HOUSE OF ASSEMBLY

Tuesday 30 October 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 2 p.m. and read prayers.

AQUACULTURE BILL

His Excellency the Governor, by message, recommended to the House of Assembly the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

ABORTION

A petition signed by 120 residents of South Australia, requesting that the House ensure the enforcement of the law relating to abortion and provide support to pregnant women and their children, was presented by the Hon. D.C. Wotton.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. R.G. Kerin)—

Department of the Premier and Cabinet—Report, 2000-01

By the Minister for Tourism (Hon. R.G. Kerin)—

Adelaide Convention Centre—Report, 2000-01
Adelaide Entertainment Centre—Report, 2000-01
South Australian Motor Sport Board—Independent Audit Report to 30 June 2001
South Australian Tourism Commission—Report, 2000-01

By the Minister for Human Services (Hon. Dean Brown)—

Commissioners of Charitable Funds—Report, 2000-01
Department of Human Services—Report, 2000-01
South Australian Housing Trust—Report, 2000-01

By the Minister for Government Enterprises (Hon. M.H. Armitage)—

Industrial and Commercial Premises Corporation—Report, 2000-01
Information Industries Development Centre—Charter, October 2001
Land Management Corporation—Report, 2000-01
Plan Amendment Report—Salisbury East Policy Area—Interim Operations
Maritime Services (Access) Act—Regulations—Ardrossan

By the Minister for Education and Children's Services (Hon. M.R. Buckby)—

Department of Industry and Trade—Report, 2000-01
South Australian Government Captive Insurance Corporation—Report, 2000-01

By the Minister for Environment and Heritage (Hon. I.F. Evans)—

Animal Welfare Advisory Committee—Report, 2000-01
Wilderness Protection Act 1992—Report, 2000-01

By the Minister for Water Resources (Hon. M.K. Brindal)—

South Australian Classification Council—Report, 2000-01

By the Minister for Local Government (Hon. D.C. Kotz)—

Corporation By-Laws—
Marion—
No. 1—Permits and Penalties
No. 2—Signs
No. 3—Local Government Land
No. 4—Dogs
No. 5—Streets and Roads
Port Adelaide Enfield
No. 1—Permits, Offences, Penalties and Repeal
No. 2—Moveable Signs
No. 3—Local Government Land
No. 4—Roads
No. 5—Dogs
No. 6—Lodging Houses.

OMBUDSMAN'S REPORT

The SPEAKER laid on the table the report of the Ombudsman for the year 2000-01.

The Hon. DEAN BROWN (Deputy Premier): I move:

That the report be published.

Motion carried.

QUESTION TIME

MOTOROLA

Mr ATKINSON (Spence): Is the Premier concerned about the possibility that two former senior advisers to the government may have committed the same criminal offence in protecting the former Premier? In his written opinion to the state opposition, leading Adelaide lawyer Mr Michael Abbott QC says that there appears to be a prima facie breach of—

Members interjecting:

The SPEAKER: Order, members on my right!

Mr ATKINSON: —section 27 of the Oaths Act by former CEO John Cambridge and former adviser to both the Premier and Treasurer, Alex Kennedy—

Mr MEIER: I rise on a point of order, Mr Speaker. As the House last week moved that the Director of Public Prosecutions look into this matter, I believe that any questions relating to that matter would be out of order. However, I seek your guidance, sir.

The SPEAKER: No, I do not believe so. I do not uphold that point of order.

Mr ATKINSON: Thank you, sir. I will just explain my question again. In a written opinion to the state opposition, leading Adelaide lawyer Mr Michael Abbott QC says that there appears to be a prima facie breach of section 27 of the Oaths Act by former CEO John Cambridge and former adviser to both the Premier and the Treasurer, Alex Kennedy, in their statutory declarations to the Cramond inquiry. Section 27 of the Oaths Act provides for a maximum gaol term not exceeding four years, with hard labour.

The Hon. R.G. KERIN (Premier): It is interesting that the honourable member suddenly has Michael Abbott on a pedestal, which is not quite where he has always had him. Despite the fact that the honourable member might have Mr Abbott on a pedestal, this report was referred to the Director of Public Prosecutions last week. The DPP is the person in South Australia who is in the position of being able to look at the report and make decisions thereon. So, despite the great respect that the honourable member has for Mr Abbott, it is up to the DPP.

EMERGENCY SERVICES LEVY

The Hon. G.M. GUNN (Stuart): Will the Minister for Police, Correctional Services and Emergency Services update the House on recent examples of support for the emergency services levy, in particular the services provided to the community which have resulted in great improvements in equipment and training for volunteers? I am sure that the House will be interested in the information.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I thank the honourable member for his question and acknowledge that, in the electorate he represents, it is very important to support volunteers when they go about protecting life and property. We need to go back a little so that I can answer the question specifically. Members will recall that over 20 years in this parliament and in other places four or five reports called for a new emergency services levy to address the problems that we had when it came to funding volunteers and paid officers. Of course, in a bipartisan way, we saw that bill pass both houses about 3½ years ago.

We have seen different levy structures in states such as Queensland and Tasmania, and I can understand why they have gone down that track. Recently, I saw an interesting article in Victoria indicating that the Bracks government has a major problem when it comes to funding emergency services.

The Hon. J.W. Olsen interjecting:

The Hon. R.L. BROKENSHIRE: In fact, as the honourable member says, 'amongst many other problems'. What we now see in Victoria with the old levy system—which is not supported by the Insurance Council of Australia, because it is not deemed fair by that organisation or many others—is a situation where 77.5 per cent of the insurance premium goes in a fire levy. Of course, that is a major problem for those people who are insuring when others are not. In more recent times, two other Labor state governments that are very interested in bringing in an emergency services levy have talked to officers from my department.

Mr Conlon interjecting:

The Hon. R.L. BROKENSHIRE: The member for Elder says that I am making it up. We know who makes up things—and it is certainly not me. Returning to the point, two other Labor states are looking at an emergency services levy. A lot of things can be delivered with this new levy. Recently, I read with interest some comments of the Leader of the Opposition. We all know that for three years both the Leader of the Opposition and the shadow spokesperson for emergency services have been attacking me and saying that they would abolish the emergency services levy, it is outrageous, and so forth. Then what happened last year was that the member for Ross Smith moved a motion at an ALP annual meeting saying that the Labor Party here and now should abolish the emergency services levy. I thought, 'Maybe that's the case, although I don't know how they'll fund the thousands of volunteers who need equipment and who were left with a $13 million debt when Labor was last in office.'

What happened at that meeting? Simply nothing. Since then we have continued to see the opposition leader come out and attack me personally. He said that when we go to the election he will have signs up above my posters calling me 'Brokenshire, the emergency services tax man'. I look forward to that. Even in the member's own area in the northern suburbs, volunteers are telling me that, if I want them to show support for me at any time concerning what we are doing on behalf of the government, they will be there in droves. Even the Leader of the Opposition offered some support recently when he put out his rhetorical volunteer statement. Interestingly enough—and I have not yet had a thank you from him—I noted with a lot of interest that he is a non-firefighter but, rather, an auxiliary person. There is a difference between firefighter and auxiliary. Have you done level 1?

The Hon. M.D. Rann: No.

The Hon. R.L. BROKENSHIRE: So, he has not done level 1; he said no; he has not.

Mr CONLON: I rise on a point of order, Mr Speaker. Under standing order 98, the minister should not be debating who has got what qualifications.

The SPEAKER: Order! The member will resume his seat. The minister has not yet strayed away to the extent of being in breach of standing order 98, but I ask him to stick to his question.

The Hon. R.L. BROKENSHIRE: It is relevant to the question. I have a level 3; I understand that the shadow leader has an auxiliary.

Members interjecting:

The SPEAKER: Order! I ask the minister to come back to his question.

The Hon. R.L. BROKENSHIRE: Thank you, sir. It is particularly interesting that at last we have seen the facts from some other people who are interested in the new levy, and those facts are from the Australian Labor Party opposition. This is very interesting because, whilst the Leader of the Opposition has deliberately gone out there and misrepresented the facts, I recently picked up some minutes from a meeting in the northern areas where the shadow spokesperson was asked a question. Members may be interested in the question, which went along these lines: if Labor was ever elected to government what would it do about the emergency services levy? Well, here is the answer from the shadow spokesperson, here is the truth, here are the facts for South Australians to hear once and for all today, after three years of carping, whingeing, whining and misrepresenting.

The shadow spokesperson said that it was impossible to abolish the emergency services levy, as they would have to find another tax to get the money. Nothing is more clear. For the first time we have now got the truth on this matter. The Labor Party has misrepresented this to the South Australian community, and they would keep the emergency services levy. When the Leader of the Opposition was last in office the state was in devastation. We saw that he had spots that did not change. They are now coming out: more Mike Rann, if he is put into office, will be more misrepresentation, more untruths and more misleading the South Australian community. They will keep the emergency services levy—guaranteed.

MOTOROLA

Mr CONLON (Elder): Will the Premier table a copy of the letter sent to the Director of Public Prosecutions requesting him on behalf of the parliament to examine the Clayton report for possible breaches of the law arising from the report, and will the Premier ensure that all the evidence gathered by the Clayton inquiry be made available to the DPP for his thorough examination? On instruction, Adelaide barrister Mr Michael Abbott QC—a friend of yours, Michael—has prepared for the opposition an opinion on the Clayton report. Mr Abbott said that to make a conclusive opinion it would be necessary to see all the correspondence, documentary

evidence and transcripts of evidence relied on by Mr Clayton QC in his report. Will the DPP get that evidence?

Members interjecting:

The SPEAKER: Order, the member for Elder and the Minister for Government Enterprises!

The Hon. R.G. KERIN (Premier): As far as the letter goes, I take it that is from the Attorney, and I have no problem with tabling it. I will try to get hold of that. As far as the rest of the question goes, once again, what you need to understand is that the DPP is a very independent office. I do not think we actually need a shadow DPP, as has been put forward. The DPP is independent—

Members interjecting:

The Hon. R.G. KERIN: The report has gone off to the DPP, so the interpretation by others of that report is not the issue. The issue is what the DPP decides to do with it.

FEDERAL LABOR PARTY

Mr SCALZI (Hartley): Can the Premier comment on the federal Labor Party's plan for South Australia and its implication for the state and state opposition's policies?

The SPEAKER: Order! The Premier has no responsibility for that matter. I would have to rule that question out of order.

MOTOROLA

Mr CONLON (Elder): Can the Minister for Police confirm that there was a police investigation into the veracity of the statutory declaration made by the former premier's long-time adviser Alex Kennedy to the Cramond inquiry, an investigation initiated two days after the Cramond report into the Motorola affair was released? The opposition has been informed that the Crown Solicitor had referred Alex Kennedy's statutory declaration to the Police Commissioner by letter on 11 February 1999 for an investigation into whether Ms Kennedy told the truth in her statement. This was despite the fact that Mr Cramond had accepted Ms Kennedy's statement as true.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): Some people are slow learners and, if we go way back, we could reflect on what happened when Labor was in office and the Hon. Don Dunstan was Premier. I know what the Premier did then.

Members interjecting:

The Hon. R.L. BROKENSHIRE: I know that they do not like it now, but let us look at what they did about policing and getting involved back then. We should also look at comment after comment from the people who purport to be an alternative government but who do not know the basics about the separation of powers, so they ask ridiculous questions like that. Why did they ask that question? They did so because they cannot get out of the gutter. They have been there for eight years, 10 years, 12 years, and they are still in the gutter. I do not know what the police do when it comes to operational matters; nor should I.

HOUSE OF ASSEMBLY CLERK

Mr LEWIS (Hammond): My question is directed to the Leader of the Opposition. Will the Leader of the Opposition agree to the formation forthwith of a special committee comprising no more than five members of the House, at least one of whom shall not belong to either the government or the opposition, chaired by an eminent external person who has been the holder of a similar high office and who will not have voting rights on the committee but be competent to advise the committee on the selection and appointment of the next Clerk of the House of Assembly? Sir, with your leave and that of the House, I would like briefly to explain the question.

The SPEAKER: Order! Knowing the question as I do now, I have to rule that the member is not responsible for that particular role in this parliament, so I rule the question out of order.

Mr LEWIS: But he is on behalf of the opposition. With the greatest respect, Mr Speaker, on a point of order, he is responsible, I understand, for the Labor Party as its leader, to indicate to the House what its policy would be in matters that affect the conduct of business in this House.

The SPEAKER: Order! There is no point of order. The question is whether the member is responsible to the House, and on that basis I have ruled the question out of order.

PELICAN POINT POWER STATION

The Hon. G.A. INGERSON (Bragg): Will the Minister for Minerals and Energy advise the House of the importance to South Australia of the new power station at Pelican Point? In his explanation, I wonder whether the minister could give some comments that were made at a meeting recently involving the member for Hart.

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): I thank the member for Bragg for his question because I am well aware how enthusiastic the honourable member and indeed all members on this side of the House have been about the construction of the Pelican Point Power Station. Last Thursday, the new Pelican Point Power Station was officially opened, although, as members on this side of the House at least are aware, and as members on the other side of the House will not admit to, the power station has been building up to full operational capacity for the last few months.

Also last week, a dinner was held to celebrate the official opening of the power station, and I was pleased to represent the government at that dinner. I acknowledge that my colleague the member for Hart also represented the opposition at that dinner.

Members interjecting:

The Hon. W.A. MATTHEW: My colleagues are surprised that the member for Hart was at the dinner because it is a matter of public record that he has continually opposed the construction of the Pelican Point Power Station, but I am pleased to—

Members interjecting:

The Hon. W.A. MATTHEW: Consistently and persistently, as my colleagues say. The member for Hart particularly wanted to be at that dinner and, in the true spirit of bipartisanship for which he likes to be renowned, he approached me on no fewer than four or five occasions wanting to ensure that I would be able to pair with him because the House was sitting at the time the dinner was held. I was keen to ensure that the government was represented at that celebration dinner and I was pleased that the member for Hart could be there because this is a particularly important power station to South Australians.

Members interjecting:

The SPEAKER: Order!

The Hon. W.A. MATTHEW: I know that opposition members do not want to hear this. I know they do not want to have put on the public record the importance of this power station—

Mr Conlon interjecting:

The Hon. W.A. MATTHEW: —but put on the public record it will be, despite the persistent bleatings of the member for Elder. The power station is a modern gas-fired turbine with a capacity of 487 megawatts and, as the owners have announced publicly, with a planned capacity of 800 megawatts by 2003-04. As an example of the efficiency of the new technology at this power station, I point out that it is 50 per cent more efficient than the plant at Torrens Island, which is also a gas turbine.

It is important to reflect on the fact that South Australia has a current peak power demand of around 2 850 megawatts and, therefore, at 487 megawatts so far, Pelican Point can provide some 17 per cent of the state's power needs at times of peak demand, and that is what the Labor Party would have denied South Australians. Let us make no mistake about this. The Labor Party tried to deny South Australians the opportunity to have that 17 per cent extra capacity at times of peak power. That occurred through the persistent demonstrations and opposition encouraged by the Labor opposition. The media would well remember the pelicans on sticks demonstrations. It mattered not where the members of the cabinet and the ministry went (to attend community or cabinet meetings or to speak to people involved in the discussions on the power station): there would be these protesters with pelicans on sticks—in many cases the rent-a-crowd that so often appears at Labor Party inspired demonstrations.

Make no mistake about it: the Labor Party did its utmost to stop that power station from being built, and their antics were certainly frustrating to those who wished to build it. One anecdote that was given at the dinner last week to celebrate the opening involved the comments of a truck driver who had driven from Sydney to Adelaide to deliver materials for the construction of the power station. When he got to the site, there were the demonstrators with their pelicans on sticks. The gathering was told that the truck driver opened the door of his truck and pointed out that he had had a very hard drive from Sydney to Adelaide, that he had hit a kangaroo and a sheep, and that no pelican on a stick would stop him from going through those gates.

It was probably as a result of attitudes such as that of the company and the construction team that, despite the efforts of the Labor Party, once the construction actually started, we were told that it became the fastest constructed facility of its type anywhere in the world—once the construction actually started. That is what the Labor Party wanted to stop from occurring. It was probably at that point that the shadow treasurer might have got a little uncomfortable with what the gathering was being told, because they went further. The gathering was told—

Mr Foley interjecting:

The Hon. W.A. MATTHEW: The member for Hart knows what was said. So that the member for Hart can ensure that all of his colleagues know who was there, at that dinner were senior representatives of the power industry in this state (including pipeliners and electricity and gas heads, whether it be in supply, distribution or retail). So, at that dinner were a significant number of people involved in the industry in this state, and we all heard it put very firmly that last summer there was no power outage at all due in any way, shape or form to any problem at an electricity generation point.

Mr Foley interjecting:

The Hon. W.A. MATTHEW: The member for Hart now acknowledges that. Well, that's—

Mr Foley interjecting:

The Hon. W.A. MATTHEW: Well, that's not what is being said by the Labor members of this parliament.

Mr Foley interjecting:

The Hon. W.A. MATTHEW: The member for Hart is acknowledging—

Mr Foley interjecting:

The Hon. W.A. MATTHEW: The member for Hart is acknowledging that he has not been—

Mr Foley interjecting:

The Hon. W.A. MATTHEW: Well, Mr Speaker, now it is a distribution network. That is an important admission from the member for Hart, because his Labor mates, including at this time those involved in the federal election campaign, are putting literature out into the community claiming that privatisation equals inefficient power. That is what they claim. By saying that, The member for Hart is starting to admit that they are not being truthful.

Mr CONLON: I rise on a point of order, Mr Speaker. I refer to standing order 98. I have been listening with great patience, but the minister has been debating this matter for some minutes.

The SPEAKER: Order! There is no point of order. The minister is entitled to make policy comparisons between both sides of politics and to use question time to do so.

The Hon. W.A. MATTHEW: I am not surprised that the member for Elder is uncomfortable with this analogy. Having the facts put on the record proves that the Labor party has been indulging in a misinformation campaign to the public of South Australia in respect of electricity. Now we have the truth. Whether the member for Hart liked it or not, he had to cop it on the chin and listen to the facts in front of witnesses. The gathering was told that, despite the opposition of the member for Hart to the power station, it has gone ahead and is producing electricity and, what is more, it will generate 17 per cent of the state's electricity during times of peak power needs and its capacity will also be expanded. That marks the contrast between Labor and Liberal—a Liberal government getting on with the job and addressing the state's electricity needs and a Labor opposition doing its utmost to stop us achieving that.

The SPEAKER: The chair called two members on my right consecutively. It is my intention to call two speakers on my left.

MOTOROLA

Mr CONLON (Elder): Will the Premier ask the Director of Public Prosecutions, Paul Rofe QC, to consider whether he intends to direct the police to assist him in his investigation into the Clayton report—

Members interjecting:

The SPEAKER: Order!

Mr CONLON: —so that the police can make available to Mr Rofe any evidence they may have relating to Alex Kennedy's statutory declaration to the Cramond inquiry? The DPP has the power to direct the police to assist his investigation under section 10 of the Director of Public Prosecutions Act.

The Hon. R.G. KERIN (Premier): The DPP has been asked to look at the report and to make a decision on whether

further action is required. I cannot see any reason why I should interfere in that process.

Mr ATKINSON (Spence): Will the Premier forward the Clayton report to the Commissioner for Public Employment so that he can examine whether the former CEO John Cambridge and the former adviser to the Premier Alex Kennedy were in breach of their employment contracts and, if so, whether any means are available to the government to claw back the payouts that were made to them when their contracts were terminated? The Treasurer has confirmed in parliament that Mr Cambridge was sacked by the government last month and took with him a payment of $250 000. Ms Kennedy is understood to have been sacked last week.

The Hon. R.G. KERIN (Premier): The report, as the member knows, is now public. In regard to the member's request to have it referred to the Commissioner for Public Employment, I will take advice on that.

STATE ECONOMY

Mr SCALZI (Hartley): Will the Premier outline to the House the current strengths of South Australian economic performance and correct misleading statements about how the state is performing?

The Hon. R.G. KERIN (Premier): I thank the member for Hartley for the question. Despite the views of some, the South Australian economy is performing extremely well and, in fact, our recent performance has been consistently better than that of other states. I think the facts are—and we would like these to be conveyed to the federal Leader of the Opposition—that for the last five years and, with this year, certainly six years, the rate of growth per capita has been the second highest in Australia. Access Economics describes South Australia as the untold economic success story of Australia; the National Bank says that South Australia has recorded the strongest business conditions of all states; and South Australia leads the nation in important economic indicators such as export growth, business investment growth and, importantly, wages growth.

The Beazley plan, which was released last week, purports that South Australia's economic performance has been consistently worse than that of the rest of the national economy. When we look at our performance figures, we find it somewhat puzzling that, what was supposed to be a very important policy document, can make such a statement. That so-called plan is very much the same sort of nonsense as the Labor Party put out in 1998 prior to a federal election. It is a compilation of motherhood statements. There is a lack of costings or any resource commitments within the statement. It reannounces a lot of national schemes, which specifically are not at all beneficial to South Australia, and it picks up on some of the Liberal Government policies which are occurring already.

