they are paid. It is interesting to look at the boards of public companies. If they fail to deliver a good return to their shareholders, they usually get sacked at the next AGM. What I cannot understand is that this board is still in place and the minister is still in place, yet the return to the shareholders (the injured workers) is that they have gone broke.

There is nothing left for the workers; they have lost it. All of their life savings that they have put into a workers compensation scheme, if you like, have gone. These are the entitlements for the workers for whom you, Mr President, in your former life, and most of your colleagues in the Labor Party have fought long and hard and whom you have proudly defended in true tradition prior to becoming President here. On a number of occasions I have heard you speak about it. Now those people are paying the price of poor management.

I made a number of lengthy contributions on WorkCover in relation to the Statutory Authorities Review Committee inquiry, and I would like to refer back to a couple of parts of that and, particularly—

The PRESIDENT: Is this the inquiry that finished in 2005 or is it the current one?

The Hon. D.W. RIDGWAY: It is the current one, but I do not want to refer to the evidence, nor do I want to refer to anybody who is coming to speak to it, just in particular—

The PRESIDENT: I remind the honourable member to be careful.

The Hon. D.W. RIDGWAY: Thank you for reminding me to be careful, Mr President. I was interested in the appointment of a single claims manager. Members may know that that was something that interested me, particularly with reference to the Statutory Authorities Committee. In the past six or seven months the opposition has became aware that, during the tendering process where Employers Mutual were awarded the tender to be the single claims manager there were a number of other companies that tendered at the same time, one of which was QBE.

Fortunately, under freedom of information, I have been able to obtain QBE's tender documents. It intrigues me that, buried deep within their documents, all the tenderers were asked by WorkCover to provide innovative solutions for managing the unfunded liability. One of the innovative solutions offered by QBE was to take the unfunded liability which, at the time, was $500 million or $600 million. Effectively, it would have taken the unfunded liability and the scheme would have been fully funded, because it would have managed it and, I suspect, probably made a profit out of it because it managed it better.

The opposition prepared a press release and asked why that had not been investigated or pursued. At the time Treasurer Foley said it could not be done because it was illegal and it would require legislative change. What are we doing here today? We are dealing with legislative change to fix the WorkCover scheme, yet we had a private insurance company that wanted to do it for us. Close to two years ago we had this offer on the table, but it was too difficult—and perhaps it was not even looked at. It is question that I will ask the minister to advise us about, but he will probably hide behind cabinet confidentiality. Was it ever discussed at a cabinet meeting that there was an opportunity to put the unfunded liability in the hands of a private insurance company and let them manage it so that there was a fully funded scheme? That was an option that was on the table which could possibly have saved injured workers from having to bear the brunt of the reforms we are dealing with now.

I am particularly interested in that, because it frustrates and surprises me that we are here today dealing with legislative change and the minister is a bit stressed at how quickly we are going to deal with it. We are going to process it in an appropriate time. There was an opportunity for some potential legislative change to provide an outcome that may have been much simpler and much less painful for injured workers in South Australia and yet it never saw the light of day until we picked it up through the tendering process of a single claims manager.

Last Tuesday week the opposition had discussions with representatives from WorkCover who indicated that there needs to be some cultural change within WorkCover. It was not just the legislative change that was going to bring about the solution: there was also a need for some structural change within WorkCover itself. Forgive me for being a little sceptical but, given how the position has deteriorated under the stewardship of the minister and all those involved in the organisation in the past six years, it is a bit rich for them to come now, at the eleventh hour, and say, 'We need this legislative change and, by the way, we're going to change our practices as well because we realise that we haven't been doing it properly.'

In fact, when I asked the question: 'How did the tractor tyre get out of balance and tip over so far?' the response given to me by the senior people there was, 'Well, nobody saw it coming.' Goodness me! There are some people on the board and in senior positions at WorkCover who are probably paid more than the minister, I suspect. They are very highly paid people within our public sector and I am sure they are very skilful people and yet they sat there and told us that nobody saw it coming.