The most annoying part is that it is based on a false and negative picture of South Australia, and it really makes you wonder from where Mr Beazley gets his information, because the last thing we need in this environment of growth in South Australia is people talking the economy down and trying to undermine the confidence that is there.

One of the specific proposals contained in the plan states that 'Labor will establish a defence cluster in South Australia.' The defence industry in South Australia is worth over $2 billion a year and employs 16 000 people, so to talk about establishing a defence cluster is absolute nonsense. It has been a very successful industry within South Australia. We have just opened the new defence precinct to cater for further expansion of defence firms, and discussions are already occurring with several companies. So, very misplaced—

The Hon. Dean Brown interjecting:

The Hon. R.G. KERIN: I think they are trying to pick up on what we have already done actually. Once again the health statement within Mr Beazley's statement is full of rhetoric and contains very few specifics. About the only commitment that we can find within health is $15 million for the QEH, which sounds good until you read the fine print. A condition is that the Rann Labor government puts in $53 million. So, $15 million from federal Labor, if we put in $53 million. What it does ignore is the fact that we have more hospital beds per capita than any other state.

The government is about listening to people and improving government services for the people of South Australia. We are proud of the state and what it has been able to achieve, and it does not deserve to be talked down. Many people deserve a pat on the back, rather than the performance of South Australians being talked down constantly. People are getting sick and tired of that approach and we will not be part of it. The people of South Australia want us to get on with the job, which is what we are doing. They are sick and tired of the political games that are being played, including misrepresenting what is happening.

People are working very hard to increase the export performance and the general wealth of South Australians. We are about improving the state for everyone and we will not take our eyes off the ball. I invite the opposition to consider the wants and needs of all South Australians, to talk it up and let us get on with the job.

CLAYTON REPORT

Mr ATKINSON (Spence): Will the Premier guarantee that any legal advice being sought by the former Premier into a possible judicial review of the Clayton report will not involve the use of taxpayers' money, and that any such review would not interfere with the examination currently being undertaken by the Director of Public Prosecutions into the Clayton report? A media report last Saturday quoted the Premier as saying:

> If in fact under judicial review John Olsen was cleared, any assumption he wouldn't come back to the front bench would be absolutely flawed.

The Clayton report, set up on terms—

Members interjecting:

The SPEAKER: Order! Members on my right will come to order!

Mr ATKINSON: The Clayton report, set up on terms agreed to by the government, found no document, no witness and no evidence whatsoever to support the Premier's case, apart from the statements of the Premier and Mr John Cambridge, who later changed his testimony.

The Hon. R.G. KERIN (Premier): That question demonstrates how totally desperate the opposition is to rewind and replay the issues of the last couple of weeks. There have been reports and resignations, and that is a big price to pay. Given that clear public statements have been made by the member for Kavel, that is just a desperate question. The answers to that question are well known. It is just yet another attempt to rewind what happened last week.

Members interjecting:

The Hon. R.G. KERIN: You might be better off asking the same questions as you asked last week, because that question has already been answered.

INDIGENOUS INFANT MORTALITY RATES

Mrs PENFOLD (Flinders): Will the Minister for Human Services outline the progress that has been made in relation to indigenous infant mortality rates in South Australia?

Members interjecting:

The SPEAKER: Order, the member for Elder!

The Hon. DEAN BROWN (Minister for Human Services): We all know that indigenous health has been very poor across the whole of Australia. Just prior to this Liberal government's coming to office, I can recall a prominent Australian saying to me that the level of infant death among indigenous Australians was absolutely appalling and that something had to be done about it. This government has implemented a number of different programs to bring down the infant mortality rate within the Aboriginal community of South Australia. It is interesting to see the extent to which we have been very successful indeed, particularly in the settled areas of South Australia, including Adelaide, Port Augusta and some of the other towns, where the infant mortality rate now within the indigenous community has been brought down to the same level as that of the non-indigenous community.

That is a quite significant achievement, particularly when you realise that across the whole of Australia the death rate—and these are averages for the whole of Australia—in the indigenous community for infants is 14 for every 1 000 deaths, and for non-indigenous Australians it is five. It is approximately three times higher for indigenous Australians than it is for non-indigenous Australians. For us to have now brought down the mortality rate for indigenous Australians across South Australia to a level almost identical to that of non-indigenous Australians in more settled areas in South Australia is a huge achievement indeed.

We have undertaken a number of programs to help bring down the infant mortality rate in the more remote parts of the state, in particular the AP lands in the north-west. We have introduced a nutrition program, and a coordinator has been appointed. That program is aimed at increasing the nutrition level of the mother during and immediately after the pregnancy, and ensuring that young children have an appropriate level of nutrition as well. We have initiated an important program to reduce the level of smoking. There is now clear evidence that heavy smoking during pregnancy will substantially increase the chance of premature death and light birth weight of an infant.

We also have a health education program among indigenous women. In the northern suburbs of Adelaide we have a post-partum program, a marvellous program that has been used overseas for a number of years. We have now brought it to South Australia. It is a pioneer program for the whole of Australia. In that program we use younger women who are unemployed, and we train them in terms of bringing up infants. When a mother gives birth at the Lyell McEwin Hospital, she will be able to go back home after six or eight hours to be with the rest of the family, and a post-partum home assistant would then immediately move in to help look after the rest of the family as well as the new baby.

A number of indigenous Australians have been included in that program. We are imparting on those people the significant skills of mothering and child rearing, and to help other women, as well, to bring up their children and give them advice during pregnancy. Through these programs we are finding that the infant mortality rate for indigenous Australians is dropping. In fact, the figures show that in 1999-2000 we had a very substantial drop. Indeed, the death rate per thousand births has dropped from 18 to 11 for indigenous Australians across the whole state. Not only have we succeeded very significantly in the settled areas of the state but also we are starting to succeed, and we have a number of programs to bring down the infant mortality rate, in the more remote parts of the state. I think it will go down as one of the significant achievements in the health area, particularly in indigenous communities in South Australia. I compliment all those who have been driving those programs for the success they are now achieving.

FESTIVAL OF ARTS

The Hon. M.D. RANN (Leader of the Opposition): Has the Premier met yet with the Chairman and the board of the Adelaide Festival; and does he have total confidence in the Artistic Director of the 2002 Festival, Mr Peter Sellars?

The Hon. R.G. KERIN (Premier): I have not met with the chair, but a lot of work has been done over the past few days since the unfortunate headline in Saturday's newspaper. That advertisement never actually played, and what we had was an article in the newspaper. That was somewhat unfortunate, but that is where we are. I believe the processes put in place over the weekend and the way it was handled were satisfactory. In relation to the director of the Festival, he is well known and world renown as one of the top people in his field. I do not think it was particularly the director of the Festival who was responsible for the advertisement. It is unfortunate that the advertisement, which, as I said did not play, did not go through what we consider to be the correct processes. That has all been fixed up. The second advertisement went through the correct process on Sunday afternoon. From now on, all advertisements for the Festival of any significance will go through the right procedure.

HOUSE OF ASSEMBLY CLERK

Mr LEWIS (Hammond): Mr Speaker, my question is directed to you. Will you consider the means by which the House could form forthwith a special committee, comprising no more than five members of the House, at least one of whom shall not belong to either the government or the opposition, chaired by an eminent external person who has been the holder of a similar high office and who will not have voting rights on the committee but be competent to advise the committee, on the selection and appointment of the next Clerk of the House of Assembly and report back to the House?

Our current clerk, Mr Geof Mitchell, who has served this House long and well and whom we hold in great esteem, has stated his intention to retire at the next election. May I say that, as usual, the government has not been told of my intention to ask this question, nor have I discussed it with the Leader of the Opposition. May I also explain that as usual it is not asked out of malice or mischief aforethought. All members of the House know that an election could occur at any time and that there is a very significant probability that the composition of the House in the next parliament could result in a hung parliament, with no group or party having an absolute majority.

Sir, neither you nor the Deputy Speaker will be a member of this House after the next election if your public statements can be relied upon, as I believe they can. It is therefore unwise for us to contemplate a situation in which we have no Clerk to direct the proceedings of the election of Speaker, and whomever may assume that task, in the event that we make no appointment before that time, would be in an untenable position if they were to become an applicant for the position. Equally, may I explain in prospect, we should ensure that the proceedings of this chamber should not become disputed by the actions of any member which could result in an attempt by a member or members to make those proceedings the subject of litigation in another court and thereby create an horrendous constitutional crisis.

Members interjecting:

The SPEAKER: Order! The honourable member seeks my concurrence to consider the proposition that has been put to me. I am happy to consider the proposition, particularly the detail contained therein. I suspect that there are in there a couple of issues about which I might have some concern, but I am very happy to look at the proposition. I am also acutely aware of my responsibilities traditionally based on the past appointment of officers such as our clerk, and the responsibilities of us all in determining who the new clerk will be. I can assure the House that those matters are already exercising my mind. However, I am very happy to consider the proposition and report back to the House in due course.

FESTIVAL OF ARTS

The Hon. M.D. RANN (Leader of the Opposition): My question is again directed to the Premier. Did the arts minister, Diana Laidlaw, inform him on Friday of the Adelaide Festival's proposed advertisements featuring Adolf Hitler, and will he say when the rule was established that all advertisements for the government, its departments and statutory authorities had to be previewed and approved by a committee that includes the Premier, the Treasurer and Mr Chris Kenny? When was that rule actually put in place?

The Hon. R.G. KERIN (Premier): I did not speak to the arts minister until early Saturday morning after it appeared in the *Advertiser*. As far as the communications committee is concerned, I will have to ascertain the date, but it must be 18 months to two years, or even longer, that that rule has been in place; it might even be longer. I was not initially a member of the committee, which looks at advertising campaigns across the broader range. It seems that the people involved in the arts thought that they were exempt because of statements made by a person who was previously in government. However, that is not the case and the matter has been reaffirmed. I have signed a memo that will be sent to all agencies informing them that all major campaign advertising has to go through the committee.

Members interjecting:

The SPEAKER: Order! The members for Hart and Mitchell will come to order.

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order, the member for Stuart!

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order! I warn the member for Stuart.

WATER, USE

Mr WILLIAMS (MacKillop): Will the Minister for Water Resources outline to the House what further steps he has taken to clamp down on water cheats?

The Hon. M.K. BRINDAL (Minister for Water Resources): I thank the member for MacKillop for his question; there would be few members in this House as interested in water as he is. The protection—

Ms White interjecting:

The Hon. M.K. BRINDAL: The member for Taylor acknowledges that she is another. The protection of South Australia's ground water resources, particularly our allocation from the Murray River, is of paramount importance to this government. The taking and using of our precious water resources must be carefully managed to ensure ongoing economic prosperity so that water is available for future generations.

On 1 June, I announced new charges to crack down on people overusing their water allocations or illegally using these resources. I want to make it clear that this government has no argument with the overwhelming majority of decent and thoughtful water users of this state. Indeed, the government praises the 99 per cent of law-abiding South Australians who understand the nature of our precious water resource and use their licences accordingly. In particular, I praise the—

The Hon. R.L. Brokenshire: McLaren Vale region.

The Hon. M.K. BRINDAL: —McLaren Vale region and the local members who have worked very hard to ensure that water is properly husbanded in that area—at some sacrifice to them all. Our message is simply that water is a finite resource and, if it is used beyond its sustainable limits, it may take decades or, in some cases, centuries to replenish.

An honourable member interjecting:

The Hon. M.K. BRINDAL: Well, you'd be a good one to talk. That is why the government will not put up with people stealing the resource from South Australians now or from future generations. Nor will we allow licensed water users to recklessly exceed their allocation year in and year out. Most members will know that I have written to every licensed water holder—

Mr Koutsantonis interjecting:

The Hon. M.K. BRINDAL: The member for Peake might be interested in this answer. Most members will know that I have written to every licensed water user in South Australia warning of my intention to cancel, suspend or vary any water licence when overuse occurs on a regular basis. In those letters, information was provided of the licensee's water use for 2001-02, and I challenge the shadow minister for water resources to make the same pledge in this parliament, that persistent overuse will result in the cancellation of the licence. He is indicating the ALP's concurrence on this issue, so abusive water users should take note. The letters also set out significant financial penalties that the government has introduced to provide a disincentive for overuse of water.

Today's *Advertiser* carries an article describing how the Department for Water Resources' Investigations Unit, together with the Crown Solicitor's office, has launched the first ever application of civil enforcement under section 141 of the Water Resources Act. As a result of information received by the unit, lengthy investigations were carried out into claims of illegal irrigation being conducted by a Northern Adelaide Plains commercial vegetable irrigator and his associated company. Investigations Unit members—

The Hon. M.D. Rann: Well done.

The Hon. M.K. BRINDAL: The Leader of the Opposition says 'Well done.' I hope Hansard records that for the member for Taylor. Investigations Unit members, along with specialist staff from other agencies, including STAR Force Division officers, went to an Angle Vale property and carried out a site inspection where further evidence of alleged illegal irrigation was gathered. Both the individual and the company involved in this instance have been served with summonses.

Members interjecting:

The Hon. M.K. BRINDAL: I note members opposite make some comment about the STAR Force. As this is a matter before the courts, if they want to see me afterwards, I will explain why the STAR Force was absolutely necessary in this case. As I have received advice not to disclose at this stage the identity of the Angle Vale irrigator who is alleged to have been taking water illegally, I will outline only that which is contained in the summons. I am seeking from the Environment, Resources and Development Court orders that the respondents refrain permanently from taking water from the well on the land, that the respondents forthwith backfill the well on the land, and that they pay exemplary damages.

At present, we calculate the order of water taken illegally to have been $48 000, and exemplary damages and costs will be applied to that. I point out to the House that, were that same act to have occurred this irrigation season, the value of the illegal water taken would be something of the order of $125 000 as the starting point.

To conclude: individuals and companies who mistakenly believe that they can flout the law are in for a shock. Recovery and financial penalties for overuse and unauthorised use will be pursued to the full extent provided in the Water Resources Act and may even include, if necessary, the sale of land upon which the licensed water allocation was taken and used.

INSECTICIDES

Ms KEY (Hanson): Will the Minister for Human Services report on the claim that much of the fresh fruit and vegetable produce entering South Australia is sprayed with fenthion or dimethoate insecticide just before sale to consumers, despite the existence of alternative, safe, disinfestation treatments? I am advised that fenthion and dimethoate are organophosphate poisons and that, in the USA, the UK, the European Union and Taiwan, fenthion residues are not permitted in any food whatsoever.

The Hon. DEAN BROWN (Deputy Premier): I presume that the honourable member's question has been directed to me as the Minister for Human Services and, therefore, public and environmental health. Initially, I thought it might have been a primary industries question. I will need to take advice to see to what extent that is the case, and I will certainly bring back an answer to the House.

DRY ZONES

Mr HAMILTON-SMITH (Waite): Will the Minister for Police update the House on the implementation of the Adelaide city dry zone?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I thank the honourable member for his question, because I know of his interest in this matter. This is another initiative to help ensure that the streets, etc. around and in Adelaide are safe. That is very important when you consider the growth in economic development and tourism (particularly convention tourism) that we are seeing in Adelaide and South Australia.

I can report to the House that, effective as from yesterday, the dry zone is now in force. This dry zone prohibits the consumption or possession of alcohol in any open container within the city precincts. Many months ago, the government and the Lord Mayor, when they were working so hard through this difficult issue of dry zones—an issue which has been discussed and kicked around for many years that I can recall without anyone actually taking the initiative and having the foresight and strength to drive it through—copped quite a lot of hysteria from some quarters. In fact, the government and the Adelaide City Council—and, I believe, the police—were vilified by a noisy minority.

That disappointed me at the time because, as police minister, I have often spoken in this House about the importance of being serious about an issue at all times, not just when you want to get a one-liner into the media. It is important to be serious about these most important issues when we are looking after the well-being and interests of the South Australian community and their visitors. We literally had to flush out a response from the Leader of the Opposition. He came kicking and screaming finally to support the government and the city council on this very important initiative. At that time, the Leader of the Opposition (Hon. Mike Rann) called for an holistic approach. He said that he wanted to see balance and money spent on a stabilisation centre. We all know that that was always part of the plan. In fact, $500 000 of state government money was provided—

Mr Atkinson interjecting:

The Hon. R.L. BROKENSHIRE: Yes, it was. It was always part of the plan. The member for Spence should not misrepresent the facts again. There was always $500 000 available. I know that, and I will tell the House why in a little while. We are balanced about this. For the benefit of all members, I put on the public record today and advise the House that a balanced approach to dry zones from a policing point of view will be there. The police have commenced an eight week education phase within both the central business district and North Adelaide. This is not a heavy-handed approach; when new legislation comes in, we often have an eight week education phase. During this time, information brochures will be distributed to a range of community sectors that are interested in this issue to ensure that they are well aware of this new and innovative legislation.

The police will give people the opportunity to dispose of alcohol immediately without penalty during that period. So, during this eight week period—like an amnesty—there will be education and there will be no pressure on people. They will be asked to pour the alcohol down the drain. If they do not do that, the police will confiscate it. This is all about a balanced approach. It is typical of what we see with the South Australian police. I have said many times that one of my greatest privileges and something in which I take great pride is being Police Minister, because not only do we have the third oldest police force in the world we have the very best.

This initiative, together with a record police budget and the fact that we have 203 additional police coming into the police force over a two year period, is another way of helping to keep the streets safe. Of course, it takes into account other issues that we on this side of the House are very serious about such as our Tough on Drugs strategy—I refer to operations such as Mantle and Counteract—and we now know that, in the local service area of Adelaide as a result of the increased police budget, we have six officers dedicated to the policing

of drug trafficking. That is important because, sadly, far too often alcohol abuse and misuse go hand in hand with illicit drugs. So, together with the increase in operational mounted police officers in the streets—who sit high and can look down alleys and over fences—is a range of initiatives that the police and the government are putting forward with the City of Adelaide.

We cannot keep the community safe by ourselves. There has to be a partnership between police, obviously, from a law enforcement point of view; the state government in regard to crime prevention; and local government (the City of Adelaide has cooperated in this). I also commend a range of key stakeholders who have been proactive in regard to supporting this important initiative.

Before the dry zone trial—only in the last week—I walked through parts of Adelaide and saw broken glass, which we know is a result of people having had a stubby or another form of alcoholic drink leaving broken glass on the kerbside. Of course, the Hon. Leader of the Opposition often has a whack about knives when he wants to make a gain on a one-off topic, but this government has a very good legislative structure in place.

Police reports about crimes show that broken glass is one of the most serious weapons, particularly in an unpremeditated situation involving violence. When something goes wrong, a person will pick up a bottle. Of course, the dry zone will not allow that because of the factors that I have just highlighted.

I commend all the people in government and in key stakeholder groups who work cooperatively with the City of Adelaide, because for two—

An honourable member interjecting:

The Hon. R.L. BROKENSHIRE: Well, we will talk about the opposition. For two years I met with the previous Lord Mayor, and I could not get anywhere on the importance of being serious about a dry zone. In fact, as the honourable member for Bright said, the previous Lord Mayor, the left wing candidate in the seat of Adelaide, Jane Lomax-Smith—

The SPEAKER: Order! The minister will come back to the question.

The Hon. R.L. BROKENSHIRE: We could not get anywhere with the Labor candidate for the federal seat of Adelaide when she was Lord Mayor, but, boy, have we got a long way with the existing council. I am pleased to see this initiative.

PALLIATIVE CARE

The Hon. DEAN BROWN (Minister for Human Services): I seek leave to make a brief ministerial statement.

Leave granted.

The Hon. DEAN BROWN: I am pleased to table the Annual Report to Parliament on Palliative Care in South Australia. Palliative care involves families, carers, friends, communities, service providers, volunteers, educators and the clergy. I pay a tribute to all those people whose care and compassion enables them to continue to ensure that South Australia has a high standard of palliative care services.

As members may be aware, the importance of palliative care has recently been highlighted by National Palliative Care Week, which ran from 7 to 13 October this year. The theme for National Palliative Care Week in this, the International Year of Volunteers, was most appropriately called 'Volunteers—an integral part of palliative care'. I cannot overstate the importance of the role that volunteers play in the delivery of palliative care. They support palliative care teams in the provision of a variety of services, including inpatient care, bereavement services and assistance to families in the home. Volunteers and community networks provide invaluable social, emotional and practical support. To use the words of one volunteer:

> It is really hard to describe the feeling of satisfaction that I would have—that I, who is just an ordinary everyday sort of person with no extraordinary powers, could give someone some comfort and peace. . . just being there for someone. . . an independent person whom they can confide in.

I can assure volunteers that they are highly valued for their outstanding contribution, and I pay particular tribute to them. It is entirely appropriate that, in the International Year of Volunteers, during National Palliative Care Week their contribution was recognised and celebrated as an integral part of palliative care.

The report again is set against the background of the South Australian Strategic Plan for Palliative Care Services 1998-2006 and highlights achievements over the previous calendar year. While it is pleasing to note that the priorities to 2001 have largely been met, the challenge is to strengthen palliative care services to meet future demand. The government, through the Department of Human Services, is reviewing palliative care demand and services to determine current population and demographic trends and predicted service requirements on a statewide basis.

Paediatric palliative care needs will be specifically evaluated, as will the palliative care needs of Aboriginal people and people of non-English speaking backgrounds. The outcome of the review will be to set a direction for achieving appropriate service levels to support demand. I commend the report to the House.

SIGNIFICANT TREES

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I table a ministerial statement made in another place by the Minister for Transport and Urban Planning detailing the state's Significant Trees Package, which won the Royal Australian Planning Institute's award for planning excellence.

SOCIAL DEVELOPMENT COMMITTEE: BIOTECHNOLOGY AND FOOD PRODUCTION

Mr SCALZI (Hartley): I bring up the 15th report of the committee, on an inquiry into Biotechnology—Part 2—Food Production, and move:

That the report be received.

Motion carried.

GRIEVANCE DEBATE

The Hon. M.D. RANN (Leader of the Opposition): On Friday I wrote to the Premier, and I will read the letter in full lest there be any attempts to try to reconstruct or rewrite history. The letter states:

> Dear Rob,
>
> The events of the past few weeks which have led to the resignations of the Minister for Tourism, the Hon. Joan Hall MP, the Cabinet Secretary, the Hon. Graham Ingerson MP, and last week the

resignation of the Premier, the Hon John Olsen MP, are deeply disturbing.

Both the Auditor-General's Reports and the Clayton Report reveal serious problems within government that must be addressed as a matter of urgency if we are to begin to restore public confidence in our system of government. Both reports have highlighted systemic dishonesty, abuse of process, conflicts of interest, as well as an arrogant contempt for Parliament, its committees and even judicial inquiries.

I believe it is vitally important, in the interests of the people of South Australia, that immediate action be taken to address these abuses and to restore integrity to government. I therefore propose that, before parliament resumes next week, you and I should meet together with the Auditor-General, the Solicitor General, the Ombudsman, the Speaker and the President to develop a positive plan to improve standards, and begin to repair the damage.

I am proposing that there should be an immediate review of the Cabinet Code of Conduct relating to conflicts of interest and the sanctions that must apply if this Code is breached. There should also be a review of the Auditor-General's Act to see whether it can be strengthened so that we do not again see the invidious spectacle of a government using its numbers in the parliament to prevent the Auditor-General appearing before and giving evidence to select committees—

The Hon. G.M. GUNN: Mr Speaker, I rise on a point of order. The Leader of the Opposition has again made improper imputations against a committee which he knows are inaccurate, and I again refer him to standing order 385. He is reflecting on a ruling made by impartial table officers in relation to that matter.

The SPEAKER: The chair was talking to an honourable member and thus was distracted. I am not in a position to rule on that. If the member's point of order is correct, then the member should withdraw, but at this stage the chair is not familiar with the terminology.

The Hon. M.D. RANN: The letter continues:

There should also be a review of the Auditor-General's Act to see whether it can be strengthened so that we do not again see the invidious spectacle of a government using its numbers in the Parliament to prevent the Auditor-General appearing before and giving evidence to select committees.

The SPEAKER: There is no point of order.

The Hon. M.D. RANN: I can see now why you got dumped as Speaker. The letter continues:

We have also seen the Auditor-General this year forced to appeal to parliament for changes to the law to protect him against taxpayer funded legal action by ministers and all of this while he was undertaking an inquiry requested by the parliament and endorsed by the government. I also believe that the Ombudsman's powers should be extended and [freedom of information] rules be reviewed.

I am suggesting that the Speaker and the President of the Legislative Council should be involved in our discussions so that we can review parliamentary standing orders in relation to ministers who have been found to have deliberately misled the parliament.

Given that this governments's four year term concluded two weeks ago, it is vitally important that we demonstrate to existing and future MPs that the breaches of standards revealed in recent months are totally unacceptable.

I am sure you will agree with me that it is in the clear public interest for this process to begin immediately. I am therefore proposing that our first meeting should occur before the resumption of parliament on Tuesday so that we, in this pre-election phase, can demonstrate there is a bipartisan commitment to attacking dishonesty within government, improving standards and lifting public confidence in our system of government and parliament in South Australia.

Because my time has been wasted by the former Speaker, I can say that I have received a copy of a reply from Rob Kerin, who takes exception to the inferences in my letter, but he does say that he is committed to improving constantly the standards of parliamentary behaviour.

He also goes on to talk about dealing with serious issues and addressing the 'serious issues that matter to South Australians in an orderly manner'. The Premier must realise that dishonesty in government is a serious issue. If he does not realise that, then he is the only person in South Australia who not only sees no evil, hears no evil but apparently does not want this parliament to speak of that evil.

The Hon. G.M. GUNN (Stuart): It is interesting to follow the leader, who suddenly has left the chamber to do his press briefing in relation to that political exercise in which he was just engaged. It is also interesting to note that he has not even read the Constitution Act properly, because the last time the Constitution Act—

Mr Hanna interjecting:

The Hon. G.M. GUNN: If the honourable member is a little patient: he is particularly agitated at the present time, because he knows—

Ms Rankine interjecting:

The Hon. G.M. GUNN: Of course, I am quiet and peaceful. I am normally shy and retiring. The honourable member seems to have taken a lot of interest in what I had to say. Let me say to the honourable member that the last time the Constitution Act was substantially amended was during the time of the Bannon government in which the Leader of the Opposition was a minister. If you read it correctly, you start counting for the next election from the first day parliament sits. The clock begins the first day that parliament sits—

Mr Clarke: 2 December.

The Hon. G.M. GUNN: You are dead right. The effective former Deputy Leader of the Opposition, the member for Ross Smith, understands that. I could not expect the current one to understand—she gets the pay but he does most of the work for her, and that in itself is an injustice. However, that is the first point in relation to the comments of the leader. He has gone on at length and bleated about the Auditor-General's not being able to appear before a parliamentary committee. I did not make the rules, and the leader ought to have been aware that that was the rule.

I will now refer to the next matter that I want to raise in this debate. I want to thank the Minister for Transport for being very flexible and allowing people in rural areas to obtain limited semitrailer and other truck licences by being tested by local police officers. This is something that is long overdue and the minister has been most understanding. This is helping dozens of people at the present time, and it is appreciated. I thank the minister for her help and consideration in this particular matter. Many of these people want to use these licences for only three or four weeks a year. They are experienced in driving all sorts of heavy vehicles and machinery. They do not want to come to Adelaide to obtain their licence, and the restricted licence that they are now able to get has helped many of them.

It is another example of this government's being practical and understanding that you have to cut through bureaucracy to ensure that commonsense prevails. It will also apply to constituents of the member for Giles, and some of her people will be exercising this right. It is a commonsense thing and it is important that people recognise it. I am raising it today to ensure that as many people as possible take advantage of this particular benefit—

Ms Rankine interjecting:

The Hon. G.M. GUNN: For once the honourable member is smiling. She does not normally smile—it is a great occasion. Instead of eating lemons, she is really smiling. We are pleased that she is happy. Of course, she has always been happy with me—

Ms Rankine interjecting:

The Hon. G.M. GUNN: I am a happy character, and I appreciate the honourable member's concern. The other important decision which the government has made is one that will help the export industry in rural South Australia and will ensure that a deep sea port is constructed at Outer Harbor. This will have tremendous benefits for the exporting sector of our economy. As far as exports are concerned, we have achieved great things in the last few years within the wine industry, the grain industry, the motor vehicle industry and others.

This will help all those industries. For each tonne of grain that is exported, between $6 and $10 extra will go back into producers' pockets. That money will be reinvested in local communities and it will be of great benefit to the people of South Australia. There will be another huge grain harvest this year. Rural South Australia has never looked better—

Ms Breuer interjecting:

The Hon. G.M. GUNN: No, I think we are very fortunate. The good Lord has looked after us, and hopefully, for the benefit of all South Australians, it happens again next year, because lots of people will get work out of this and lots of people will be put on a sounder financial footing which is good for all South Australians. We in this House ought to be working towards ensuring that we take steps that will benefit all South Australians, no matter what sector they come from and where they live, because that is what we are here for. We are not here to engage in ongoing nasty, personal vendettas against people: we are here to try to improve the state—

Time expired.

Ms RANKINE (Wright): The deal is done, the documents are being prepared and now my community awaits with great anticipation the development of the Wynn Vale community oval, finally, to get under way. This has been a matter of contention for some considerable years and is another example of constant delays and excuses preventing a long promised development of a community facility in Golden Grove. However, late last week I was delighted to receive a letter from the Tea Tree Gully council confirming that plans are currently in hand to call for tenders for the oval's development, and the development is scheduled to begin once this process is finalised. I know residents will be delighted to see this project finally come to fruition. I have been working with residents and lobbying the council about this issue since my election in 1997, and it has been a long, hard struggle.

Ms Bedford: That's four years, isn't it?

Ms RANKINE: It is four years. Sadly, in order for the Tea Tree Gully council to agree to proceed with its obligation to develop the Wynn Vale Oval, the community had to once again allow the sale of land that was allocated for active recreation. Once again, it is my community which has to pay to meet a council obligation. The only positive aspect of this is that the land has not been sold off for housing. This land has been purchased by King's Baptist Grammar School to provide a range of school facilities which I understand will also benefit the general community. I have been advised that the final agreement was reached a little over a week ago, and the final paperwork is now being drawn up for signature and the transfer of funds. Council tells me the oval design has been completed, so it would appear that we are in the final stages of having construction of this facility commenced. The Wynn Vale Community Oval was scheduled for completion in 1991-92. Ten years after its scheduled completion date, it stands barren, dusty and weed infested. Every time I knock on doors in this area, residents tell me that they purchased their homes in this area because their children would have access to a clean, green open-space area in which they could play. Those children are now grown-up, and still we wait for this development to start.

Many local sporting clubs in Golden Grove are also desperate for sporting facilities and would have welcomed access to the Wynn Vale Community Oval. They have also been pretty much left out in the cold. They have been refused access to the oval, with clubs such as the Golden Grove Cricket Club being forced to play in Elizabeth last season because no facilities were available locally.

Despite this oval being identified as part of the active recreation area required under the Golden Grove Indenture Act, the council has indicated that it is unlikely to allow organised sport to access the oval. Of course, this further exacerbates the impact of its decision to also not develop the Golden Grove District Sportsfield. Nevertheless, to finally have agreement to proceed with the Wynn Vale Oval is great news for local residents who not only have been extremely patient but have been persistent and unrelenting in their push to have council fulfil its commitment.

I have raised another issue consistently with the Tea Tree Gully council. In 1999 I commenced discussions and wrote to the then mayor of Tea Tree Gully because of my concern about issues involving young people in our community. I held discussions with local high school principals and encouraged them to initiate a program at the Golden Grove High School campus, aimed at addressing the lack of involvement many students were experiencing. I also engaged a university intern to establish the framework of a program on which the schools would operate to involve the students. I was very pleased to have the support of the Delfin property group which made a considerable donation towards the cost of leadership training for young people.

At that time the council initiated a review of issues in relation to sporting and recreational needs for young people in our community. On anyone's assessment they have been a dismal failure in providing those facilities. I am pleased that, after years of lobbying the council, it has now agreed to establish a youth advisory subcommittee of council. Hopefully, that will raise its awareness of young people's needs and interests in relation to the council and its decisions. I understand 10 positions will be made available for young people aged between 12 and 25 years, and they will have a membership period of approximately one year. A community can only benefit by the involvement of young people, and I congratulate the council on this move.

Time expired.

The Hon. D.C. WOTTON (Heysen): Mr Speaker, a few weeks back you and I, along with other parliamentary colleagues, had the opportunity to visit South Korea. Unfortunately, at that time some criticism was levelled at that trip by the media, who rather suggested that it was some sort of a jaunt and that nothing would be gained from it. As members from both sides of the House and an Independent made this voyage across to South Korea, most members would realise that a parliamentary delegation was sent there. It proved to have very satisfactory results, with the signing of a memorandum of understanding and a great deal of knowledge being gained about South Korea, particularly about its parliamentary structure. Of course, we went there as a result of a direct invitation of the Korean people who had

visited South Australia on a couple of occasions, and were very keen to see parliamentarians return that visit. However, I do not want to go into that matter in a lot of detail.

One thing that impressed me while we were in South Korea was the public works being carried out in that country, especially relating to transport. We had many opportunities to travel through tunnels and over viaducts, and we enjoyed tremendously seeing the amazing engineering feats that have been recognised in that country. I was particularly interested in the tunnelling aspect of all that, because for a long time I have felt that we should be doing a lot more about the use of tunnelling for transport routes around the city of Adelaide.

We are very proud of the Heysen Tunnels we now have that enable people to move backwards and forwards from the Hills a lot more easily than they have in the past—and, of course, through to Melbourne and beyond—but we have not made much effort in looking at how we can use tunnelling more effectively. It was not long ago that I took a gentleman who has done an enormous amount of work on using the tunnelling extensively to provide an improved ring route around the city of Adelaide. We went to see senior officers of the Department of Transport who unfortunately later told us that it was just out of the question because of the cost factor. That is why I was interested to receive material from South Korea which has given me a lot of detail re the costings there and the way it has gone about it. The technology there is quite amazing.

This is the case with a Cairns company which has sought global opportunities for its undergrounding innovation relating to the difficult task of laying underground electricity cables. It has been revolutionised with a new machine designed and built in Cairns which has attracted a significant amount of attention across the international electricity industry. Testcorp Hydraulics despatched that first machine to Auckland last September where it is playing a major role in rebuilding the power supply system of New Zealand following its dramatic blackout more than a year ago. We will hear a lot more about the innovation we have seen through the development of this product. I hope that we will see and hear a lot more about the advantages to be gained as a result of the use of tunnelling and the use of expertise we have been able to recognise overseas to help us with this process. I have that material and would be very happy to make it available to any member of the House. It certainly is worth reading and could be used very effectively in South Australia in the future.

Time expired.

Ms BREUER (Giles): Today I want to speak about two issues which are vital to regional areas of South Australia and about which this government appears to be burying its head in the sand. Recently, I visited the hospital in Coober Pedy. There have been some exciting advances at the Coober Pedy Hospital, which seems to be entering a period of stability with a new CEO and new doctors in the community. I certainly hope that is so, because the past 12 months has had its problems. A crisis point seems to be approaching because of an acute shortage of nurses and the inability to attract nurses to the area. I know this happens not just in Coober Pedy but also across the area, including Whyalla.

Nurses in those areas work very long hours, including double shifts quite often, because they do not have back-up support to relieve them. In places such as Coober Pedy there are fears that, if there is a major emergency such as a bus crash in the area, real problems could result. I am told there are many reasons for the failure to attract nurses to these areas but, basically, there seems to be no real incentives for them to go to the areas, despite some moves by the state government. The government has taken some initiatives, but they do not seem to be working. As a matter of urgency, for the safety of those hospitals, this matter will have to be addressed.

I also want to address the persistent statements of the Minister for Education that there is no teacher shortage in South Australia. I do not know the situation in Adelaide, but there certainly is an acute shortage of teachers in regional South Australia. The cry I have heard many times from many schools is that they are unable to get teachers. One principal who is desperate to get staff because of staff leaving or staff illness was given a considerable list of names when he rang the department. He started at the top of that list and worked his way through, yet he was constantly told that the teachers concerned had gone overseas or to a private school or that they had constant PTI work. Basically, they were not interested in working outside Adelaide.

I believe the list contains the names of over 4 000 teachers, and this is why the minister keeps saying that there is no teacher shortage in South Australia. But many schools in regional South Australia will tell you that it is not a realistic list. The schools are desperate to employ staff for next year. I know that schools at Whyalla, Coober Pedy and Port Augusta, and also in the Pitjantjatjara lands, are particularly affected. They desperately need assurances that they will have staff next year. There are positions available in these areas for not only teachers but also principals, but people are not applying.

First, the government must admit that there is a problem in these areas; they should talk to the schools; they should forget their prejudices about the AEU and talk to it; and they should provide some real incentives to encourage teachers to go to these areas for the benefit not only of the schools but also of the communities.

The last important issue I want to address is what is happening to the School of the Air. Today I received a letter from the local management group of the School of the Air, and I have heard many parents and the AEU express concern about the future of this vital service, which covers much of the state. First, there has been a change in the footprints, or the areas that it covers. The School of the Air, which operates from Port Augusta, has lost one of its itinerant teachers. There were five but there are now only four teachers, and this has resulted in considerable shortages for the area. I believe there is a loss of home visits by teachers who go to the stations and remote communities to visit students. These will occur far less frequently in future. They have been compromised because of budget restraints. SSOs have been given packages and no new teachers have been recruited. Host school visits, which occurred twice a term, are now happening once a year; and there is a fear of the HF radio program being phased out.

Grave fears are held in these areas that the School of the Air will be closed. It may be replaced by video conferencing or other technology, but there is a fear about losing the School of the Air and the personal benefits that accrue to the children involved. It is vital and it is important. Social interaction between those children is essential. They need to go to their host schools and to talk to each other through the HF radio daily, just as children are able to have social interaction in an ordinary school in a community. Letters have been written to the state government and a number of

ministers, but no answers have been received. They want to know the future of the School of the Air.

Mr MEIER (Goyder): Members are well aware of the situation that South Australia was in eight years ago when it was the basket case of Australia. Shortly before this government took over, we had an unemployment rate of 12 per cent; we had the worst per capita debt in Australia—a debt of $10 billion; we had lost major company headquarters to other states; and we had a budget overrun on an annual basis of $300 million per year. It was a catastrophic situation, one that this government has worked on, thankfully bringing the state back to a position where it has a very sound economy.

I think it is appropriate in the middle of a federal election campaign to see what the situation was and is like at the federal level. I think it is worth highlighting the fact that when the Howard government came to office less than six years ago Australia had a debt of some $96 billion; the government had an overrun of $96 billion. The current Howard government has paid back some $57 billion of that $96 billion, bringing the debt back to only $39 billion. Members should imagine what we could have done with those billions of dollars if the previous Labor government had not tallied them up.

It is ironic that the current Leader of the Opposition, Mr Beazley, has been getting upset that the surplus may not be quite as much as he thought it would be. The figures released, I think last week or the week before, show that the surplus would come out at only $500 million. However, the Howard government has been running surpluses year after year. In fact, the previous Labor governments were running deficits of something like $10 billion per year, so I think they have a cheek even to question the fact that the surplus may be smaller than they thought it would be. We have known from past practice that the Liberal Party has a terrible problem in handing over a great surplus that the Labor Party then spends for the next year or two and then starts to borrow more. I hope the people of Australia realise that the record shows that for decade after decade in the past Labor has time and again put this country into debt.

I think it is important to emphasise that at the federal level Australian home owners are now enjoying the lowest interest rates—certainly, the lowest interest rates that I can recall. It looks as though they may go another 0.5 per cent lower, provided that this government is returned to office. It is an absolute boom time for potential new home buyers, and it is great to see that so many people are taking advantage of it. I compliment the federal government for making available to so many people, in particular young people, grants of $7 000 for existing homes and $14 000 for new homes.

Australia's economic growth has averaged almost 4 per cent since 1996—basically since the Howard government took over. That has been achieved in spite of the Asian financial crisis that occurred. If members compare that to the previous growth, they can see how fantastic it is. Australia's current account deficit of 2 per cent of GDP is presently at a 20 year low as our exporters take advantage of a super competitive exchange rate.

Annual inflation is down from a Labor average of 5.2 per cent to just 2.3 per cent under the coalition government. In other words, it is good news on virtually every economic front. I find it amazing that the Labor Party seeks to put forward a policy which says that they will be efficient and reliable economic managers. We know how the whole economy suffers when it comes into government, and we know how it hurts people.

It should also be pointed out that some 880 000 new jobs have been created. This is of great assistance not only to those people but also to the many other people who benefit as a result. In fact, financial security and self-reliance have been restored to hundreds of thousands of Australian families. It should not be forgotten that real wages have risen; over the past five years they have increased by more than 9 per cent compared to just 2.3 per cent between 1983 and 1996 when Labor was in power, and those in low paid positions have particularly benefited. I applaud the federal government.

CONTROLLED SUBSTANCES (CANNABIS) AMENDMENT BILL

The Hon. DEAN BROWN (Minister for Human Services) obtained leave and introduced a bill for an act to amend the Controlled Substances Act 1984. Read a first time.

The Hon. DEAN BROWN: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to remove cannabis plants grown by artificially enhanced methods (commonly referred to as 'hydroponically') from the cannabis expiation scheme set up under Section 45A of the *Controlled Substances Act 1984* (as amended).