Why on earth do we pay people to manage schemes and to be in charge of important organisations like WorkCover? It is simply not a good enough excuse to say that they did not see it coming; that nobody saw it coming. I have little faith in the minister and anybody else who has been involved, but particularly the minister because the buck stops with him in our Westminster system, if there are problems. I am sure if the Hon. Paul Holloway had any problems of a similar magnitude in any of his areas the buck would stop with him and we would make his life very unpleasant in this place. Thankfully, he has not had a disaster like WorkCover under his watch in his portfolios—although I will ask him some questions about some unfunded liabilities within SAPOL shortly.

The buck has to stop with the minister and yet we have seen no indication from anybody—it is almost like Teflon: it is not his problem. There was a slight indication that the government had lost some faith in him, because the Hon. Patrick Conlon was the one negotiating with the unions and heavying some of the members of the caucus because Minister Wright just did not have, shall we say, the grunt required to get compliance from members of the caucus and some members of the union movement.

That is what frustrates me immensely with this legislation. We are now facing a situation that should never have happened. This is negligence of the greatest magnitude in the six years of this government. We see a minister and (I assume) a cabinet that was well informed, including the Treasurer, the Premier and all the rest who are there as part of this as government, assuming that it was somebody else's problem and not theirs, and that somebody else was going to keep an eye on it. Clearly, they have not. Perhaps that is why we have 10,000 extra public servants in South Australia over and above what was budgeted for. Perhaps they were hoping somebody else was keeping an eye on it—or maybe they did not see that coming, either.

I would like to ask the minister a few other questions. In particular, they relate to the liabilities of government departments.

The Hon. R.D. Lawson interjecting:

The Hon. D.W. RIDGWAY: The Hon. Robert Lawson interjects that we want Russell Wortley to speak.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Russell Wortley.

The Hon. D.W. RIDGWAY: Yes; the Hon. Russell Wortley. I would like to know when the backbenchers of the government will speak, because this is an important piece of legislation. It would be like the Hon. Caroline Schaefer sitting quietly on the bench and not speaking on a bill that affected farming and rural people in South Australia. I remember that her very first contribution in her parliamentary career was on daylight saving; in fact, she crossed the floor. It is a shame that backbenchers opposite do not have the same sort of courage.

The Hon. R.D. Lawson: And John.

The Hon. D.W. RIDGWAY: Yes. I apologise; I was distracted by the Hon. Russell Wortley.

The ACTING PRESIDENT: Ignore those distractions.

The Hon. D.W. RIDGWAY: I would be interested to find out this from the minister, and I ask for a response in his second reading speech or at clause 1. It now appears that the unfunded liability of the public sector used to be put together in one lump, and it once appeared in the annual reports of the Office of the Commissioner for Public Employment. However, this agency no longer presents its own reports and has amalgamated with the Department of the Premier and Cabinet.

It appears to me that each government department presents its own unfunded workers compensation liability. In question time a few weeks ago I asked the minister for a report on the unfunded liability of the South Australian police force and what impact these legislative changes would have on that liability.

I would also like to know about other key government departments, such as environment and heritage, health, and education, that is, some of the big employers in government. I would like to know their unfunded liability as individual departments, because we do not seem to have those figures. I am told that some are quite excessive and that, in fact, the education department's could be as high as $300 million. I do not know whether this is accurate, but I think the government has an obligation to provide the chamber with some figures that will either support those claims or show that they are inaccurate.

Clearly, we are now in a situation we should never be in. I will conclude my remarks very shortly, but I am interested that members opposite are sitting quietly. We understand that they are not happy and that they have been gagged, if you like. I am delighted that a number of them are here because it is always inappropriate and unparliamentary to refer to members when they are not in the chamber.

It interests me that at the moment the Labor Party in New South Wales is going through a difficult time. It is talking about privatising its electricity assets, yet the president of the party in New South Wales says that he will protect any member who crosses the floor and votes against the

privatisation of the electricity assets. I note that none of that goodwill has been shown towards any of the members opposite. They sit silently.

I know from some of the comments you have made in the six years I have been here, Mr President, that it must be tearing you apart inside to know what is happening to and gone on inside the WorkCover scheme. Perhaps had you been the minister it would not have happened. You should not laugh, Mr President, because you do not realise the magnitude of the poor performance of this minister that has allowed this to happen. It is a disgrace to think that the unfunded liability has gone from $86 million to $911 million. That was the figure as at 31 December, so I suspect that we are now getting close to $1 billion. In anybody's estimation, that is an awful lot of money.