Members will recall that in 1987, the cannabis expiation scheme was implemented in South Australia, following the passage of the *Controlled Substances Act Amendment Act 1986.* The scheme provides for adults coming to the attention of the police for a 'simple cannabis offence' to be issued with an expiation notice and given the option of avoiding criminal prosecution and conviction by paying the specified expiation fee. 'Simple cannabis offence' means possession of a specified amount (up to 100 grams) of cannabis for personal use; smoking or consuming cannabis in private; possessing implements for the purpose of smoking or consumption; or cultivation of a number of cannabis plants within the expiable limit. Regulations under the Act currently establish the expiable limit at 3 plants.

The rationale underlying the expiation scheme was that a distinction should be made between private users of cannabis and those involved in production, sale or supply of the drug. The distinction was emphasised at the time of introduction of the expiation scheme by the simultaneous introduction of more severe penalties for offences relating to the manufacture, production, sale or supply of drugs of dependence and prohibited substances, including offences relating to large quantities of cannabis.

Cannabis is, and will remain, a prohibited substance. It is the most commonly used illegal drug in South Australia and can cause a number of significant health and psychological problems. Contrary to common public perception, it is *illegal* to possess or grow *any* amount of cannabis. The expiation scheme did *not* make it legal to possess or grow small amounts – it provides a mechanism for a person to pay an expiation fee and avoid a criminal prosecution and conviction and the adverse consequences arising from a criminal conviction. If the person fails to expiate, then the matter may proceed to court.

The Australian Illicit Drug Report 1999-2000 indicates that the most notable trend in the past 10 years has been the increase in hydroponic indoor production and a decrease in extensive outdoor cultivation. While the dictionary refers to hydroponic cultivation as 'the art of growing plants without soil and using water impregnated with nutrients', cannabis cultivators predominantly use a variation of this technique. They grow their plants in pots with the plant root systems in a fine gravel-like base substance, with the enhanced water running through the base. One of the other key factors in the cultivation is the application of strong artificial lighting and heat to the plants. This is by far the most common form of cultivation. Within the cannabis cultivation industry, hydroponic retailers, and the police, this method of cultivation is identified as being 'hydroponic'.

Police information is that one hydroponically produced cannabis plant is now capable of producing (conservatively) about 500 grams of cannabis and it is possible to produce 3 or 4 mature crops per year. It is estimated that a daily user of cannabis is likely to consume 10 grams of cannabis per week. If one hydroponically grown cannabis plant yields an estimated 500 grams of dried cannabis, this would meet the consumption needs of a daily user for one year (Clements, K & Daryal, M (1999) *The economics of marijuana consumption*. Perth: University of Western Australia). It must be remembered that the expiable limit applies at the time of detection. In effect, this means that a grower will be able to grow the expiable number of plants as many times a year as possible, provided they are only in possession of the expiable number at the time of police intervention. Given the potential cash yields, the ability to produce in excess of personal requirements within the expiable limit provides the opportunity to become involved in commercial production and distribution within the wider community. It provides the opportunity for small time producers to link to organised crime syndicates, with much of the 'backyard' product finding its way to the Eastern States in bulk quantities and being exchanged for cash or powder drugs for distribution in this State.

Police intelligence when 10 plants was the expiable limit was that criminal syndicates were using the 10 plant limit to foster commercial cannabis enterprises by hydroponically cultivating crops of 10 plants at different sites. While the reduction in the expiable limit from 10 plants to 3 has reduced the amount of profit within the expiable limit, police information is that people are still commercially cultivating within that limit.

The intention of the cannabis expiation scheme was to reduce the impact of the criminal law on those persons who possess cannabis for their own use. Clearly, the expiation scheme was not intended to encourage distribution of cannabis within the community. Taking account of a recommendation from the Controlled Substances Advisory Council, the Government proposes to change the Controlled Substances (Expiation of Simple Cannabis Offences) Regulations to further reduce the number of cannabis plants for expiation purposes from 3 to 1.

The Government does not intend to tolerate exploitation of the expiation scheme by hydroponic producers, which results in syndicated production or single profiteering. Removing the capacity to produce cannabis hydroponically will reduce the volume of the drug being produced, which will in turn reduce the incentive for the assaults, and often violent home invasions, associated with hydroponic crops. The Government will not stand by while the scourge of our society—the producers, the profiteers, the traffickers – wreak their havoc on families and individuals.

The Bill therefore removes the cultivation of cannabis plants by artificially enhanced means (commonly referred to as 'hydroponically') from the expiation system. I urge members to support the bill.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for this amending Act to come into operation by proclamation.

Clause 3: Amendment of s. 45A—Expiation of simple cannabis offences

This clause amends the definition of 'simple cannabis offence' to exclude from the expiation scheme the cultivation of cannabis plants by the hydroponic method (i.e. in nutrient enriched water) or by applying an artificial source of heat or light. The new definition of 'artificially enhanced cultivation' encompasses both these methods.

Clause 4: Transitional provision

This clause makes it clear that expiation notices may still be issued after the commencement of this Act for the artificially enhanced cultivation of cannabis plants where the offences occurred before that commencement.

Mrs GERAGHTY secured the adjournment of the debate.

UNCLAIMED SUPERANNUATION BENEFITS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 2490.)

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

Mr FOLEY (Hart): I thank all my colleagues for wanting to listen to my second reading speech on this piece of legislation. The opposition intends to support this legislation concerning unclaimed superannuation benefits—a simple set of changes, technical in nature, that will allow the state to continue to keep in trust benefits of state public servants who have not claimed their pension entitlements; otherwise we would see those moneys go to the Australian Taxation Office for them to deal with. It is eminently sensible legislation and, again, in the true spirit of bipartisanship that the opposition continually demonstrates in this parliament, we will support this bill and its speedy passage, allowing it to go through to the third reading without committee.

Bill read a second time and taken through its remaining stages.

WORKERS REHABILITATION AND COMPENSATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 October. Page 2493.)

Mr WRIGHT (Lee): This government amendment relates to claims for lump sum compensation and noise-induced hearing loss. It also seeks to amend the size criteria for exempt employers, as well as introducing legislative provisions to prohibit certain conduct relating to promoting workers' compensation claims for profit and business services, sometimes referred to as 'anti-touting'. I need to go through each of those points individually, because they are obviously quite different from each other. I might say at the outset that the opposition's intention is to support the second reading of this bill, and perhaps I will speak in more detail about that in the concluding remarks of my second reading speech.

As I have said, one important component of this bill relates to the government's bringing forward a number of amendments for lump sum compensation and noise-induced hearing loss. The government has put forward an argument that it is doing this as a result of decisions made by the Workers' Compensation Tribunal and/or the Supreme Court, and that these decisions do not reflect the intent of the legislation. I guess it is for the government to make its case with respect to that, but I need to go through each of these issues because each of them differs.

In some cases it is fair to say that an amendment put forward by the government makes it more difficult for claimants, while in other cases it actually makes it easier for a claim to be made. Starting from the first one put forward in the government's bill—which I think is clause 3—the government seeks to amend section 43 which, as members would be aware, relates to lump sum compensation for non-economic loss that is made when there is a permanent disability. For example, section 43(7)(a) provides that if the amount of compensation to which a worker is entitled under section 43(2) is greater than 55 per cent of the prescribed sum, the worker is entitled to a supplementary benefit equivalent to 1.5 times the amount by which that amount exceeds 55 per cent of the prescribed sum.

The amendment brought forward by the government arises from a decision in Cedic v. WorkCover Corporation in about 2000, and the Workers Compensation Tribunal interpreted section 43(7a), which I just described, to mean that previous disabilities are considered in the determination of an entitlement to a supplementary benefit. That was the decision that the Workers Compensation Tribunal based its determination on, and it is a very important interpretation that previous disabilities are considered in the determination of an entitlement for a supplementary benefit. It must be remembered that, to get that supplementary benefit, you have to get to 55 per cent of the prescribed sum.

The government's reaction to that determination has been to bring in an amendment which provides that only disabilities arising from the same trauma event—that is the key to the government's amendment—are considered in the calculation of lump sum compensation, that is, supplementary benefits. The government has brought that example before us for our consideration in clause 3, which amends section 43. That example is obviously to the disadvantage of workers making a claim, because, if the government's amendment is successful, for a claimant to get to 55 per cent of the prescribed amount, only disabilities arising from the same trauma would be counted, whereas the Cedic v. WorkCover decision allowed for that claim to take into account previous disabilities, irrespective of the trauma. It did not have to be the same trauma. When I say 'irrespective', it had to be a successful claim. I will return to that amendment.

Section 44 is a flow-on of court decisions but this time it is of benefit to the claimants. This amendment will ensure that previously compensated disabilities that do not arise from the same trauma event are not considered in the calculation of a lump sum payment upon death, and I am sure members would be aware that section 44 deals with compensation payable on death. This amendment by the government is to the benefit of claimants and, by way of example, it stops people looking back and discounting when a lump sum determination is made under section 44. That is the second major area in which the government has brought forward an amendment and it can be found in clause 4 and relates to the first category of amendments that I am defining to the House.

The next example is an amendment to schedule 2, and the government states that this results from a Supreme Court decision in the case of WorkCover Corporation & Anor v. Perre. The effect of the Perre decision is that a worker may be compensated for noise induced hearing loss where it can be demonstrated that they have noise induced hearing loss and can also demonstrate an exposure to noise at work. Schedule 2 of the act provides a definition of noise induced hearing loss as being any work involving exposure to noise, and the decision that was made in the Supreme Court reflects that measure.

A proposition has been put forward by the government that there are some inconsistencies between section 31(2) and section 113(2), so the government has proposed an amendment that would add to that definition the words 'capable of causing noise induced hearing loss'. I suspect this has probably been brought about, in part, by WorkCover Corporation's reaction to claims made by Better Care, and I will refer to Better Care again later in my speech, but this amendment would narrow the field and tighten up the legislation considerably. It would certainly make it much harder for claimants and it would also dictate that, if a worker were going to have a good chance of getting up a claim under this amendment, as they moved from job to job they would have to have a hearing test each time. The onus of proof is being put much more strongly upon workers to be able to prove their situation.

Not only will it make things difficult in the respect that I have already mentioned but also it will make it very difficult to get up a claim for something that may have happened some time ago. With the change that the government has proposed, it will make it difficult to put forward a successful claim for something that happened 20 years ago. It will make it difficult in the building and manufacturing areas, and, I would suggest, in a whole range of other areas as well.

The last amendment is to schedule 3, which falls within this first category that I described to the House, and it can be found in clause 8. It refers to a court decision in 1998, Mitchell v. WorkCover Corporation, and it relates to the application of regulation 25 in reference to section 43(2) of the act. Regulation 25 provides a specific formula for the discounting of section 43 (lump sum payments) where a worker received multiple lump sum payments for non-economic loss. In the Mitchell v. WorkCover case, the Workers Compensation Tribunal determined that all previous disabilities compensated in accordance with section 43 should be considered when applying regulation 25.

The effect of this decision is that workers with entitlements for multiple lump sums for multiple injuries receive reduced section 43 payments because of the application of the regulations. The government's amendment in this case ensures that the principles of regulation 25 come into effect only where two or more injuries arise from the same trauma. This overcomes such problems for workers in this example and will benefit claims that are being made. The government has also proposed a transitional period, and clause 5 of schedule 3 is the area where there will be a benefit to claimants that takes this back to 7 September 1998. Claimants cannot change the initial determination of their entitlements but they can change the discounting as a result of the amendment that I have just described to the House.

This bill is a mixture, and a range of amendments are being put forward by the government. In some cases, there may well be an overreaction by the government, because I would say in respect of the first amendment to section 43, which relates to how claimants can accrue and reach 55 per cent of the prescribed sum, we are talking about a very few cases—only a handful at the most—in a year. In fact, one workers compensation specialist with whom I spoke today who has been working in this area for the past 13 years said that he has only ever had two cases of this type where a person had got to 55 per cent. So, to get to 55 per cent we are talking about a person with a major disability—and that is very rare.

I have some specific concerns about this recommendation of the minister. In committee, we will want some definitive responses from the minister about how big this issue is and what the cost will be, because we are talking about people who are in, for example, the category of losing a limb or an organ. These are very serious injuries which, sadly, do occur, but they are rare. I think the government's amendment is somewhat harsh and that it goes down the wrong line. We are talking about something which not only is harsh on workers but also is likely to occur only rarely; it does not happen on a daily basis and it will not blow out the cost of the scheme. I think this is an over-reaction.

The amendment to schedule 2 regarding hearing loss I put in the same category. I think this is an over-reaction by, in particular, WorkCover and that it involves a bit of a scare

campaign. I ask the minister what costs we are talking about here, because I think we will find that they are minuscule. The amendment to schedule 2 is harsh on workers. I think it makes the situation much more difficult than it is under the current system, with which nothing is wrong. I understand that a hiccup occurred about three years ago with Better Care, which has impacted on this amendment before the House and another amendment regarding anti-touting, to which I will refer in more detail later.

So, I think the amendments to section 43 and schedule 2 are over-reactions. I think that, in the way in which they have been brought before this House, they are harsh and that they will impact to the detriment of claims that are made. I do not think these amendments are fair or that they will have a big effect on the scheme, and I think that by their nature they are a bit harsh.

Regarding the other amendments which I have highlighted to section 44 and schedule 3, which are backed up by that transitional provision, I say to members in all honesty that, if this government is prepared to bring before us any amendment that will be of benefit to claimants, we should look seriously at it. If the government is able to highlight court decisions that are detrimental to the way in which the act was first interpreted, we must consider them carefully.

These are welcome amendments, particularly when we take into account what has happened regarding workers compensation over the period since this government has been in power. We will not go backwards. I do not think there is any need to have a long-winded debate on measures that are already in place, but, by way of a synopsis, I think it is fair to say that this government has introduced measures that have made it more difficult for claimants. The fact that we have before us now a couple of amendments that make it easier for claimants is a welcome difference from this government. I think it is about time that workers got some relief from this government under this workers rehabilitation and compensation bill. However, the opposition takes a different view on the amendments that are before us and, as I have said, we will need to go into more detail about some of those issues in committee.

Other parts of the bill which the government brings before us are somewhat different, to say the least. They cover completely different but important areas. The first relates to exempt employers. As members would be aware, in order to be able to apply for exempt employer status in South Australia, one must have 200 workers. To the best of my knowledge, that has always been part of the system since the act was introduced in 1986. Of course, that has its own impacts on the system, as members would be aware. The government proposes an amendment to that part of the act which refers to 200 workers by applying it to the payroll and doing so by regulation. The government's amendment provides:

> An employer is a body corporate and the aggregate remuneration paid by the employer to or for the benefit of its workers exceeds the qualifying amount—

and that qualifying amount is to be determined by regulation. The government puts forward its own argument in support of this amendment. It talks about the changing nature of the workplace with the employment of casuals and so on. This is a dangerous precedent to set. We must look seriously at what we currently have. The minister can provide us with more finite detail in committee, but I think that about 40 per cent of employers are currently exempt. That is one of the highest figures nationwide.

If we are to incorporate a new system, I want a cast-iron assurance that we will not increase that figure because, if we do, it can only impact on the current scheme. The greater the number of exempts we have, the greater the number who go out of the system, and the corollary of that must be that only one of two things can happen: the rates of those who are currently left in the scheme will have to go up and/or the benefits to workers will have to come down.

I do not think that turning this formula upside down when it has been in the system since day one is the best way to go. I am concerned that it has the potential—and it has not been demonstrated otherwise to me—of increasing the number of exempt employers that we already have (there is already a very high percentage), and we will also want to do it by regulation with a qualifying amount. To a degree, I see the government's point because obviously there will be situations where the aggregate remuneration that is paid will increase. That is why the government argues that it would be easier to do that by regulation than constantly amending the legislation.

However, I am worried about the effect that that might have. I am not sure why we would want to change it. It seems to be getting far away from the tenor of the original intent of the bill. The minister may choose to correct me if I wrong, but it may well be that we will have a situation where a small number of people, all highly paid, could under this amendment, qualify for exemption. I do not think that was ever the initial intent of the legislation. That is why we set it at 200—and there was considerable argument about that. Of course, to a degree, that was a trade-off, anyway, so I think that we are moving away from what we currently have, which will be to the great detriment of the current act. As a result of this amendment, those concerned will be potentially worse off under the act, and so we strongly oppose that particular amendment.

In the other category, which I describe as anti-touting, I foreshadow that I will move amendments to this clause, notwithstanding the fact that we oppose the clause. It is my intention to move those amendments, first, in case the clause passes but, notwithstanding my amendments (which will make the clause better), philosophically, we still oppose the clause. I think that this matter has largely been brought forward because of the organisation that I referred to earlier called Better Care, which was in the system about three years ago. Better Care took a very aggressive approach in putting forward claims with respect to hearing loss. As a result of Better Care's telephone canvassing and aggressive approach to claims for hearing loss, the graph showing such claims went up and then came down again. It may well be that we have to address such an issue, because I am led to believe that the commission rates charged by Better Care were as high as one third. No-one would support that and no-one should support that but, of course, Better Care was bringing into the market not only its services but also claims which were going to be judged and supported or which would be knocked out.

So, whether it is Better Care or anyone else, if you bring a claim into the system and the claim does not stack up, the system will knock it out. So, although there was an acceleration of claims for hearing loss, brought about largely by Better Care, the claims that succeeded were there to be brought forward anyway: all Better Care did was accelerate the number of claims made. As I said, no-one would support the commission rates charged by Better Care, and I think we can address that without an amendment which, in the main, prevents people being told their rights. We should be

welcoming something like that. The government's amendment—and I refer to clause 5, 'Prohibited conduct by agents'—defines an agent as 'a person who provides services for fee or reward'. Those who are excluded are lawyers registered with the Supreme Court, and unions.

The Hon. M.H. Armitage: Perfect!

Mr WRIGHT: The minister says 'perfect'. I thought that the minister and his side of the House were all about supporting free enterprise, but they want to set up a closed shop. Unless you are a lawyer registered with the Supreme Court, or a union, you cannot provide a service of this nature. You cannot go into the market and provide a service such as this if you are doing it for a fee or reward. Why should you not be allowed to do that? Why set up a closed shop? Why would you want to put into place a situation whereby you stop people telling others about their rights? As I have already said, if you put forward a case which is incorrect and does not have a claim, the system will knock it out, anyway.

Of course, the other thing that the amendment does, as we work through the various passages of it, is give increasing powers to the corporation. So, I think that this is an unhealthy precedent. Notwithstanding that, as I have foreshadowed, we will move some amendments specifying that unions are not covered by this anti-touting measure and putting them into the bill, including the situation involving fee for service. It is one thing to say that lawyers who are registered with the Supreme Court and unions are exempt, but what about unions that operate on a fee for service basis? I posed that question during my briefing with the government and, to the best of my knowledge, I still have not been given an answer.

So, we do not agree with the principle, because it is an unhealthy principle and sets up a closed shop arrangement and stops people providing advice about people's rights. I cannot understand the logic of that. I think this is another overreaction by WorkCover similar to what I referred to in regard to schedule 2—and they are now talking about something that is three years out of date. This happened three years ago and, to the best of my knowledge, Better Care is not even in South Australia any more. So, we will oppose that but I foreshadow the amendments which we will move.

In fairness to the House, I also foreshadow another amendment that I will move on behalf of the opposition, and that is an amendment to section 6. Section 6 of the current act relates to territorial application of the act, and I will go into detail about the content of my amendment later, but my amendment will create an additional nexus as a result of Supreme Court decisions made in 1998 and recommendations that were made in respect of one of those Supreme Court decisions, and this will make it a much fairer system. It is something which was never intended by the act.

I refer to a couple of cases that I will go through in detail when I move my amendment, but I flag them now: WorkCover v. Smith (Keating) and WorkCover v. Selamis. In both those cases, even though the base of the employer was in South Australia and the employer was paying levy rates to WorkCover, because the individuals were not living in South Australia they fell through our legislation. It is hard to believe that we would have legislation of that nature, but we have. We are the worst of all states around Australia. While each state—

The Hon. M.H. Armitage: That is wrong.

Mr WRIGHT: That is not wrong. Each state's approach varies but, critical to this amendment, you must be able to demonstrate that the employer's base is in South Australia and the employer is paying levy rates to WorkCover. If you can do that, surely, irrespective of where the person lives and irrespective of where the accident occurs, that claimant should be paid. In the two cases that I will bring forward during the committee stage, they were not paid. We have been sitting on this for some three to four years, while nationally—

The Hon. M.H. Armitage interjecting:

Mr WRIGHT: Yes, I know why, because you have not moved on it—you could have moved on it. Today the minister says that, because of decisions of the workers' compensation tribunal and/or the Supreme Court, he brings forward other amendments. He could have done exactly the same with this particular situation. The minister could have done exactly the same in 1998, straight after the Supreme Court decisions, so that those incidences do not fall through the system. It is not for the minister and the government to say, 'We are waiting for national legislation.'

Sure, we need national legislation, but how long do we wait? We have already waited three years or more for national legislation, but the states cannot agree on a position. So, because of the inadequacies of current South Australian legislation, if a worker falls into this category, the families miss out. If the same incident (which I have already referred to but will define in more detail) had occurred in Victoria or New South Wales, those families would have been covered but not so in South Australia, because, as part of its nexus, it does not take into account where the employer's base is and it should do so. It is fundamental if the nexus is to be anywhere near correct.