I do not want to prolong my contribution (and I know that members opposite will be happy if I do not carry on), but I wish to make one last comment. An advertisement in *The Advertiser* today urges the Legislative Council to vote now. It states, 'Time is up.' I make the comment that, of all the organisations listed across the bottom of the advertisement, all but one have come to see me as Leader of the Opposition in the Legislative Council.

The only one that has not is Business SA, and I am a little surprised that it has not called. I am sure that it has spoken to Duncan McFetridge as shadow minister, and it may have spoken to the Hon. Robert Lawson. However, Business SA has not contacted me personally, made an appointment to see me or invited me to visit.

I find it a little baffling that Business SA is happy to put this advertisement in the paper and spend a lot of money—I believe that a full-page advertisement costs $20,000. Most of these organisations have been to see me, and we have spoken about this issue, but Business SA has not. I thank you for your protection and indulgence, Mr President, and I conclude my remarks.

The Hon. M. PARNELL (16:44): I move:

That the debate be adjourned.

The council divided on the motion:

AYES (13)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Evans, A.L.	Hood, D.G.E.	Kanck, S.M.
Lawson, R.D.	Lensink, J.M.A.	Parnell, M. (teller)
Ridgway, D.W.	Schaefer, C.V.	Stephens, T.J.
Wade, S.G.		

NOES (6)

Finnigan, B.V.	Gazzola, J.M.	Holloway, P. (teller)
Hunter, I.K.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Lucas, R.I.	Gago, G.E.

Majority of 7 for the ayes.

Motion thus carried.

MEMBER'S REMARKS

The Hon. R.D. LAWSON (16:44): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.D. LAWSON: On 29 April, in the course of my contribution on the workers rehabilitation and compensation bill, during a comparison of the income support step-downs in the various workers compensation schemes, in my haste I stated that South Australian workers currently receive full support after 52 weeks, whereas, of course, under the present scheme there is a step-down to 80 per cent after 52 weeks. I apologise to the council for that error.

CONTROLLED SUBSTANCES (DRUG DETECTION POWERS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. P. HOLLOWAY: The last time this matter was in committee a number of questions and issues were raised, to which I wish to respond, in particular by the Hon. Mark Parnell in his second reading contribution. The Hon. Mr Parnell and the Hon. Ms Kanck raised the issue of the New South Wales Ombudsman's report on the Police Powers (Drug Detection Dogs) Act 2001. The government is aware of this report. The government also acknowledges that the New South Wales report suggested that 74 per cent of people did not have possession of drugs or that 26 per cent of people did.

However, it is important to look behind those statistics in determining the difference between what is a detection and what is an indication or false indication. PAD dogs are trained to detect the smell of illegal drugs. They will react to the smell of drugs, whether or not the drug is physically present at the time of the detection. It is not possible to train a dog to detect only the actual presence of drugs. New South Wales police believe that a better statistic, showing the reliability of the dogs, is a figure of about 70 per cent accuracy. This figure is obtained by adding the proportion of occasions when a drug is found to the proportion of occasions when no drug is found, yet some explanation is provided as to why the dog might have indicated that the person searched.

The New South Wales Ombudsman acknowledges in his report that, in many cases where an indication has been given, the person will admit that they have had contact with an illegal drug, even though they did not physically have the drug on their person when searched. To this extent, the dog has not given a false indication, as it has correctly identified the scent of an illegal drug.

This is supported by information provided by the New South Wales police that, in venues where PAD dogs are used, it is not unusual for drug users to dump their drugs on the floor or elsewhere rather than be caught with them. As the New South Wales report shows, the Police Association of New South Wales goes further and suggests that all indications other than those where no drugs were found and the person denies any contact with drugs should be included in the accuracy statistic. According to the association, this provides an accuracy rate of about 80 per cent. In addition, the association noted:

> Of the remaining 20 per cent, statistics rely on the comments made of persons searched. For any number of reasons, these people may prefer to lie about their usage or carriage of drugs. Drug [dog] handlers argue that the dogs are accurate in regard to their indications well over 90 per cent of the time.