This was never the intent of our initial legislation. At a minimum, and for any fairness, I would expect all members, including government members, to support the amendment that I will move in respect of section 6, which will be an interim position at least until there is national legislation to cover what we do not have in South Australia. We need that at a minimum.

In conclusion, we will support the second reading. We will be opposing certain elements of this particular bill, which the government has brought before us, at the committee stage. We will also be supporting certain elements of the bill at the committee stage. I have already foreshadowed that we will bring forward amendments in respect of anti-touting, notwithstanding that, in principle, we oppose anti-touting and, even if the opposition's amendments are successful, we will vote against the principle of anti-touting. I have also foreshadowed a very important, essential and fundamental amendment to section 6 of this act.

Mr HANNA (Mitchell): It is hard to know in the political context the motivation for this bill. It cleans up a few miscellaneous points. I suppose that, from the government's point of view, the driving force is in relation to hearing loss claims where it would seek to make it more difficult for workers to claim compensation successfully. Perhaps that is the real reason behind the government's bringing in the bill, and it has included a couple of miscellaneous points to blur the real purpose of the bill, otherwise it is hard to see why just before an election the government would introduce this particular legislation.

I say that because, clearly in light of judicial interpretation, a range of provisions give rise to a grave injustice in the workers' compensation system and, if you were going to pick out two or three points which most urgently needed addressing, these are not the points which would be brought before parliament. That is not to say that I do not agree with some

of the measures proposed. In particular, in relation to the compensation payable upon death, it makes very good sense not to have discounting for previously paid compensation. That is particularly so since the compensation payable on death is enjoyed by the family of the worker concerned in the typical case.

There are problems, as the member for Lee has outlined, in relation to the anti-touting provisions. It seems to deal with a problem that has already come and gone. It has some sinister overtones, and I refer particularly to the impingement upon the common law right to silence and the abrogation of legal professional privilege. Those matters might be taken up in committee. It is also hard to believe that there is not some intent to restrict the activities of some unions, because there is no doubt that they do take some pecuniary benefit from their membership and there is a question mark over how that might be construed. I look forward to the member for Lee moving his amendment in relation to clause 5.

In relation to what is now regulation 25 and its operation in respect of multiple disabilities and the compensation which can be awarded under section 43, I suggest to the House that this is an area which needs to be reviewed more comprehensively. It is good that the government has chosen to consider the provisions, but a lot of injustices can arise out of the operation of regulation 25 as it is. The discounting for previous injuries can have a really harsh effect on limiting the amount of compensation in the way in which those calculations are made under the current law.

Maybe that is one of the many matters which could be reviewed under a Labor government. It is not for me to say what will or will not be reviewed, but certainly a Labor government will need to look at a number of matters in consultation with workers, business, the trade union movement and all those interested in the operation of the compensation system. I will finish by concurring with the member for Lee, in the sense that this bill is worth supporting at the second reading stage because there is something in it for workers. It does alter the balance slightly toward the worker's favour in one or two respects and therefore it is worth supporting the second reading, but some serious questions will need to be addressed in committee.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank members opposite for their contribution. I am flabbergasted literally at what has been said and I think, in essence, it is an example of everything that is wrong about the parliamentary process where, because a bill is brought in by a Liberal government, the opposition has to say it is terrible. The reason I say that is not that I am having to defend the bill, but the bill went through my ministerial advisory committee, which I think is set up under section 7 of the legislation. The ministerial advisory committee contains three experts on rehabilitation by legislation, three employer representatives by legislation and three employee representatives by legislation.

One of the things that I said before I brought the bill to the House was, 'What does my ministerial advisory committee say about the bill and, in particular, what do the employee representatives say about the bill?' The answer to the question was 100 per cent support. At the end of the day, as the member for Mitchell hinted, this bill is good, I believe, for workers. The reason I say that is that, in particular with the amendment which we intend to move and about which we have spoken in public, we do intend to make at least one of the amendments retrospective, which means up to $2.5 million approximately will be shared between approximately 1 500 workers. Neither member opposite chose to mention that at all, and I am surprised at that.

With regard to the matter of this so-called closed shop which allegedly will be so terrible for identification of matters for which workers can claim, we the government make absolutely no bones about saying that, if the claim has been found, that is a perfectly legitimate entitlement. However, we do not like the fact that these touting firms took 30 per cent of the workers' benefits for themselves. That is why we think it is completely appropriate that the legislation involves a lawyer or a union representative—because that is their role.

If one looked at the historical role of unions, one would be hard pressed to find a more appropriate role for a union than identifying to someone that they have a claim for a work-induced illness. I would be surprised if members of the opposition believed that it was completely appropriate for a touting firm to run around and raise the expectations of a lot of people—whose claims incidentally were not accepted—and then take 30 per cent of the workers' legitimate benefit.

In relation to the allegation that the amendments are three years out of date, a series of amendments has been worked on—obviously with the intent of doing them altogether. That leads me to the key point about the territorial reach and the Opposition's amendments. It is important for the record to show the role of the South Australian government, and this is the opposite to that which the member for Lee was identifying. For at least the last two years, and possibly three years, South Australia has taken a lead role in attempting to bring together national legislation.

History shows that the New South Wales government is dragging the chain. The South Australian government is in no way stopping this process. In fact, the Labor minister in New South Wales has not agreed with the position that South Australia's Parliamentary Counsel has put up as a representative for all the other states. We believed that recently we had an agreed position. However, at the most recent workplace relations ministers' conference, interestingly the New South Wales minister surprised everyone by saying that he would not support the legislation that had been drawn up, we believed with everyone's agreement. Accordingly, as I mentioned before, our Parliamentary Counsel, who has been proactive, is now working with Western Australia's Parliamentary Counsel to come up with what we hope will be appropriate national legislation, and I am told that that will be in place before Christmas.

With regard to the issue raised by the member for Lee, we think one element in the amendment would cause some problems, and I am happy to discuss that in committee. As I received the amendments only in the last little while and I have not had a chance to check the matter of territorial reach in one amendment, we intend to oppose the clause. However, we are not opposing what the clause is trying to do. That is why we have been proactive. As I indicated whilst the honourable member was talking, we think the national legislation hopefully will be able to be enacted before Christmas. If the House chooses to oppose the amendment, I will undertake to check between here and another place the full effect of the clause. I am happy to discuss it during the committee debate.

If that clause is not as we think it is, I would be more than comfortable to have it inserted in the upper house, to vote on it appropriately here and agree with it. However, if it does not achieve what we think is appropriate, obviously we could not

go down that path. We would oppose that on the understanding that the New South Wales Labor minister hopefully will at last come to his senses and realise what every other minister around the table is actually saying—that the South Australian Parliamentary Counsel's model legislation is appropriate. We could all then move forward with exactly the same intent that I know the member for Lee is attempting to bring to the House in this amendment. It is exactly what the government has been attempting to do on a national basis for two to three years. I thank all members for their contributions, and I look forward to the committee stage.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

New clause 2A.

Mr WRIGHT: I move:

New clause, page 3, after line 7—Insert:

2A. Section 6 of the principal Act is amended—

(a) by inserting in subsection (1) 'of South Australia (the State)' after 'and the State';

(b) by striking out from subsection (2) 'a State' and substituting 'the State';

(c) by inserting after paragraph (b) of subsection (2) the following word and paragraph:

or

(c) the worker is usually employed in 2 or more States, the employer's principal place of business in connection with the employment is in the State and—

(i) the employer pays a levy to the Corporation in respect of the worker under Part 5; or

(ii) the worker is not protected against employment-related disabilities by a corresponding law.;

(d) by striking out from subsection (3) 'this State' and substituting 'the State';

(e) by striking out from subsection (3)(b) 'is employed' and substituting 'does spend some time working in the State';

(f) by striking out from clause 3 'the State' and substituting 'that State';

(g) by striking out from clause 4 'a particular State' and substituting 'the State'.

As I foreshadowed in my second reading speech, the opposition is bringing forward an important and critical amendment to this bill. Now that the government has brought a bill of this nature to the House and the act is being amended, this is an ideal opportunity to address an inequity in the system. The minister spoke about a national approach and blamed a New South Wales Labor minister for this matter being held up. Whether that is true or false is immaterial. This debate today is about the South Australian parliament's making good social legislation so that people are not disadvantaged, when the original intent of the legislation was they not be disadvantaged.

It is not good enough for the minister to say that the government has not done anything in respect of this because we have been waiting for a national approach. We can wait an eternity for national approaches, whether it be with respect to legislation relating to workers rehabilitation or any other area. In this case, the minister himself highlighted how long we have been waiting. We should worry not about why we have been waiting or whose fault it is but about what is happening to workers and their families, because this legislation does not cover claimants as it was intended to do.

The debate today should be about righting an injustice and making right something that is wrong. Irrespective of what is taking place at a national level, given that we are amending the act, we have the opportunity today to amend section 6 with respect to territorial claims. We can put in place the intended legislation so that people who were never intended to fall through the net do not do so.

If this government were true to its word, following the Supreme Court decisions of 1998, it should have brought this bill to the parliament. It should not have waited and relied on the opposition to do so. I have had a private member's bill waiting for some time in respect of this very matter but, knowing full well the way in which private members' business is undertaken, and because we were told some time ago that it was only days away from a national approach, I have been waiting since early this year for that national legislation to be brought forward to the parliaments. It has not been brought forward. We have been waiting not just since early this year: we have been waiting for three years. It is an absolute joke.

This amendment will create an additional nexus. It will clean up the drafting, as has been highlighted by a decision of the Supreme Court, and create that additional nexus. We must be mindful that section 6 relates to the territorial application of the act and defines a nexus between a worker's employment and the state. Two Supreme Court decisions in 1998 highlighted a gap in workers' compensation cover of workers employed by South Australian based employers—that is the first critical point—but whose work and home base extended outside South Australia.

The first case I highlight is WorkCover v Smith (Keating). This is a very important case of which members must be mindful. In this case Smith was the de facto widow of the employee Keating, a truck driver employed by a South Australian company to transport goods between South Australia and New South Wales. While Keating was employed by a South Australian company, his residence with his de facto wife and children was in New South Wales—basically, on his transport route. Keating was killed while at work at Pinnaroo in South Australia.

The Supreme Court held that, even though Keating was employed by a South Australian company, had WorkCover premiums paid to the South Australian WorkCover Corporation to insure him, and was killed at work in South Australia, he was outside the jurisdiction of the South Australian Workers' Rehabilitation and Compensation Act. Thus, his widow was not entitled to receive any compensation from South Australian WorkCover for his death, nor was she entitled to receive any workers' compensation from New South Wales, as that act covers injury outside New South Wales where the employer is based in New South Wales; and Keating's employer was based in South Australia.

It is noteworthy that the court reached its verdict reluctantly, pointing out that the result was unjust. Indeed, the Supreme Court judgment, a very long one that is highlighted in a number of cases, deals with the unfairness of the decision, but of course the court had no choice because of the legislation's drafting. I draw the attention of the House to one of the points made at the hearing of WorkCover v Smith in the Supreme Court, as follows:

> I draw parliament's attention to the circumstances of this case. Unless the section is amended, any worker who lives outside South Australia but who is employed in South Australia and whose duties of employment require that worker to perform more than 10 per cent of his or her employment outside South Australia is not entitled to benefits under this act in the event that the worker suffers a disability, even if that disability arises out of an injury suffered in South Australia.

That is a very stark example. The second case is Selamis v. WorkCover, where Selamis was a truck driver employed by

a South Australian company to transport goods between Melbourne, Adelaide and Perth. In this case Selamis lived mainly in his truck, but when in South Australia stayed with his son and used his son's address as his mailing address. He was injured while a passenger in a company vehicle on company business in Western Australia. He was found by the court to be not a resident of South Australia, even though he was clearly not a resident anywhere else, and outside the jurisdiction of the South Australian act. He was outside the jurisdiction, even though the home base was a South Australian employer and the South Australian employer was paying levy rates to WorkCover.

Critical to my amendment is that you must, as a part of the nexus, take into account the employer's base. Members would not be surprised to learn that those people most disadvantaged are in country areas; and those people most disadvantaged tend to be truck drivers and/or shearers. There are probably other employment areas as well, but they are the ones that have been brought to bear. The other point I make is that had Keating or Selamis been employed by either a Victorian or New South Wales based company in the same circumstances they would have been covered.

Members will recall that, when I said earlier that our legislation is the worst of all, the minister scoffed. I acknowledge that various areas of legislation Australia-wide are different, but ours is the worst. I have highlighted two clear examples of why it is the worst, where it is the worst and how it is the worst. It stands out; it is so obvious. That is why I am so disappointed in the government, which should have brought this matter to the attention of the House a long time ago. This amendment is a very simple and fair amendment. It is fundamental to having a fair scheme, and I would be astounded if members do not support it.

Members should not fall for the trick of the government saying that it is waiting for national legislation, because every day we wait there is the potential for another Smith or Selamis to fall through the net. If members vote against this amendment today brought forward by the opposition, while we wait for a national approach (for which we have been waiting three years) and while we have legislation that is far inferior to New South Wales and Victoria (which I have just highlighted), potentially we are also waiting for another Smith or another Selamis to fall through the system. The legislation was never intended to have a consequence of this nature. There are elements to this amendment, which members would have picked up and which are largely in the drafting, all being recommendations resulting from the Supreme Court decision. However, the critical element, which does not relate to drafting, is that it creates that additional nexus. Clause 2A provides:

> (c) the worker is usually employed in two or more states, the employer's principal place of business in connection with the employment is in the state and—
>
> (i) the employer pays a levy to the Corporation in respect of the worker under Part 5; or
>
> (ii) the worker is not protected against employment-related disabilities by a corresponding law.

So, if this is successful—and how you would vote against it in any area of fairness or equity is beyond me—it requires the additional nexus to apply: that the employer must be based here. So it does not pick up employers that are not based in South Australia and it requires, as it rightfully should, the employer to pay the levy for the worker. It also has a further safeguard in that the person will not be entitled to the protection of our act if, in fact, they are covered in any other jurisdiction in any other part of Australia.

So, working backwards, if the worker is not protected elsewhere, and if the employer is based in South Australia and is paying a levy to WorkCover, if this amendment goes through it means, and rightfully so, as was always intended by the original legislation, that claims of that nature will be passed, will be supported and will be paid, as they should be. We are referring to a very small number of isolated situations, but that makes it no less important. How on earth, out of fairness and equity, could members not support the situation I have described, where, in two Supreme Court decisions—Smith v. WorkCover and Selamis v. WorkCover—the employer was based in South Australia and paying levy rates to WorkCover for that worker and the worker was not covered by any other jurisdiction? How on earth you could not support that is beyond me. How on earth WorkCover—the bastion that protects our workers' compensation system—would not support that is also beyond me.

Why WorkCover did not drive through this government an amendment of this nature highlights to me an inadequacy with WorkCover. In the two situations that I have highlighted, WorkCover took the levy rates from the employer and kept them and did not pay out to the claimant. Fair Dinkum, you would be too embarrassed to turn up at work the next day, wouldn't you? You would be too embarrassed to take the money. How on earth you could support a proposal like that is beyond me.

For goodness sake, do not fall for the minister's trick of talking about a national approach, because we have been waiting for two or three years. I do not care whose fault it is; I do not care which state it is. I do not acknowledge that it is the fault of New South Wales, either. I do not care what the minister says in respect to that; I care about the current inadequacy and inequity of our system. We should all be disgraced about it. We have statutes on our books, which I have clearly highlighted as unfair, unjust and inequitable, that were never intended to be part of the original legislation. If we let that go by here today we should not sleep tonight.

Mr McEWEN: I would like to speak generally in favour of this amendment. I believe that there are two propositions with respect to the case I will make. First, that we get an indication from the minister that he will seriously look into this matter and introduce an amendment in another place to satisfy our requirements or, secondly, we adjourn today so that we can take further advice rather than simply vote on it now. I do not believe that even this amendment fully satisfies the case I now bring to your attention; it may require a further amendment which I would be happy to support if the shadow minister considered it favourably.

Unfortunately, I have not been able to get, at short notice, the correspondence from my office to back up exactly what I am going to say. If I need to correct the record in any way after I get the correspondence, I will. I believe that a letter I wrote, perhaps as much as 18 months ago, to the minister's office relating to a similar set of circumstances has not been answered. I may be doing the minister a disservice in that regard; I have not had the opportunity to check the whole correspondence trail.

I was confronted with a South Australian shearing contractor who sometimes employed people for as little as two weeks in South Australia. As they went around Australia as shearers, they found themselves working for him. While the contractor was employing them he paid WorkCover in South Australia because, as their employer, he was legally

required to do so. One of the shearers was injured and, lo and behold, the contractor was told that no, there was no coverage in South Australia. He then said, 'Well, if we do not have coverage in South Australia, why am I paying in South Australia? The answer was, 'You are the employer so you have to pay in South Australia.' But the employee does not have coverage in South Australia. So, we definitely have an anomaly that has existed for quite some time.

The shadow minister is absolutely right when he says that we have to fix it. I am not sure what the solution is, and I am not confident that something that is happening in New South Wales is an excuse that we can use. I believe we can tidy it up within the South Australian act, but another amendment may be required. The shadow minister talked about having protection elsewhere. If an employee has protection elsewhere that is being funded, maybe another clause that provides, under those circumstances, that the employer does not contribute to the South Australian scheme is required. I am not convinced that we have fully satisfied the loop and, giving as much credit as I can to the shadow minister, I am reluctant to support the amendment as it now stands. I would be happy to either take advice from the minister or to report progress to allow this to be tidied up in the next 24 hours. There is certainly an anomaly and we need to tie it up in terms of both the employer and employee. It is an absolute nonsense to have an employer forced to contribute to a scheme that does not protect the employee. It is just crazy.

Mr WRIGHT: I believe that, in the example that the member has put before us, his definition of it is correct. I have also heard of other examples. If he has an opportunity, the member for Kaurna may provide a similar description to the House; he has certainly raised with me the aspect of contractors paying a levy but not being covered which, as I understand it, is what the member is talking about. It is true that my amendment does not fix that problem but, if the member wants to introduce an amendment, we would certainly give very strong consideration to it. From the tenor of the description provided by you, it falls within that category of what I would also describe as a nexus being created—and a very worthwhile one.

With regard to the second part of your question, you raised a point—which may well have some legitimacy, but I would also want to take some advice—in the description by you, with the analysis set out by me, that if the worker is already covered by another jurisdiction, but the employer is based in South Australia and paying WorkCover levy rates, that should be refunded. I do not know if that is possible; I would need to take advice on that point.

This amendment is as simple and as practical as possible and overcomes the stark problem of creating that additional nexus which is so important. In relation to the other issue that you raised, if you think it is critical to the way you vote, maybe we need to take advice from Parliamentary Counsel, because I do not know the answer off the top of my head.

The Hon. M.H. ARMITAGE: Despite all the heat, light and drama that the member for Lee has attempted to bring into this matter, we are not arguing about it. We agree that national coverage is very important. That is why we have been working to attempt to get a national agreement in the Workplace Relations Ministers' Council to do this. The facts of the matter are that unless there is national coverage there will be workers who are not covered in any jurisdiction. It is as simple as that. Much as I would love to give the committee different advice, that is the advice that I have to give. Without national legislation, there will be workers who are not covered in some jurisdictions, and those workers may have families in South Australia.

Let nobody think that, by passing this amendment, we are going to solve the problem. We would certainly go down the path—I acknowledge that—and that is exactly why we have been attempting to get national legislation. The member for Gordon asked about commitments that I made when he was not in here, I think. I have certainly agreed, and I reiterate the commitment that, if this amendment, which we saw only in the hour or so before the debate began, achieves what the member for Lee indicates that it achieves without jeopardising people in South Australia, we will take advice between here and the other place and, if that is the case, we would be happy to insert it ourselves in the upper house and to vote for it when it came back.

However, in relation to the heat and the light regarding this matter raised by the member for Lee, who indicated that what he cares about is unfair, unjust legislation and who suggested that the government has been tardy, and that the government is appalling and has been putting workers at risk, and so on, I ask just one question: why did the member for Lee not bring in a private member's bill? I am not going to sit here and have anyone on the other side say that we have been dragging the chain when we have been trying for two or three years to get the New South Wales Labor government minister for this area to agree.

I am not going to stand here and have the South Australian Liberal government criticised, when we are bringing in legislation that will see $2.5 million put retrospectively into the pockets of 1 500 workers, quite legitimately. I am not saying it should not be the case—I believe it should be the case—because, in my view, judges made a wrong decision, and we are trying to clear that up. I will not have anyone on the other side criticise us when all they had to do was stand up and bring in their own private member's legislation. That is all they had to do.

At the end of the day, I raise that only to say that I will not brook the criticism. The facts are that I believe that the government, the Labor opposition, the Independents and everyone actually wants to see fixed what is clearly an anomaly. That is why we are looking at national legislation. That is why I am very comfortable in identifying that, if we have this amendment looked at and if there is no disadvantage to South Australians, I am committing to either have it inserted or to insert it ourselves in the upper house.