So, although some may think that the New South Wales statistics do not provide sufficient justification for the greater use of PAD dogs, SAPOL and the government disagree, particularly given the different emphases of the New South Wales and South Australian legislation.

The primary focus of the New South Wales Police Powers (Drug Detection Dog) Act is the identification and prosecution of persons involved in the supply of prohibited drugs. Although the Controlled Substances Act has a similar focus for serious drug offences, it also focuses on diversionary programs for persons committing simple possession offences.

The use of PAD dogs in detection and diversion of illicit drug users is consistent with the South Australian drug strategic framework and justice portfolio and SAPOL illicit drug strategies. It will allow those people detected possessing small quantities of illicit drugs to be diverted into the health stream and, hopefully, away from possible long-term drug abuse and criminal activity. Thus, the success of people screening operations has the potential to be far more effective in the South Australian climate than that in New South Wales, even with low detection rates.

The Hon. Mr Parnell also raised the issue of deterrence. It is difficult to measure perception and deterrence. SAPOL asserts that, although it is not possible to say how many drug dealers or users are actually deterred from selling or using drugs due to the presence and general knowledge of people screening operations, it does not mean they are ineffective as an adjunct to other investigative techniques.

SAPOL suggests that a comparison should be made with random breath testing operations. Static RBT operations are regarded nationally and internationally as an effective deterrent for road users from drink driving. Interestingly, they have a lower success rate than drug dog detection operations, and they are widely regarded as a successful method of deterring drink drivers, even though they cannot be truly measured.

Further to this, police have already advised me that, in deciding whether to issue an authorisation for general drug detection in a public place or for drug transit routes, the senior police officer will be required to give consideration to such matters as the grounds provided, the impact on the community, the likely benefits to the community and the general deterrent effect.

The Hon. Mr Parnell and the Hon. Ms Kanck also draw on the New South Wales Ombudsman's report to suggest that people screening by the use of drug detector dogs in public places or at such events as the Big Day Out may encourage harm, with drug users developing risky drug-taking strategies to avoid detection. Examples given were ingesting larger quantities of drugs prior to leaving home, purchasing drugs from unknown sources at a venue so they are not caught carrying, or switching to potentially more harmful drugs such as GHB, based on the belief that they are less likely to be detected. Although this may happen in some cases, it is only anecdotal, with there being no concrete evidence in the New South Wales Ombudsman's report to support this assertion.

As stated earlier, SAPOL suggested the experience of New South Wales dog handlers is that many drug users, upon seeing a drug detector dog, dump their drugs on the ground rather than ingesting, thus reducing harm. Other observations of these officers is that drug users appear to be more hesitant to carry drugs on their person due to the knowledge that people screening operations are conducted, making the drugs less immediately accessible in licensed premises and other public places. I hope very much that that is what happens; that is what one would like to see happen.

Honourable members have also suggested that some people may feel some embarrassment when a dog indicates the possession of a drug. The Hon. Mr Parnell has recommended that operational orders provide guidance to police about appropriate locations for the conduct of searches. I have consulted with police, who have advised that they have well entrenched practices and general orders for the searching of persons, and they include searching for drugs. This will be further reinforced in the Commissioner's guidelines which are in the process of being developed and which will specifically address the issue of minimising embarrassment to persons.

The Hon. Mr Parnell and the Hon. Ms Kanck have also expressed concern that the drug detection dogs may indicate prescription drugs. They are concerned that people possessing legally prescribed or legal non-prescription drugs, or those who have been exposed to cannabis smoke, could be incorrectly indicated. I have consulted with police on this matter and have been advised that drug detection dogs are trained to detect only such drugs as heroin, cocaine, amphetamine and cannabis. They have assured me that the dogs are not able to detect non-prescription drugs such as Sudafed, nor are they able to detect mere exposure to cannabis smoke.

In response to the Hon. Mr Lucas, I indicate that, since the drug detection dogs commenced operation in September 2006, they have been extremely active in drug operations. The Hon. Mr Parnell asked about resources. I advise that the manner in which the drug detection dogs will be deployed upon the commencement of this bill is an operational decision for police, and their use will be absorbed in the current police budget.