Mr HANNA: I am not going to dwell on the hypocrisy of the minister in relation to this. Everyone knows how the government runs private members' time and, when we bring in a measure to benefit workers through increased compensation, it drags on and on, and government speakers chew up the time so we cannot achieve anything. It would have taken two years to get a bill through, even if the government ultimately agreed with it, because of the way private members' time is run. It is churlish to say that the member for Lee has fallen down by not bringing in the measure to which he has referred.

The government should have taken action on this two or three years ago—there is no doubt about that—at the same time working on getting a national framework. I do not think anyone disputes that a national framework is the most desirable remedy but, in the meantime, we fix what we can, and the member for Lee's amendment is perfect to the extent that it provides coverage for people who miss out elsewhere. We are not running the risk of double dipping or forum

shopping. We are trying to take care of those workers who have fallen through all the cracks.

I will not repeat all the arguments of the member for Lee, but I would like to respond to the questions raised by the member for Gordon. There is no doubt that the member for Lee is unashamedly bringing in a measure that will benefit workers—workers who are missing out on the current regime. The member for Gordon looks at it from a different perspective—from the perspective of employers who pay levies. What happened in the Supreme Court cases mentioned by the member for Lee—that is, Smith and Selamis—is that WorkCover, the insurance company, essentially, took the premiums, kept them and did not pay out. If that happened to anyone of our everyday constituents in respect of an insurance company where they had paid their premiums and had a clear wrong done to them and the insurance companies said, 'We're sorry, we're not going to pay out because of a technicality,' we would be furious, and we would advocate on behalf of those constituents.

In respect of the levy situation, this bill may not be the place to remedy it but, if it is, this clause is not the place to remedy it. I suggest that the best course for this committee would be for it to pass the amendment now to make progress with the bill and, between here and the other place, the government, the member for Gordon and the opposition could work constructively to come up with an appropriate amendment to cover the situation of employers who pay levies unnecessarily, unjustifiably, for workers who are not going to be covered, anyway.

It is a bit tricky in terms of crafting the amendment to get employers off the hook for paying the levy. It amends a completely different part of the act, I think, and that is why it probably needs to be treated as a separate question; and I hope the member for Gordon understands that. Since we are all agreed on the principle of it, the appropriate course is to pass this measure as it is and then, between here and the Legislative Council, work out a means of addressing that problem which the member for Gordon has raised, and it is a problem that everyone in the place recognises.

Mr CLARKE: I rise to support the comments of my colleagues the members for Lee and Mitchell and, in particular, I direct my remarks to the member for Chaffey and the member for Gordon, as well as the government, but particularly those members because—

Mr McEwen: They matter more than the government.

Mr CLARKE: Yes, they matter more than the government on this occasion in terms of getting the vote. There is no argument between us with respect to the justice of the member for Lee's amendment and the circumstances that have been outlined by him. I recall that someone brought to my attention the case of a worker who lived in country Victoria and who suffered a injury whilst in South Australia, but his employer was in South Australia, and that person and his family had some difficulty in getting workers' compensation benefits. It escaped my attention until just a few minutes ago because this person was not a direct constituent of mine and I had not had any dealings with that person directly, so I had not thought about it earlier.

We must go back to basics. What is the purpose behind a workers' compensation scheme? It is to ensure that a worker who is injured during the course of their employment is covered financially. It is as simple as that. There will always be some employees of South Australian employers who pay levies to the South Australian workers' compensation scheme and who, because of the nature of their employment, live outside the borders of South Australia. The fact that they get injured should not reduce that person or their dependents to penury because they happen to live outside the borders of South Australia. Their employers pay their fair share towards workers' compensation costs because that worker's salary or wage is included in the employer's overall wages bill on which they are paying a levy.

I understand from what the minister is saying that he supports the general principle, but it should be a national scheme. I agree, because there will be South Australian workers who live in South Australia but who work for Victorian employers or New South Wales employers, and those employers pay to their own local state schemes. However, those workers miss out on being covered for workers' compensation because they live in South Australia and not in Victoria or New South Wales, or wherever.

However, I also remember that, in 1975, Gough Whitlam wanted to introduce a national compensation and rehabilitation scheme. Former Senator John Wheeldon was the minister who was designated to bring that in. There was a report, but I cannot think of the name of the person who headed that inquiry for the federal government. They wanted to introduce a national compensation and rehabilitation scheme. That was in 1975 but, unfortunately, it never saw the light of day because the Whitlam government was dismissed on 11 November 1975 and it encountered huge obstacles from conservative state governments in both New South Wales and Victoria at that time, and we are still talking about some form of a national compensation scheme.

I simply say to this committee (particularly the members for Chaffey and Gordon) that we in this chamber will not be able to influence directly what the governments of New South Wales, Victoria or any other state do. All we can do is the best that we can under the jurisdictional limits allowed for by this parliament and our own constitution. We have identified an unjust situation, one which should never have arisen, and all we in this parliament can do is the best that we can on the day. If by leading the charge in South Australia we break the logjam (so to speak) at a national level so that a New South Wales or Victorian Labor government finally gets around to proposing complementary legislation—which we in South Australia will do tonight, I hope—then that is all to the good.

As I said earlier, the fact that we cannot get a national scheme has been talked about for the last three years. We want to break the logjam. We want to bring justice to the extent to which we are allowed under our jurisdiction. Let us hope that that helps to lead the way for other jurisdictions to pick up the baton and follow South Australia's lead. I commend the member for Lee, in particular, for bringing forward this amendment, and I strongly urge all members to vote in favour of it.

If something else can be done to satisfy the member for Gordon, that might have to be done in another place. In terms of playing with levy rates and things of this nature, this measure cannot be dealt with lightly. I remind the members for Gordon and Chaffey of the mental impairment bill. That was an injustice. It had been passed two or three times in another place, but when it came to this place it never got out of private members' time. It was voted against and finally voted down, because the government of the day, rather than arguing the merits of the case, kept talking about how much it would cost.

We need to grasp the nettle while we can. The government wants this legislation to go through. From the opposition's point of view, the member for Lee is doing the correct thing

in trying to improve it along the way without doing significant violence to the economic welfare of WorkCover, the levy rates or anything of that nature. We have the chance to do it. Let us seize this opportunity. Why should we wait a day longer on this issue? Tomorrow, another worker living in Victoria could be injured in South Australia while working for a South Australian employer paying into the WorkCover scheme. That person and his dependants will suffer for no reason other than the fact that this parliament did not grasp the nettle when it had the opportunity to do so.

So, let us go ahead and do it and, if there are further and better particulars in terms of improving the overall legislation, this is not the be-all and end-all of it; the government can bring in that legislation at any time, as can the member for Gordon. Let us do what we can to bring justice to a small group of people who have slipped through the safety net. Let us get back to the basic principle of what workers' compensation is all about: that is, to safeguard the injured worker and their family from penury because they have been injured at work. If they happen to reside outside the state of South Australia, that makes no difference to the basic principle.

The Hon. M.H. ARMITAGE: I would like to reiterate what I indicated before and perhaps clarify a potential misunderstanding. If this bill passes it will become law. If it is not passed today—if a division is called and it is not passed on the voices—I feel strongly enough about this issue to make a commitment to the committee that an amendment will be introduced in the upper house to address these issues. What I am unable to commit to is identifying to everyone that I can fix all the problems. That is my sole concern.

I think there are issues in this amendment bill which potentially still leave some holes for South Australian employers and possibly South Australian employees. For that reason, the government will vote against this so that it can have time to check those facts. I have been asked whether I can check that this afternoon. Given that it has taken a conference of ministers from around Australia 2½ or three years to reach a position where most support it, I cannot give such a commitment. What I can do is identify that between here and the upper house that will be the case.

Mrs MAYWALD: I support the principle behind the amendment of the member for Lee. I believe that the arguments have been well put by many members of this chamber. I do not think we disagree on the broad principle. The amendment has only just been introduced into the parliament, and I think it is important that its words truly reflect the intent of the parliament. I believe that, therefore, it is necessary for me to take further advice on the amendment before I would feel comfortable voting on it. Some issues have been raised by the member for Gordon regarding this measure which also need to be addressed. I understand that the minister has given a commitment to deal with that between here and another place but I am not entirely comfortable with that, either. I think that we should send it to the upper house in a format that we in the lower house believe is appropriate. For that reason, I support the member for Lee's proposal to report progress at this stage so that we will be able to take further advice.

Mr WRIGHT: I acknowledge the sentiments of the member for Chaffey and the member for Gordon. The minister has asked that some time be allowed to get some advice. I think that when he gets that advice he will be in a position to allay the fears of anybody in this House. As the member for Chaffey just said, it is far more desirable for this House to deal with this matter. We should send this to the Legislative Council having dealt with it, not for it to be fixed up between houses.

Progress reported; committee to sit again.

UNCLAIMED SUPERANNUATION BENEFITS (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

The Hon. M.R. BUCKBY: I move:

That standing orders be so far suspended as to enable recision of the vote on the third reading of the Unclaimed Superannuation Benefits (Miscellaneous) Amendment Bill.

Motion carried.

The Hon. M.R. BUCKBY: I move:

That the vote taken today on the third reading of the Unclaimed Superannuation Benefits (Miscellaneous) Amendment Bill be rescinded.

Motion carried.

Bill recommitted.

Clauses 1 to 6 passed.

Clause 7.

The Hon. M.R. BUCKBY: I move:

That clause 7, which is printed in erased type, be inserted in the bill.

Clause inserted.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

VICTIMS OF CRIME BILL

Adjourned debate on second reading.

(Continued from 27 September. Page 2310.)

Mr ATKINSON (Spence): This bill purports to place in legislation rights of victims of crime that were in the declaration of the rights for victims of crime published by the government a couple of years ago. I say 'purports' because a breach of these rights carries no punishment, damages or compensation; breaches are dealt with as a grievance by the Ombudsman or by the Police Complaints Authority. These are rights in the abstract. Among these abstract rights are the rights to information on the progress of a police investigation, withdrawal of prosecution, escape from custody and recapture. Other rights of victims are to have his or her concerns heard on the question of the grant of bail and to have his or her concerns heard on a parole application. The latter right is presently restricted to victims of offences of personal violence or victims of sexual offences. Those members who have been here for two terms will recall that I moved a private member's bill to try to ensure that victims who choose to register are informed of parole applications and given an opportunity to make a submission to the Parole Board.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: The minister says that he thinks he supported me. Let me refresh the minister's memory. He did not, and the Liberal government defeated the bill along party lines.

The Hon. M.K. Brindal: There must have been a reason.

Mr ATKINSON: The minister says there must have been a reason, and there is. The Attorney-General must be right, and he must be right everlastingly and about everything and, therefore, the Attorney must, on all occasions, defeat bills in

the criminal justice area that he himself does not move. That is the reason, in case the minister wants to know.

The Liberal government argued that the bill was unnecessary because the Correctional Services Department always informs registered victims of parole applications. That argument was put in this House by the now Minister for Police and the now Minister for Mines and Energy. Alas, I know the government claim to be untrue. I have a constituent whose sister and parents were murdered, who registered as a next of kin of the victim and who was not informed of the prisoner's parole application and his imminent release.

The bill commits the government to keeping the victim's address private unless it is relevant to the case. This is a matter I raised with the government three years ago in an assault case, and I am pleased to say that I have not had a complaint since, nor has such a case been raised on talkback radio, at any rate while I was listening. The bill subsumes the Criminal Injuries Compensation Act, the compensation under which is confined to victims of violence, threats of violence, or imminent risk of harm, victims of sexual offences, and offences that result in the death of or injury to a person.

By the bill, the government intends that the following matters will not be compensable. Firstly, a person who attends the scene of the crime after the day on which the crime is committed; secondly, sees a crime or the aftermath of a crime on television; thirdly, discovers that a body is buried on his or her property; fourthly, suffers depression owing to being a victim of crime; or, fifthly—

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: —suffers depression, owing to being the victim of a fraud, I think that might be it, yes, thank you. It is nice to be corrected for the first time by a new minister handling the Attorney-General's bills in the House, the Minister for Water Resources. I refer, fifthly, to a pedestrian knocked down by a cyclist on a footpath who fails to ring his bell to warn the pedestrian. The opposition does not quibble with these exclusions. The entitlement to solatium for grief over death is maintained, as is the loss of the financial support of the deceased and psychological injury to the immediate family consequent—

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: A payment for solace to the family where there is not an economic loss.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: Yes, although I think it is time for the government to look at the level of solatium paid. If I am not mistaken, it has not increased since 1974. The entitlement to compensation for the loss of financial support of the deceased and psychological injury to the immediate family consequent on death is maintained. I would like the minister in his reply perhaps to tell the House what the maximum payment for those things is. Presumably there is a cap and, if so, the minister could inform the House.

The funeral allowance is increased to $5 000. The bill in the form to which the government intends to restore it would lift the threshold for recovery of compensation for non-economic loss to three points, namely, a minimum of $3 000. The threshold is now one point. The victims of crime review proposed to lift it to five points. For now, the opposition will defend the one point threshold. The government's intention is to stop claims being made for trivial injuries, and the Attorney-General cites cut fingers or bruising without serious harm. Before supporting a lift in the threshold, I would like to see some of the files on claims between one and two points and between two and three points.

The bill removes the excess of $1 000 for economic loss. So a victim could now claim for the cost of an ambulance ride to hospital—

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: Yes, we will support that clause. The most liberal and attractive aspect of the bill is the proposal for payments at the discretion of the Attorney-General to victims of crime who do not assert that they have suffered injury, at least compensable injury, but seek financial assistance to overcome the effects of the crime and to prevent its repetition, namely, the installation of home security equipment, security screens, window locks and sensor lights. The Attorney-General would not authorise the payment of a lump sum but would meet identified expenses.

In South Australia, Mr Acting Speaker, as you would know, after eight years of the Hon. K.T. Griffin being in charge of criminal justice, the number of house breaks is at an all time high, having leapt in the past year. The Hon. K.T. Griffin told an Adelaide radio station before the last election in South Australia that we did not have a problem with burglary. If this initiative is not to consume the entire criminal injuries budget, the Attorney will have to refuse almost all applications. I think the proclamation of this clause will hinge on the carriage of the government's proposal to lift the threshold to three points.

It is my suspicion that a substantial proportion of the state's criminal injuries compensation payments are made to people who have considerable criminal records, and I think many of the obligations of the fund to pay are to people with criminal records who have an affray with each other, and of course some of the payments are generated in South Australian prisons.

The Hon. M.K. Brindal interjecting:

Mr ATKINSON: Sir, I would seek your ruling. I would have thought it is appropriate that the minister receive advice from an adviser seated next to him or he goes to the carrel which contains the advisers and receives advice there. I do not think it is appropriate that conversation between the minister and his adviser takes place from the minister's seat across to the carrel containing them.

The Hon. M.K. BRINDAL: I apologise to the honourable member; it is a bad example set often by members opposite that was leading me to error.

The ACTING SPEAKER (Mr Scalzi): I uphold the point of order.

Mr ATKINSON: As only one member of the opposition has ever sat in the seat in which the minister is sitting, I do not know how he can say that the opposition did these things in its time in government. I have been informed that a substantial proportion of our criminal injuries budget is paid to people who have considerable criminal records, and it is generated by their having disputes amongst each other and criminal affrays—

Mr McEwen interjecting:

Mr ATKINSON: As the member for Gordon says, 'Belting each other up'. It is a matter at which the incoming government would have to look most carefully. Members will recall that an amendment that I moved to prevent criminal injuries compensation being paid to people who were injured in the course of criminal conduct was carried by the House, although, for a long time, that provision was fiercely resisted by the Attorney-General. He was eventually forced to accept a modified version of my proposal by public opinion. So, before the Parliamentary Labor Party resolved to lift the threshold for non-economic loss, we would want to look at

how much of the fund was being paid to people who had substantial criminal records.

I will now turn to other aspects of the bill. There is a new requirement for victims to mitigate the damage or losses they have suffered, and the bill requires them to avail themselves of proper medical treatment or rehabilitation. There is a new provision on costs whereby, if the victim is offered compensation by the government but rejects the sum, the victim will not recover costs after 14 days from the making of the offer unless the final award exceeds the offer. Against the recommendation of the review, prisoners will still be able to claim if they are victims of crime in prison, but they will not now be able to claim for psychological trauma for witnessing a crime while in prison or under the administration of the Department of Correctional Services.

An honourable member interjecting:

Mr ATKINSON: As the minister says, there may be many claims of this nature. I do not know whether that is right, because I do not have access to the documents that would reveal how the fund is administered. It is my suspicion that there would be many claims of that nature. The victims of crime levy is to be CPI indexed, and there are to be different levels of the levy, namely, a higher levy on people who commit offences that may give rise to a victims of crime payment. Through the bill, the government continues with its policy whereby injuries covered by workers' compensation, compulsory third party insurance or treatment costs incurred that could be claimed from a health fund cannot be claimed from the victims of crime fund, and the Attorney has implemented this policy quite ruthlessly during his term in office. With those remarks, the opposition supports the second reading of the bill. We will defend the bill in the form in which it comes from another place, but we acknowledge that the government has the numbers to restore a three point threshold to the bill, and I imagine that matter will be resolved in a deadlock conference.

Mr HANNA (Mitchell): I would like to make a few remarks about the bill. The Hon. C.J. Sumner did a lot of pioneering work in this area in the 1980s when he was Attorney-General in the Labor government, and we have come a long way since then. It is good to see that this bill contains a number of recommendations that came out of the government's consultation process over the last few years. In particular, it is good to see the better integration and protection of victims within the justice system. Some additional benefits will be gained for some victims; for example, they will be able to apply for money to have a better security system installed in their home after a home invasion (otherwise known as a serious criminal trespass). Some trimming of the scheme has occurred as it relates to prisoners. However, taken as a whole package, it is really a good move forward.

The opposition needs to dig its heels in at one critical point, that is, in respect of the minimum amount of compensation that can be paid. The government was obviously in cost cutting mode when it reviewed the whole victims of crime compensation scheme. The government seeks to have a minimum payment represented by the figure three out of 50 in the context of the compensation scheme, below which there would effectively be no compensation for injury. That is wrong; it is mean, and I do not think it can be justified if you agree with the basic principles of the victims of crime compensation scheme.

Some injuries arise from assaults that most people would consider reasonably significant, but they would be excluded if the government were to have its way; for example, a badly broken nose sustained in a fight could put a person out of work for a few weeks at least, and it could damage their sense of smell. However, if the government had its way, the people concerned would not be compensated. It is good to see that there was the will in the Legislative Council to counter that government measure, and I hope that the same concern for victims of low level assaults will prevail in the scheme of things. Consequently, I join with the shadow Attorney-General in supporting the second reading.

The ACTING SPEAKER: The member for Ross Smith.

Mr CLARKE (Ross Smith): Thank you, sir.

An honourable member interjecting:

Mr CLARKE: The minister should sit; maybe he will learn something if he listens. I support the shadow Attorney-General and the member for Mitchell's comments. I also hope that this House will oppose the Attorney-General's arguments to reduce the pay-out under the victims of crime compensation fund by increasing the threshold from one to three. I do so for the reasons already outlined by the member for Mitchell. Let us look at it. As I understand it, when the legislation regarding the compensation of victims of crime first went through, the original threshold was at least $100. That has been increased tenfold to a minimum of $1 000. The Attorney-General now wants to increase that to $3 000. The member for Mitchell referred to the example of a person who might have sustained a broken nose and had to be off work for a couple of weeks or who might have lost their sense of smell. Such a person would be precluded from compensation under this threshold. At least they will be compensated in terms of economic loss, because they are in employment and if they lose wages they will be compensated—in part, at least—for the loss of wages.

However, what about those victims of crime who are unemployed or pensioners who are not in receipt of an income? The threshold of going to three in terms of non-economic loss precludes those people from compensation, and a pensioner who gets a hit on the nose and maybe loses their sense of smell may well miss out on any compensation. What about the number of people who could be put off from making a claim because the threshold is three? To achieve a three, they may need doctors' or other specialists' reports to back up a finding that they have reached a threshold of at least three. Those costs could range from $100 to $400. A pensioner or unemployed person will not have a spare $300 or $400. They may not make a claim because they might think that they will not make it to the threshold of three, and they might miss out altogether.

Only the handful of lawyers who specialise in this area might currently carry that cost and make an assessment that they believe they will reach at least a threshold of one under the present scheme and will fund those doctors' reports, but they may not be prepared to do so if they have to reach a threshold of three, because they might not get back their funds. I will go into this in more detail in committee. I will conclude my second reading comments by saying that I trust that the Independents in this place in particular will support the stance taken in another chamber by rejecting the Attorney-General's amendment to increase the threshold to three.

[Sitting suspended from 6 to 7.30 p.m.]