The Hon. Ms Kanck has asked whether the transport industry has been consulted in the preparation of this legislation. The new section 52B will permit police to conduct drug detection activities on suspected drug transit routes. The legislation does not target the transport industry alone, but all users of the identified route. While there has not been direct consultation with specific transport groups, I can advise that the police have for a number of years been working very closely with the transport industry as well as with the Department for Transport, Energy and Infrastructure and PIRSA in the conduct of random and targeted screening of vehicles. This includes receiving written authority from private trucking companies to screen freight vehicles prior to their leaving the depot.

The Hon. Ms Kanck has asked what was the basis of the information the government obtained from New South Wales to develop this legislation. The legislation was developed to clarify ambiguity that existed in the use of drug detection dogs in general drug detection operations. While the government closely examined the New South Wales legislation, it also drew upon Queensland legislation and consulted with New South Wales police and other policing jurisdictions.

SAPOL has worked closely with New South Wales police, bringing trainers from its jurisdiction to South Australia to train both drug detection dogs and handlers. An outcome of this was to develop legislation that will support the police in the fight against drugs and, in particular, their prevalence at public venues, including licensed premises, and on drug transit routes.

The Hon. Ms Kanck has indicated that she will be moving amendments to provide greater protection of civil liberties. The amendments will be based on provisions in the Terrorism (Police Powers) Act 2005. The government believes that the balance set out in the bill is appropriate. It should be remembered that police have been using drug detection dogs for some time to assist in

the detection of drugs in a variety of circumstances. In both Questions of Law Reserved (No.3 of 1998) (1998) SASR 223 and Darby v DPP (NSW) (2004) 150 A Crim R 314, the actions of a drug detection dog were closely examined. In both cases it was determined that the action of the drug dog did not constitute a search but rather an action which identified a person as possessing a drug. Therefore the actions of the drug detection dog need not be specifically authorised by legislation.

The main reason for the legislation is to address an ambiguity as to whether the actions of a drug detection dog when dealing with people amounted to the tort of trespass. Legislation has been developed to clarify this issue—the issue of suspicion—and bring certainty to police when conducting drug detection work. So the general drug detection powers are not the dramatic incursion of civil liberties some would have us believe.

The Hon. Mr Lucas again raised the issue of whether or not the passive alert drug detection dogs would be able to operate within schools, TAFE colleges and tertiary institutions. The honourable member is correct in that the issue of the use of drug detection dogs in schools has been around for some time. The situation does not change dramatically because of this bill. The department of education, training and employment has a policy on the search for drugs in schools, and this policy takes into account Crown advice on the matter.

Nevertheless, given the questions raised in committee, I have sought Crown advice on this matter. It is clear that this is a complex matter and consideration must be given to the circumstances before searches are conducted or drug dogs are used in schools. There are two different scenarios under which police may search a school for drugs. First, police may search with a warrant. Where police have a reasonable suspicion drugs are on the school premises, they may search the premises and any cupboard, boxes, lockers, etc. that they think may contain the items pursuant to either section 67 of the Summary Offences Act 1953 (General Search Warrant) or section 52(4) of the Controlled Substances Act 1984 (Drug Warrants). Neither of these authorities permits police to search a person. Where an officer forms a reasonable suspicion that a person is in possession of a drug, they may utilise either section 68 of the Summary Offences Act 1953 or section 52(6) of the Controlled Substances Act 1953. It is a matter for police whether they use a drug detection dog to assist in identifying the location of drugs.

The second option is to search without a warrant. This is when a principal has requested or consented to a police search of school premises. In this situation police may or may not have a search warrant. If they do, then the law is as I have previously described. However, if they do not have a search warrant, they can search the school premises only with the consent of the principal or other person in charge. In this case the principal may consent to the use of the drug detection dog. However, they may be able to limit the use of the dogs.

The principal may give consent only to the search of school property. The search of student and staff lockers provides some difficulty. One could argue that the lockers are the school's property and the principal can consent to the search. However, a more cautious approach would be to consider that the lockers are there for the personal possessions of the staff and students and the school cannot consent to the search. It is clear that the principal cannot consent to the search of staff or students or their personal effects. This does not, however, prevent the police from searching them if they form a suspicion.

As to whether a school is a public place, the Crown could not provide a definitive answer because, as I have previously advised this place, the answer will turn on the facts in each case. However, it is thought that a school is unlikely to be considered to be a public place during school hours, since the public is usually excluded during these times. In the application of the authorities mentioned above, the question as to whether the school is a public place does not come into play, as the authorities to search for drugs already exist. As to whether a drug detection dog will be used for the execution of these powers, that is a matter for police, not legislative authority.

In the case where a school is clearly being used as a public place, it may be possible to issue an authorisation for general drug detection without the principal's consent, but any such decision would not be taken lightly and is expected to be rare.

The Hon. Mr Lucas also asked a specific question in relation to various indoor venues on university campuses where concerts are held, or entertainment venues on a university campus. In this case the university has opened itself to the public for the purposes of entertainment and thus becomes a public place or public venue. It is clear in this circumstance that the legislation permits police, with or without an authorisation, as appropriate, to conduct general drug detection using drug detection dogs and/or electronic drug detection systems. I trust that that comprehensive answer addresses those issues.

The Hon. M. PARNELL: I thank the minister for his responses to my questions, but I would like to explore one issue a bit further, and that is the cost of the drug dogs. The note I took as the minister was speaking is that he said that it was an operational matter and that the costs would be incorporated into the existing police budget. I note that in New South Wales the estimate is that it costs $90,000 per dog per year—obviously, including the handlers—and that with the 30 dogs in New South Wales it is a sum of $2.7 million.

I would like the minister to explain further to the committee what he envisages the cost of the scheme will be in South Australia and, if it is to be incorporated in the existing budget, are those surplus funds available or, if not, which other police programs might be cut to pay for any additional dogs?

The Hon. P. HOLLOWAY: The dogs are there, and have been there for some time; and are working, as I indicated. They are doing their job detecting drugs. What we are doing here, if this legislation is passed, is simply enabling them to be used for a broader role or function, so I do not think the matter of cost comes into it. The dogs are there, and the handlers, and it has all been provided for. Their training was done some time ago and they operate as part of the Dog Squad. Really, there are no additional costs, as I understand it, that would be associated with the passage of this legislation—no direct costs. As I said, the dogs are there, they are operating and they are trained. The legislation will simply enable them to do a more extensive range of function than they currently do.

The Hon. M. PARNELL: I thank the minister for his answer. I appreciate that, in relation to the three existing dogs, some costs will have already been met and others are ongoing. Given that this legislation is designed to clarify the legal role that the government wishes these dogs to be able to play, can the minister give any indication about whether it is proposed—either by the government or by the police—to increase the current number of dogs from three to some higher number?

The Hon. P. HOLLOWAY: I am not aware of any plans. It will take some time, I guess, for this legislation to become operational; it must go through the other place and be declared. Certainly, I am not aware of any plans to increase that number. I will check with the Police Department and, if there is, I will correspond with the honourable member; but, certainly, it is not my understanding.

The Hon. M. PARNELL: Could the minister clarify to the committee that the primary purpose of these new powers is to detect people involved in the supply of drugs, rather than people who might be in possession of drugs for personal use?

The Hon. P. HOLLOWAY: The operation of these dogs is to support the provisions of the Controlled Substances Act, and they are fairly broad. As a broad part of drug policy, I think that successive governments over many years have indicated that the focus ought to be on suppliers—getting rid of those making lots of money. They are the real scum, if you like, within the drug industry. However, sometimes police do have operations that target users, because sometimes that is the best way to get at the sellers. I think that general drug policy, if I can call it that, would prefer to get rid of people who manufacture, peddle and profit from drugs, but sometimes that might involve street-level operations. After all, what is a pusher?

Sometimes people will be selling drugs at these locations. Often at nightclubs you will have people selling drugs, and they may be somewhere in the middle of the chain. Sometimes if you capture those sorts of people you can go higher and identify those further up the chain. It is all part, I would suggest, of police operations. Always, I think, police would prefer to eliminate the supply and manufacture end of drugs, because that is where they originate and that is where the most damage is done.