The Hon. M.K. BRINDAL (Minister for Water Resources): I thank members for their expressions of support for the second reading of this bill. I should point out that it has come to my attention—and I am very surprised, given the shadow attorney-general's particular research on all the bills that are in his bailiwick—that there is an error in the second reading report relating to this bill which I should correct. The report refers to clause 20(12) which deals with the costs where the Crown has made an offer which the victim has not accepted and does not better at trial. The clause, in fact, does not appear in the bill as introduced—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: —yes—as was introduced into this House. The clause was removed by a government amendment in the other place, but the relevant reference was not removed from the second reading report. The bill now contains no specific provision dealing with cost orders where the victim has refused to accept the Crown's offer; rather, that matter is dealt with by the rules of the court. I hope that is explained for the shadow attorney-general.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I presume you would be right. The member for Spence has asked about the maximum amount of solatium payable for grief at the death of a spouse or child by homicide. The bill does not change the present law on this point, that is, the maximum figure is $4 200 for a spouse and $3 000 for a child. These figures are the same as the comparable payments under the Wrongs Act for wrongful death, for example, as a result of a road accident. Of course, solatium is a payment in recognition of grief. It is separate from any claim that the spouse or parent may have should he or she suffer a mental injury as a result of the death.

The member for Spence has also asked how many applicants for criminal injury compensation themselves have criminal records or are prisoners. The answer is that statistics cannot be provided because a person is not required to disclose any prior criminal history on whether he or she is in custody in order to make a claim. This is because under the present law these factors are not relevant to the person's entitlement to compensation. I think that the shadow attorney-general alluded to that.

Mr Atkinson interjecting:

The SPEAKER: Order! The minister is closing the debate.

The Hon. M.K. BRINDAL: As to the sorts of injuries that would fall in the range of one to three points, which was raised by the member for Mitchell, while I do not have actual cases available to me I am advised that, for example, a psychological injury such as an adjustment disorder with anxiety persisting for perhaps two to three months might fall in this range, as might temporary aggravation of a pre-existing tissue injury such as a back pain from an old injury which flares up after an assault and subsides over a few months.

The member for Mitchell spoke of an injury such as a broken nose. That would depend on the severity of the injury, whether treatment is required and of what kind, and whether there is permanent damage. For example, if the fracture required surgery or if the injury permanently deprives a person of a sense of smell it might well, and probably would, exceed three points. On the other hand, if it required no treatment and resulted in minimal interference to a person's way of life it may not exceed three points. Members must understand that assessments of these claims does not work like a mains table—and I presume the shadow attorney-general knows what a mains table is—with a set amount being given for a set injury but, rather, the court considers the effect of the injury on the particular individual and his or her way of life.

So, for example, the same injury might result in a different award if it prevents a person from engaging in a sport or recreation that was important to him or her or has adverse effects on the person's participation in the community as a volunteer. The same injury may not affect any two people in exactly the same way. That is why these cases are assessed case by case by a court and not in fact by the Attorney-General or other officers. In conclusion, I thank members for their contributions. They raised some interesting and important points, which I am sure we will discuss in committee. I look forward to further discussion of these matters in the committee stage.

Bill read a second time.

The Hon. M.K. BRINDAL: Mr Speaker, I draw your attention to the state of the House.

A quorum having been formed:

In committee.

Clauses 1 to 19 passed.

Clause 20.

The Hon. M.K. BRINDAL: I move:

Page 15, line 26—Before 'the amount' insert:
if the numerical value so assigned is 3 or less, no award will be made for non-financial loss but, if the numerical value exceeds 3,

Mr CLARKE: I oppose the amendment, as does the opposition, for very good and cogent reasons. This is an absolutely mean-spirited amendment by the Attorney-General. As I said in my brief second reading speech, the old scale under the victims compensation act was $100, which was increased tenfold to $1 000, and you have to get at least one point. The government is proposing that you have to get to three points with respect to non-economic loss, pain and suffering. The most you can get under victims of crime compensation is $50 000; you have to be a quadriplegic to get 100 per cent. Therefore, to obtain three points you have to be at least 6 per cent as bad as a quadriplegic to qualify for anything as far as non-economic loss is concerned.

I am indebted to a former constituent, Matthew Mitchell, a barrister and solicitor who practises in this area and one of the few members of the legal profession who does. It is not a very lucrative area of the law in which to operate but, nonetheless, he specialises in it. I am glad he does because, if he and a couple of others did not, victims of crime would have nowhere to go because, quite frankly, again, the Attorney has been too lousy in terms of setting the scale for the legal profession in this area. He has discussed this matter with officers of the Attorney's department as well. The example given by the member for Mitchell, and confirmed by the minister in his second reading speech, is that if your nose is broken you would not make the three points unless there was permanent ongoing injury.

Mr Atkinson interjecting:

Mr CLARKE: At the moment, I am informed by Matthew Mitchell that you would probably get about one point for a broken nose. Under the minister's amendment, if your nose is broken, unless you have a permanent disfigurement, you would be unlikely to get to three points. A bank teller who suffers post-traumatic stress with a gun shoved up their nose—there is no permanent injury and no physical attack—and who is off work for a few weeks and goes back to work on light duties and not their normal task might get,

in Mr Mitchell's view, about two points, but would not make the three points. Of course, I agree that these assumptions being made at the moment would have to be determined by a court.

This is the other point made very forcibly by Mr Mitchell, and I believe he is absolutely right. Not only the people who are up to three points and think (but are not sure) that they will make the barrier of three may be deterred from making application for compensation: it would probably also mean people who get up to four points, because lawyers are not medical officers; they are not specialists. When a client comes to them and says, 'I've been a victim of crime and my arm has been broken in the assault occasioned upon me, but I don't have a permanent disability or anything of that nature', the solicitor might say, 'There's a possibility that you might just make three, but before I can give you a more definitive opinion I'll need specialist reports. An average doctor's report is about $100 and a more specialised report is $300 to $400. Would you care to put that amount of money in my trust fund so that I can pay these accounts? I'll then tell you if you have a claim.'

At the moment, solicitors such as Mr Mitchell might well say, 'I will bear the cost, because I think we will make the threshold of at least one point so that you can be reimbursed your costs.' When it comes to a three, the opinion may well be 'I can't bear that cost, because the chances of you making three are not so clear cut. But I can say that you ought to bear that cost of $300 or $400 in specialist fees and I'm not prepared to run the risk.' Many people—pensioners, the unemployed, those on a lower income—will say, 'I don't have the money, and I'm not prepared to go into this roulette as to whether or not I'll break the three barrier.' So, by the operation of this amendment you will exclude people who might qualify up to four but who are not prepared to take the Russian roulette when they do not have the funds available to them.

This is all about saving money, minister, with respect to the compensation fund. Do not give me the waffle that the Attorney-General goes on about with in terms of making more money available under a greater area of discretion concerning what funds might be available for helping a victim of crime with security measures. That would be at the Attorney's discretion and so far this Attorney's discretion, anyway, has been absolutely scrooge-like, to put it at its best, in areas where he has exercised his absolute discretion on other matters in the past.

Mr Atkinson interjecting:

Mr CLARKE: Well, the Scrooge at Christmas would appear a philanthropist in comparison with the current Attorney on that point.

Mr Atkinson: He came good again.

Mr CLARKE: Well, that is true; he came good, and we are still waiting for the current Attorney to repent. The fact is that there has been no indexation of the compensation payable by this government, over the eight years it has been in office, in terms of the—

The Hon. M.K. Brindal interjecting:

Mr CLARKE: No; which one was that?

The Hon. M.K. Brindal interjecting:

Mr CLARKE: We brought in the scheme and our Attorney-General, Chris Sumner, never refused the recommendations of his officers with respect to the exercise of his discretion, unlike the current Attorney, who, for eight years, has consistently rejected even the recommendations of his own department with respect to victims of crime where the exercise of his discretion has come into play.

The Hon. M.K. Brindal interjecting:

Mr CLARKE: We will deal with that at another time. In summation, I pose this question to you, minister. Presumably when the figure of three was used by the Attorney, he must have known how many claims he believes would no longer be accessible by victims of crime. How many claims would have been rejected, say, in the last 12 months had this standard applied, and how much money would it have saved the fund? I also put to you, minister: when I am hit with a speeding fine, the one part I do not object to paying is the victims of crime levy. Rather than be—

Mr Atkinson: And the minister does.

Mr CLARKE: And the minister does, apparently, object to paying that levy. That is the one part that I do not complain about because I know it goes where it is warranted: to people who have been the victim of a crime. I have often wondered why, instead of chiselling away at those who are unemployed or pensioners and the like who would be disfranchised under the minister's amendment to try to save a few bob for the fund, we do not seek to reimburse the fund by applying to fines paid by the general public an increase in the levy that is payable by those offenders so as to help replenish the fund sufficiently. I would be interested in the minister's views on that point also.

The Hon. M.K. BRINDAL: I thank the member for Ross Smith. He ranged over a degree of points—

Mr Atkinson: A degree of points?

The Hon. M.K. BRINDAL: He ranged over an area of debate, and there were a number of points which he made and he canvassed the issue broadly, so I will have to do the same in reply. I cannot canvass the individual points that he raised; I am not quite intellectually that capable. The shadow Attorney may well be, but I am not. I know that the member for Ross Smith and, I believe, the member for Mitchell, from the remarks that he made earlier, are of the same view that this is a spirit of meanness on behalf of the government. I refute that.

Mr Atkinson: Whether you refute it or not, we will judge, but you can attempt to refute it.

The Hon. M.K. BRINDAL: You may judge it, but I will attempt to refute it by saying that the member for Ross Smith knows that the points scale goes from 1 to 50, and that points 1 to 3 are judged by the government to be injuries of a minor nature and that it is not appropriate, for reasonably trivial injuries, simply to pay a lump sum, because the lump sum is itself at the trivial end of the scale. If, for instance, we take it to a point (which the honourable member did not), you will be paying somebody simply for having some cuts and bruises, and we are talking now not about economic loss but about pain and suffering—non-economic loss. We believe that there is a point at which the nature of the injuries becomes trivial in so far as they are to be adjudged for a lump sum payment in respect of non-economic loss. That is the difference between the arguments.

The honourable member says that he sees it as meanness and mean-spiritedness. We see it more as an acknowledgment that there is a trivial end of the scale where the concept of pain and economic loss just does not hold. Do you get right down to the dollar? Where do you draw the line? We say it is in this 0 to 3 threshold.

Mr Clarke: So if you got a punch in the nose you wouldn't make a claim because it is trivial?

The Hon. M.K. BRINDAL: That is the point. It has been explained and I will try to explain it again. It depends on the nature of the injury and the nature of its effect on me and my subsequent lifestyle. I mentioned that in my second reading reply: it depends very much on individual circumstance and the judicial process. This is not an arbitrary matter for officers, the Attorney or anyone to fix. It is a matter for the courts to fix, taking into account individual circumstance.

Mr Clarke: If you enjoyed a red wine and you could no longer smell—

The Hon. M.K. BRINDAL: If you permanently lost the sense of smell, which is that to which you alluded, it would almost certainly exceed the three points because it is a permanent, debilitating injury and, if like some people you enjoyed a glass of red wine and loved to sniff it rather than quaff it, you would probably get more than the three points and more compensation because that would be an important variant to your lifestyle. That is why this sort of measure is put before a court for adjudication, because for one person it might mean very little but for another person the same injury might mean a lot—again, the matter to which I alluded in my second reading summation.

Mr Atkinson: I don't think you alluded to it; I think you mentioned it.

The Hon. M.K. BRINDAL: As I would like to get home early tonight, I will be gracious and say that I mentioned it rather than alluded to it, if that would please the shadow Attorney. It is difficult, as the member for Ross Smith would know, because prior to bringing in these amendments victims could aggregate their thousand dollars. Non-economic loss and economic loss could be put together. I cannot give the honourable member an exact figure because the two categories, prior to this bill being passed, were not separated. I can tell him that, for the financial year 2000-01, in the $0 to $1 000 range, there were 230 cases; in the $1 001 to $2 000 range, there were 105 cases; and in the $2 001 to $3 000, there were 111 cases. So, more than half the cases were at that very low end between $0 and $1 000, and again I emphasise—

Mr Clarke: Less than 450 in total.

The Hon. M.K. BRINDAL: Yes, adding it up in my head, I think it is about 450.

Mr Clarke: 446.

The Hon. M.K. BRINDAL: A tad less, so you are right. I emphasise to the committee that those figures include the economic loss, so we have to subtract from that the economic loss, and as 230 of them were below $1 000 they either sustained very little economic loss or they suffered very little pain and suffering.

Mr Clarke: So we are arguing over a molehill.

The Hon. M.K. BRINDAL: Exactly, just so, and the reason that we are arguing over that molehill is that it is not worth paying out such minuscule amounts of money when we would contend that it is more appropriate to do it this way because, instead, victims of minor injuries should receive full reimbursement for their monetary loss flowing from the injury, that is, medical treatment, loss of earnings—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: No—and should be eligible to apply for financial assistance for practical measures to help them recover from the effects of the crime. For example, if a person is the victim of a serious criminal trespass at their home, they might apply for assistance to install sensor lights, window locks or an alarm to help them feel safer in their home. The government believes that this would be a real practical help and, in a way, is much better than paying a lump sum payment. I point out to the committee that, almost certainly in the instance I quoted, it would result in an ex gratia payment or a payment made for expenditure actually and necessarily incurred in a larger sum than would have been granted had the old formula of pain and suffering been applied from the court. Certainly it means that some people might not get much at all, but other people who need assistance to recover from the effects of the crime and to reinstate their lives may well get more assistance.

The member for Ross Smith has been very unkind to my colleague and friend the Attorney in another place and referred to him with some sort of literary pseudonym. He would undoubtedly say that he would not trust the Attorney in a generous application of this discretion. I say to him simply this: have faith, my friend; have faith. If the honourable member is as passionately convinced as he says he is, in a few months' time my friend the Attorney will not be the Attorney and that gentleman over there may well be the Attorney and there will be naught to worry about, because this House will have an Attorney-General of great practical sense and enormous compassion and he will see that this discretion is properly enforced.

Mr Atkinson interjecting:

Mr CLARKE: I certainly won't. I will not be assuaged at all by the scenario painted by the minister, because it is not a matter of individual attorneys-general with which I am at issue. In these sorts of things, at the very least there ought to be some clear guidelines so that those who apply for the exercise of the attorney's discretion in these matters know what yardsticks are being applied from time to time. At the moment, there are no such yardsticks other than the fact that you can be fairly certain that from the current Attorney-General who has been in the position for the last eight years the answer will be 'No'.

The question I now pose to the minister is: of the figure that you gave us of up to $3 000—and I acknowledge that it includes economic loss—446 claims were made in the last financial year, 230 being for up to $1 000. If at a guess it includes economic loss, out of the 446 in total, let us say that we are only talking about perhaps—and I know that this can only be a very generalised figure—250 claims for non-economic loss which would perhaps have been rejected had this threshold of $3 000 applied during the last financial year with respect to non-economic loss.

In terms of amounts ranging between $1 and $3 000—it may be $1 500 or something of that nature—we are talking literally about peanuts, but it is important for the individuals concerned. In terms of the overall fund and the state budget it is a minuscule amount of money, but it is important to the individuals who might otherwise be denied their entitlements under this fund. We are a western society. How do we recognise a wrong done to another as far as the courts are concerned? It is in money. That is our yardstick in western society—money. I do not see why these people alone of all victims should miss out.

It is not as though the Attorney-General is saying, 'If we stop these 250 claims for non-economic loss we will increase the upper limit from $50 000 for the worst affected (quadriplegics) to $60 000 and the people who suffer the worst cases as victims of crime will increase the scale so that those who are permanently afflicted with an injury are better compensated for it from the money that we save between the $0 to $3 000. We are not doing that. The only quid pro quo that the Attorney is proposing is that the Attorney, at his absolute

discretion, can determine to spend from the fund some moneys that a victim of crime might receive to improve their security.

Then we will have the interminable arguments—should there should be deadlocks or ordinary locks; sensor lights and how many sensor lights; should it be a monitored alarm system; should it just be an alarm system that bellows into the night and does not call a police officer or a security guard to the house; or should it require a response from a security guard or the police department—and we will pay those additional costs. For anyone who might be attorney-general, it will be a really burdensome task to assess in their absolute discretion what level of security they should grant one individual versus another.

An honourable member interjecting:

Mr CLARKE: And the geographic. It will be a really burdensome task. If I apply the maximum degree of my discretion to one case, there is no doubt that there will be an equally deserving case somewhere else, but the fund can only stretch so far, so I will reduce it to the lowest common denominator. Let us not kid ourselves in this place. We are not increasing the size of the fund to make it more generous for those victims of crime who are the most affected; we are keeping the pie basically at the same size and trying to spread the butter a little more, not to the worst affected victims of crime but with this nebulous concept of the attorney exercising an absolute discretion to decide whether to put extra locks on a window.

How many windows are there in a house? If you rent the place, should the landlord agree to it? Should the landlord contribute towards the cost? What if the landlord refuses? The attorney would be involved in interminable arguments in exercising his or her discretion. It is a nonsense and it will simply come out of the pockets of people who suffer a broken nose. That is not a permanent disfigurement or disablement, but it is something which is important to those people.

Unfortunately, most victims of crime, because of the virtual nature of an assault, suffer either psychological damage or a head injury. I pose this to the minister: if I were to lose two fingers as a result of an assault, how bad is that vis-a-vis a quadriplegic? One could say that the loss of two fingers compared to quadriplegia is so minor as to be insignificant. Does that get me the 6 per cent or should I get some compensation for that? Ultimately, it will be left in the hands of the court—we will not be able to come up with definitive answers here today—but I simply say that people are going to miss out, and they should not. If you are going to index the level of payments and increase the size of the cake so that those who are worst affected do better out of it, that might be a different argument, but you are not doing that.

The Hon. M.K. BRINDAL: One is left to wonder who some of the member for Ross Smith's friends are. I have heard of people who have lost fingers, but they deal with people they should not be dealing with. Seriously, regarding the example that the member for Ross Smith cites—and I am not a judge; therefore, I cannot answer it from a judicial point of view—I argue that, if you lost two fingers and you were a piano player (either as a valued component of your leisure or a concert pianist in a symphony orchestra), you would almost certainly be well above the magical 6 per cent.

However, the member for Ross Smith says, 'What are we talking about here? We're talking about peanuts.' He well knows that peanuts is something that you generally feed to monkeys. That is the point that the government makes. When you are talking about non-economic compensation for pain and suffering, what is the point if you say that it is demeaning to pay someone with a broken nose $1.50 for pain and suffering—trivial amounts that try to quantify human pain and suffering?

One has heard comments in this place asking how we can we sit here (and we put some of this on to the judges) and attempt to compensate a woman who is a victim of rape? What figure is good enough? I will bet that many of the women who sit in this place would say that any figure is ridiculous and that any figure is too little because there is not a monetary value for the sense of invasion, trauma and a lot of what women suffer because of violent sexual assault and other crimes. Yet, we sit here and try to put a value on it. The Attorney has said that there is a level at which placing a value on it is to demean what you are doing. So, we say that it should be 6 per cent because it is not worth, as the member for Ross Smith himself said, paying peanuts because it actually diminishes the value of what we are trying to accomplish. I think that is the essential difference between the position taken by the government and the position which I know is argued well-meaningly by the member for Ross Smith.

So, it comes down to whether the money, instead of being applied meanly to everybody, can be more judiciously used for specific cases. Certainly, not everybody is going to need sensor lights, and I do not know how many sensor lights or anything like that are involved; that was an example. But the opportunity to help some people get enough money to live a better life, rather than paying everyone two and sixpence and demeaning the whole exercise, is the reason I stand here arguing the point, and the member for Ross Smith argues the counter point.

Mrs Geraghty: What about counselling, and those types of things that have to be paid for?

The Hon. M.K. BRINDAL: They would be classed as economic loss. We have reduced the $1 000 aggregate threshold. If you spend $25 on counselling and medical services, you can get all of that back. Any economic loss—doctors, ambulance or loss of wages—down to $1 you can get back.

Ms Thompson interjecting:

The Hon. M.K. BRINDAL: I don't know. I would have to take that question on notice and give the member an answer, but you are not likely to get that under pain and suffering compensation, either. That would be classed as a carer or support service. There is no specific provision in the current bill, nor in the proposed bill, but it could come under an ex gratia payment. I think perhaps the more likely situation where it would apply is, say, if a young person needed their parent or something like that in certain cases. There may well be cases where it would apply, but I will try to get a considered answer for the member on that specific question. I am not capable of doing it tonight.

Mr CLARKE: I want to follow up the point that the minister made in response to an earlier question I put to him about peanuts. The reference I made to peanuts was about the savings that the government seeks to make to the fund as a whole. It is minuscule. In terms of the individuals who receive payments, let us remember that they are the victims of crime and are entitled to be paid something. It is important, and it is also psychologically important, if they are a victim of an assault or something of that nature, even though it may not be a permanent injury, that they feel that society has recognised that a wrong has been done to them by paying some form of monetary compensation.