The Hon. M. PARNELL: The minister earlier referred to the report of the New South Wales Ombudsman to which I and the Hon. Sandra Kanck referred. That was the fairly damning report that questioned the need for the legislation given what the Ombudsman saw as its relative lack of success to the cost of the scheme and the other consequences, such as the humiliation and embarrassment of people who were indicated but not found to have drugs. What indicators of success have been prepared against which these new powers will be judged? For example, is there a strike rate the government is aiming at? Is there a drug detection per dollar spent ratio at which we are aiming? What other indicators might the government be considering if, in fact, there are any indicators at this stage?

The Hon. P. HOLLOWAY: Just as a broad measure of policy, we believe that the use of drug detection dogs will act to deter the use of drugs within the community, and I indicated that in

my previous answer. Obviously there has been some debate as to how people will respond to these dogs. I made the passing comment as I was responding to the honourable member's questions that I hoped that the impact of these drug dogs would be of deterrence value. How does one measure deterrence? How does one measure the fact that people may be deterred from using drugs or taking them to public places because of the presence of these dogs? I am not sure that it would be very easy to do.

In the use of all drug detection activities and random testing, for example, obviously the police deploy those activities where they think they will have the maximum effect, and that is based on experience over time. For example, you may deploy RBTs or drug detections where you have the highest success rate in terms of detections. I do not know. I have no advice as to whether the police actually have a rigorous system worked out about exactly how they will deploy them, but what I can say from the general police operations is that they are deployed where they have the best impact upon drug use, and that is based upon experience.

The Hon. M. PARNELL: The reason I am asking those questions is that I am a great believer that before we put programs in place we make sure that we are quite clear about what we expect the outcomes to be. If you have not done that, you have really no way of reviewing whether or not the money is well spent and whether or not the project is working. The minister said that he hoped that it will have a deterrent effect but, of course, it is difficult to measure what that might be. I am reminded of the words of the water expert, Mike Young, from the CSIRO. When talking about water, Mike Young in his presentations usually commences with the words, 'Hope is not a strategy.'

I would just like to pursue this a little further, because if the minister is not aware of any particular performance indicators that have been put in place, how will the police know at the end of one year, two years or three years whether these new powers have been worthwhile and whether the whole exercise of using drug detection dogs is worthwhile? Otherwise, it seems to me that the police could be going down a path where the costs outweigh the benefits, yet there is no way of knowing what those benefits might be.

The Hon. P. HOLLOWAY: Perhaps I could have added to the previous answer about transport routes. That was specifically mentioned as one of the areas where these dogs would have useful application. Police know from experience that transport routes are used to enable drugs to cross borders and, obviously, some routes are used more often than others.

What the PAD dogs do is provide a much more efficient means of detecting drugs on those transport vehicles than could be provided with, say, a simple physical search. After the deployment of dogs on those routes I think it would be pretty easy to measure just how effective they are in terms of any increase in the number of detections.

More generally, I refer the honourable member to new section 52C of the bill—Report to minister on issues of authorisation—which provides:

> The Commissioner of Police must, on or before 30 September in each year (other than the calendar year in which this section comes into operation), provide a report to the Attorney-General specifying the following information in relation to the financial year ending on the preceding 30 June:
>
> (a) the number of authorisations granted...;
>
> (b) the public places or areas in relation to which those authorisations were granted;
>
> (c) the period during which the authorisations applied;
>
> (d) the number of occasions on which a drug detection dog or electronic drug detection system indicated detection of the presence of a controlled drug, controlled precursor or controlled plant in the course of the exercise of powers in a public place or area in accordance with the authorisations.

That report then has to be tabled within 12 sitting days. So, there is a reporting mechanism back to this parliament that provides those basic statistics. I guess how one interprets them is another matter, but I think those are pretty comprehensive statistics, and the fact that they are tabled here in parliament should enable all members to reach their own conclusions regarding the effectiveness of the measures.

The Hon. M. PARNELL: I take it from that answer that when these reports (which will, hopefully, give statistics on return for effort) are presented, the main check and balance as to the efficacy of the program is that if we, as a parliament, do not like the results we are getting for the money it is costing we will have to reform the legislation.

That seems to me to be a fairly blunt tool when there may, perhaps, be other performance indicators. For example, the minister mentioned roadside breath testing or speed cameras. You would not put a speed camera on a dirt track that has only four cars a week travelling along it; it would not be regarded as a great return for the effort, given that you might catch one speeding vehicle a year.

It seems to me that what we are doing here is going down a path where we are hoping it will have a deterrent effect, and expect that it will catch some drugs, but we do not know how many would be a good result because we do not have a target for which to aim. Is there any other mechanism, other than we in this parliament seeking to repeal or amend this legislation, that would provide us with some indication about whether we are getting any value for money out of this program?

The Hon. P. HOLLOWAY: As I said, these dogs have been deployed for some time. What we are doing with this bill is simply enabling the scope of activities they can undertake to be extended. I have already given the example that they will enable searches on transport routes to be much more efficient than they would be otherwise, and, remember, this bill also deals with electronic equipment that may used to deal with drugs.

I would have thought that the rate of detection would be a fairly good measure, at least in the first instance, as to just how effective these dogs are. Police will have previous experience regarding detection on these routes, and one would hope that when they are used you may initially get a large number of interceptions. If that starts to tail off then I guess that is an indication that they are having a deterrent effect.

It is a matter of how you interpret the statistics, but that is probably no different from a lot of other police activities. I do not think anyone would argue that random breath testing is ineffective in deterring drink-driving, but obviously the police will base that on experience. I am sure that, if there is suddenly an upturn in a particular location or at particular times, if people are becoming used to random breath testing and there is suddenly an increase, there will be publicity on that and road safety messages will try to reduce the levels. By analogy, I think what is used here would be very similar.

The Hon. D.W. RIDGWAY: Earlier in the debate I asked some questions about the sleeper cabins of semitrailers—to which dogs do not, of course, have access. In the roadblock scenario, are the dog handlers or police officers there at the time able to quickly shine a torch into, or have a look into, the sleeper compartment of a truck and, if they happen to see a package that appears suspicious, remove it and have the dog sniff it on the ground next to the truck?

The Hon. P. HOLLOWAY: If police have a reasonable suspicion, under section 52 of the Controlled Substances Act, they can search that package regardless of what the dog does. I suppose it would ultimately be tested in court, but they would have to have a reasonable suspicion.

The Hon. D.W. RIDGWAY: I guess what I am asking is, in a roadblock situation the dog would sniff or patrol the load—

An honourable member: Wag his tail.

The Hon. D.W. RIDGWAY: Wag his tail or whatever it does, does its business, in trying to detect drugs around the load, and obviously we do not allow it to get up into the cabin. Does the legislation allow the handler or the police officer there at the time to have a look in the cabin?

The Hon. P. HOLLOWAY: To look into the cabin, the police would have to have suspicion which is ultimately tested in court, but that is irrelevant to this bill because it is in the Controlled Substances Act, not this bill.

The Hon. D.W. RIDGWAY: I mentioned this to somebody the other day and they said that dogs can smell stuff a long distance away. Effectively, if somebody was transporting a substance interstate and it was up in the sleeper cabin but there was no suspicion that the person was transporting it and it was too far away for the dog to sniff, with diesel fumes and everything else that is happening around a big truck, what is the effective range of a dog's nose? I am assuming that if you wanted to transport that material, and it was out of the range of the dog's nose, and the person is not a suspicious person, there is absolutely no way that you would be able to detect it.

The Hon. P. HOLLOWAY: My advice is that dogs are trained to discriminate between odours. I guess they are trained with diesel fumes and the sorts of things that would be around a truck and they are trained to discriminate the smell of drugs from other odours. I am also advised that, in relation to the electronic drug detection equipment, obviously some consideration would be

given to regulations about how one can deploy that equipment. Obviously there are issues about where that can go and so on, but I understand that that can be handled by regulation, so that will come back to this parliament by way of regulation.

Clause passed.

Clauses 2 and 3 passed.

Progress reported; committee to sit again.

At 17:27 the council adjourned until Tuesday 6 May 2008 at 14:15.