However, the nub of the issue is that the government is not seeking to use the savings under this proposal to improve the payouts to those who do suffer permanent ongoing injury. It is not increasing from $50 000 to $60 000, as I said, the payout to someone who suffers from quadriplegia: it is not increasing the amount payable to the victim of a violent sexual assault from whatever amount of money it is now to a higher amount.

Mr Atkinson interjecting:

Mr CLARKE: The member for Spence interjects saying that the government is offering to use that money to help people improve security in their homes.

Mr Atkinson: But they are offering them something.

Mr CLARKE: That is true, and the member for Spence is correct in that respect. But, as I say, it is entirely at the absolute discretion of the Attorney of the day. Secondly, I do not know if I want to waste the time of the Attorney-General of South Australia determining whether case A should have all windows fitted with a certain type of lock at $X cost or whether sensor lights ought to be installed, or whether we ought to pay for a monitored security alarm system or whatever else. I think that the Attorney-General of South Australia ought to be occupied with considerably more than that.

If you are going to have such a scheme, there ought to be appropriate guidelines that can be followed administratively and delegated down from the Attorney-General. Why would you want the Attorney-General having to work out 300 or 400 claims a year that are submitted to his or her office on these types of measures? It is a nonsense: it is a time-wasting exercise. If you are going to do it, do it with guidelines and criteria and let it be delegated. But, in fact, it is robbing Peter to pay Paul.

I ask the minister: has the government given any consideration to increasing the levy payable to the victims of crime by those who offend against the laws of the state? Will offenders be required to increase the amount that they have to pay to the victims of crimes fund by way of penalty so that we do not have to go through this insulting, penny-pinching exercise?

The Hon. M.K. BRINDAL: If the honourable member is asking about increasing the levy, I can tell him that the amount of the levy will be fixed by regulation and varied according to one or more factors. There are a number of factors, so the levy will be able to be varied in particular cases. So a traffic offence, for instance, might attract a levy at a different rate from an assault on another person. So, the quantum of the levy, depending on the regulations, may increase. If that was the import of the member for Ross Smith's question, I answer thus. If, however, his question is whether I will give a guarantee that the amount of money saved in the people one to three points should be redivided among the people with a more serious injury, the answer is that that is not possible until we find out the amount to be spent each year or the rolling average each year for ex gratia payments. The member for Ross Smith is, I think, arguing rather cynically that what we will do is bring this in with a provision for ex gratia payments. The Attorney will then make no ex gratia payments and somehow that money will just sit there—

Mr Clarke interjecting:

The Hon. M.K. BRINDAL: The honourable member has pre-empted part of my answer. Part of my answer is that he has to answer before this House or in another place. The fact is that tonight we are seeking to pass a bill that allows for ex gratia payments. Any Attorney who then made no ex gratia payments, or did not make ex gratia payments that were deemed suitable, would be subject to questioning of the House, because he is custodian of a law which makes a provision and which, clearly, he would not be prepared to act upon, and would therefore be subject to the normal scrutiny and questioning of the House. I contend—the Attorney contends—that the reason for bringing this measure in is to accumulate the peanuts—in the words of the member for Ross Smith—and use them in the form of ex gratia payment.

If consistently the ex gratia payments are less than the amount of peanuts collected, there may be a case for redividing the peanuts and thus increasing the payments for victims, but at the present that is not the plan.

Mr HANNA: The minister comes in here with an amendment to cut out compensation for non-economic loss for a whole range of victims. It seems to me that the onus is on the government to justify that. If you want to take compensation away from a range of people—for example, a young man or woman who is wantonly punched in the face in a nightclub, an old lady who is pushed to the ground savagely at a bus stop and has her bag snatched, or someone who is in a fight or a home invasion situation and sustains a minor flesh wound with a knife—I believe that you would have to justify it.

If the minister comes in here without being able to give examples of people who would score one or two points on the 50 point system, namely, those people who would be excluded, and if the minister cannot tell us how much money the government is aiming to save and how many people typically would be excluded as a result of the government's measure, then the government is not doing its job of justifying this amendment. I put that to the minister.

The Hon. M.K. BRINDAL: I think the member for Mitchell has been present for the whole debate. Given that the two figures, non-economic loss and economic loss, have hitherto been lumped together, I have given the figures for that in the zero to 3 000 category. I have read those figures into *Hansard*. I have elaborated the types of cases which we contend in the nought to three points are minor cases and, indeed, the member for Mitchell elaborated some of the types of cases that he would fit in. I believe that, on each of the questions that the member for Mitchell had asked (although we disagree), I have provided the figures, or at least an explanation of the government's position on this matter.

The government stands saying that what we are not prepared to do is compensate people for not economic loss but non-economic loss, that is, pain and suffering, where the nature of the pain and suffering is trivial or transitory. We argue that in the nought to three points it is the trivial and transitory who are not worth compensating and are worth replacing with a system of ex gratia payment, which will allow some people in that category who need it to get on with their lives by a better application of that same amount of money. In relation to each one of the instances raised by the member for Mitchell, some of them could indeed be quite grave; some of them might be merely trivial.

If the lad punched in the face at a nightclub is just sort of pushed by his best friend or someone and suffers no real pain and suffering, then why should there be a compensation? If, however, he is seriously injured, attends a doctor, has trauma and all sorts of resultant things, he would exceed the three points and he would get compensation for pain and suffering—and the old lady with the bag similarly.

Mr Clarke interjecting:

The Hon. M.K. BRINDAL: I do not know that at all. The member for Mitchell, the member for Spence and others in this place are lawyers: they understand the system better than I. This bill proposes to give to the legal system that which belongs to the legal system; that is, the power and the right to judge the individual particulars of individual cases fairly and impartially. It is the courts that will decide where someone sits on that scale of zero to 50 and it is courts that will adjudicate the individual needs of every single person. If the member for Mitchell, the member for Spence and the member for Ross Smith have no faith in our judges, let them say so, but it is—

Mr Clarke interjecting:

The Hon. M.K. BRINDAL: No, seriously—

Mr Hanna interjecting:

The Hon. M.K. BRINDAL: It is not a dishonest argument, because, if they are setting the parameters, they are the ones who will decide. All we say is that below three it is trivial and the judges will decide. I do not mean to offend the member by having him say that it is a dishonest argument: I just simply say that below three or above three will be a decision for the judges to make, and I believe that they are competent to do so.

Mr HANNA: The minister's explanation earlier about the types of people who might be affected by the amendment was not sufficient, not in the kind of detail that I would have expected if you are to remove the right to compensation from people. It seems to me that the fundamental objection is not about the system, how the system works or what the judges come up with. Tonight, it is about dealing with concrete examples. The kind of examples which the member for Ross Smith and I have given are realistic examples of people who might get one, two or maybe three points on the 50 point system. I am saying they are not insignificant and the minister is saying that they are trivial.

I say to the people who are punched in the face and suffer a broken nose—and to the old ladies who are knocked down and receive severe contusions that maybe last for a few days and pain that lasts for a couple weeks—that their cases are not trivial, and the minister is saying that they are trivial. That is what is offensive about his argument. The minister is prepared to discard a lot of people who are hurt through crime as far as non-economic loss compensation is concerned.

The committee divided on the amendment:

AYES (21)

Armitage, M. H.	Brindal, M. K. (teller)
Brokenshire, R. L.	Brown, D. C.
Buckby, M. R.	Evans, I. F.
Gunn, G. M.	Hall, J. L.
Ingerson, G. A.	Kerin, R. G.
Kotz, D. C.	Matthew, W. A.
Maywald, K. A.	McEwen, R. J.
Meier, E. J.	Olsen, J. W.
Oswald, J. K. G.	Penfold, E. M.
Scalzi, G.	Venning, I. H.
Williams, M. R.	

NOES (19)

Atkinson, M. J.	Bedford, F. E.
Breuer, L. R.	Ciccarello, V.
Clarke, R. D. (teller)	Conlon, P. F.
De Laine, M. R.	Foley, K. O.
Geraghty, R. K.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Key, S. W.	Koutsantonis, T.
Rankine, J. M.	Stevens, L.

NOES (cont.)

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

PAIR(S)

Condous, S. G.	Snelling, J. J.
Hamilton-Smith, M. L.	Rann, M. D.

Majority of 2 for the ayes.

Amendment thus carried; clause as amended passed.

Clauses 21 to 29 passed.

Clause 30.

The Hon. M.K. BRINDAL: I move:

That this clause be inserted.

This is a money clause. It provides for funding and could not be passed in another place.

Clause inserted.

Clause 31.

Mr CLARKE: This clause deals with the Attorney-General's having an absolute discretion to make payments from the fund for the variety of purposes that he can set down. If the Attorney exercises his absolute discretion and decides that a claim is to be paid or reduced, or something denied, will he reduce to writing the reasons behind his decision and, if not, why not?

The Hon. M.K. BRINDAL: No.

Mr CLARKE: For the last eight years, the Attorney has exercised his discretion under the act and consistently refused to make payments, even though they may have been recommended by crown law in certain circumstances. It would assist applicants and their legal counsel to know whether it is worth their while making an application for payment to have written down some criteria that the Attorney used from time to time to arrive at certain decisions. He must have them, because his decisions are almost invariably 'No.' There must be some rationale as to why he has adopted that position in the past. It would be useful for the community to have written reasons behind the Attorney's decision. Subsection (3) provides (and I realise this has been in the original legislation for some time):

A decision by the Attorney-General in the exercise of a discretion under this section cannot be challenged or called in question before any court.

We are giving the Attorney-General significant powers, and he or she will be able to exercise them in any way they see fit. They do not have to reduce it to writing or be answerable to anyone—including this parliament—as to why they did or did not do certain things. It is not reviewable by any court in the land. It would be at least useful in the administration of justice in this state that the Attorney-General, in exercising his discretion, reduce to writing the reasons for his decision so that the parties know why they have been unsuccessful, if they are unsuccessful.

The Hon. M.K. BRINDAL: It is not true to say that the Attorney never exercises his discretion. The important thing to understand is that this is a discretionary power; it is left to the discretion of the Attorney-General on a case-by-case basis. This Attorney-General chooses not to supply written reasons, I presume for the reason that, because it is a discretionary power, providing written reasons would be dangerous in setting precedents. It moves away then from a discretionary power. However, if a future Attorney-General chose, as part of his discretionary power, to provide written reasons that would of course be at the discretion of that Attorney-General. That is in fact the whole essence of discretionary powers. This Attorney-General exercises it in

the way that he has exercised it for the past eight years, and I believe he will continue to do so for the remainder of his tenure.

Mr CLARKE: Perhaps the minister could provide me with the following information—which I know he will not have at his fingertips; he may surprise me, but I would not expect him to have it at his fingertips: in the eight years the Attorney-General has been in office, could we be provided with information as to the number of requests that have been sent to the Attorney-General pursuant to the relevant provision of the act for the exercise of his discretion with respect to payment of moneys under this act; and the number of times that he has agreed or not to exercise that discretion in favour of the applicant?

The Hon. M.K. BRINDAL: I will ask the Attorney-General whether he will be good enough to provide me with an answer which I can provide to the member for Ross Smith or which he will provide directly.

Clause passed.

Clause 32.

The Hon. M.K. BRINDAL: I move:

To insert clause 32.

Clause inserted.

Clauses 33 and 34 passed.

Clause 35.

The Hon. M.K. BRINDAL: I move:

Page 26, after line 17—Insert:
(3) However, a delegation cannot be made under this section of the Attorney-General's power to decline to satisfy an order for statutory compensation (or for statutory compensation and costs) or to reduce the payment to be made under such an order.[1]
[1] See section 27(2).

Mr ATKINSON: Would the minister explain the amendment?

The Hon. M.K. BRINDAL: Clause 35 gives a wide power of delegation in keeping with modern drafting practice. However, the Law Society has expressed some concern that the clause as originally printed would permit the Attorney-General to delegate the statutory discretion to reduce or decline to pay an award of compensation, or compensation and costs, in the light of any other compensation entitlements for the victim. This discretion is, of course, not unfettered and, indeed, the bill is quite clear as to the factors to be considered and the rationale for reducing an award. Nevertheless, in view of the concern expressed, the government moves this amendment to prevent the delegation of that particular power in line with the Law Society's request.

Amendment carried; clause as amended passed.

Remaining clauses (36 and 37), schedules and title passed.

Bill read a third time and passed.

LIQUOR LICENSING (REVIEWS AND APPEALS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

RAIL TRANSPORT FACILITATION FUND BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT DEBATE

The Hon. M.K. BRINDAL (Minister for Water Resources): I move:

That the House do now adjourn.

Mr HANNA (Mitchell): Tonight I have 10 minutes in which to make a contribution to the debate on reconciliation. By 'reconciliation', I refer to the relations between the indigenous inhabitants of Australia and what we might call white society or mainstream society. Almost all of us in this country are descendants of Europeans and, indeed, a good many of us have come out in the current generation. There is no doubt that compared with the traditional ways of indigenous Australians there is a cultural divide which men and women of goodwill can overcome, and it is pleasing to see that in the past decade or so there have been renewed efforts for these two aspects of Australia to come together and truly be a united Australia.

I refer, in particular, to a renewed effort because I have done a fair bit of reading about the relations between Aboriginal people and white settlers in the first few decades of white settlement in South Australia. It is very interesting to compare the attitudes of the settlers and the Aboriginal people in those times with the current debate. Of course, it is only in the past 10 years that we have recognised through the great and historic Mabo judgment in the High Court that, in fact, the Aboriginal people were dispossessed upon white settlement and that under our own law—not anyone else's but our own law—Aboriginal people who have retained the use of Australian land for their traditional purposes over the past 200 years have actually retained property in that land.

It is not property in the sense we think of freehold title, but it is property in the sense that it is a collection of rights which should be recognised, and are recognised, so as to enable indigenous Australians to continue to follow their customary pursuits in those areas where their enjoyment of those rights has been unabated over the past 200 years. So we call that bundle of rights 'native title', and it is as much a property right under our law as our own backyards. The interesting thing historically is that in the first 20 years or so of white settlement there was, at least officially, a very congenial and sympathetic attitude towards indigenous Australians. That is not to say that it was not patronising, because it certainly was, but there was a great deal of philanthropic sentiment originating from London, particularly by the gentlemen and the lords who sat in the English parliament at the time. Indeed, that attitude was conveyed through the Governor of South Australia and the so-called protector of Aborigines in the South Australian colony in those early days.

We cannot get away from the fact that there was a patronising attitude, but it is worth recalling that there was a kind, sympathetic and concerned attitude originating from officialdom, as I can demonstrate by reference to historic material. The further one got away from the centre of so-called civilisation the further one got towards the frontier and, essentially, the degree of lawlessness and lack of respect of Aboriginal people and their property increased. That is perhaps understandable in the sense that there were no police in the outlying areas for the first 20 years, apart from punitive expeditions when wrongdoings were perceived by the colonists. But, generally speaking, the people who left Adelaide to set up farming land in a traditional English manner, as far as they knew, tended to move away from police and to be ignorant of the humane attitude which was officially held.

It is interesting, too, that there was early recognition of the dispossession of indigenous people. Although, to the majority of white settlers the Aboriginal people were seen as some-

where intermediate between animals and human beings, the official view was much more humane. I actually squirm when I recount some of those ignorant attitudes of the time, but I squirm even more when I consider that some of them are still held today.

I would like to give an example of the official recognition of what went on in those days. For example, Edward John Eyre, who is famous to us as an explorer and a one-time colonial Governor, had this to say on page 167 in his 1845 book *Journals of Expeditions of Discovery into Central Australia and Overland from Adelaide to King George's Sound* in the years 1840 to 1841:

> We should remember:—
>
> First, that our being in their country at all is, so far as their ideas of right and wrong are concerned, altogether an act of intrusion and aggression.
>
> Secondly, that for a very long time they cannot comprehend our motives for coming amongst them, or our object in remaining, and may very naturally imagine that it can only be for the purpose of dispossessing them.
>
> Thirdly, that our presence and settlement, in any particular locality, do, in point of fact, actually dispossess the aboriginal inhabitants.
>
> Fourthly, that the localities selected by Europeans, as best adapted for the purposes of cultivation, or of grazing, are those that would usually be equally valued above others by the natives themselves. . .

The point I am making is that there was, essentially, an invasion of the land of the indigenous inhabitants. We recognise it as such today, because we recognise that, in fact, indigenous people were human beings and, in some respects, had a more civilised attitude than some of the settlers. The early history of the colony is littered with stories of tragedy and misunderstanding. In many cases, a naturally peaceful people came to hate the white settlers because of early acts of bestiality and crime committed by lawless white settlers: the sealers, who worked off the southern coast of South Australia, were particularly notorious.

Interestingly, some of the problems we have today were dealt with by the colonial government way back in the 1830s and 1840s. It was really only after about the first 20 years of colonial history that things officially became much worse for the indigenous people. Once local colonists were elected to a democratic parliament, they actually had a much worse view of the Aboriginal inhabitants than the people in London who had set up the colony in the first place. Unfortunately, that attitude prevailed for another 130-odd years. I am glad that we seem to have turned the corner but, in terms of eliminating racism in Australia, we clearly have a long way to go.

Mrs PENFOLD (Flinders): I congratulate Sir Eric and Lady Neal on the completion of Sir Eric's term as Governor of South Australia, and for the leadership that they have displayed. Both have endeared themselves to every Eyre Peninsula community that they have visited—and that was most of them. Their friendliness, compassion and caring attitude have made their visits to the small regional towns of South Australia an enduring memory for all who have met them. I look forward to welcoming Marjorie Jackson as our new Governor and to inviting her to visit as soon as her busy schedule will allow.

The people of South Australia are experiencing the benefits that a Liberal government has delivered. The business indexes show that business confidence levels amongst small and medium businesses in South Australia have increased. Small business confidence in this state is among the highest in the nation. The National Australia Bank report also indicates that South Australia's economy is leading the nation. These are interesting points that all would do well to note as this state is the only state Liberal government at present.

This turnaround in the way in which businesses perceive this state is not accidental. It is the result of Liberal policy that encourages individual initiative and private enterprise. Compare this to eight years ago when people were dispirited and depressed, with little hope for a bright future, and when the state was burdened with debt.

Probably the most notable achievement of the Liberal government is the contract to complete the Adelaide-Darwin rail connection, which will ensure the Olsen Government's place in history. The possibilities that the railway raises for Eyre Peninsula are many. It will be exciting to see how these unfold in the years ahead.

The Marine Science Centre—a campus of Flinders University in Port Lincoln—is a distinctive success. It has expanded since it was established about five years ago and has now outgrown the facilities and site. Port Lincoln is the premier fishing port in Australia. It is appropriate that this research and teaching campus is located at Port Lincoln. Its growth confirms the need for such a discipline at university level and the benefits that come to the many industries allied with fishing and seafood.

No amount of money can provide initiative and enterprise. While talking about all things marine, it is opportune to mention a successful business in Port Lincoln that has been built on these two characteristics. I refer to South Australia Seahorse Marine Services, established by Tracy and David Warland. This is the only seahorse breeding farm on mainland Australia, and it has achieved export status. A major delivery was recently lost as a result of the attack on America. The order, worth in the vicinity of $7 000, was on a plane that was diverted because of the horrific terrorist attacks on the World Trade Centre and the Pentagon. The tragedy also affected a shipment of southern bluefin tuna en route to the United States. The shipment was stranded in Korea when flights to Los Angeles were cancelled. It is yet another reminder that we are now an interdependent global village. What affects one nation affects us all in many different ways.

I look with pride at the government's achievements in health, education and power. There are 10 hospitals in my electorate. Uncertainty reigned when the Liberals came to office because of the Labor government's process of closing rural hospitals. These 10 hospitals continue to operate, serving their isolated communities plus the through traffic on major highways and tourists. The hospitals have developed integrated systems of regional management. Many have formed clusters to assist in providing better service and value for money to our remote populations. I am delighted at the millions of dollars that have gone into upgrading and renovating our hospitals and extending the aged care facilities in many of them.

The government acknowledged the isolation of the Eyre Highway and the difficulty in transporting accident victims. Therefore it widened selected sites on the highway to service airstrips for Royal Flying Doctor planes. This is just one of the ways in which this government has lifted the quality of life for people in rural and regional South Australia.

It was great news when the Minister for Human Services, Dean Brown, announced more training positions in South Australia for general practitioners. There are now 35 registrar positions for general practice training in South Australia

during 2001 compared with 26 in 1999—12 in the metropolitan area and 23 in regional areas. The hyperbaric unit at the Royal Adelaide Hospital, marking the start of the hospital's $74 million redevelopment, is valued on Eyre Peninsula. With so much professional and recreational diving undertaken, the unit is an essential component of our health system.

The education budget has increased significantly since 1994. Teaching of trades has been reintroduced. Literacy and numeracy are taken seriously, with basic skills tests assisting targeted remedial attention. Those who denigrate this government while trying to score points for other political parties do a grave disservice to all teachers, staff and volunteers who work with our children to give us the best education standard. School newsletters from across Eyre Peninsula regularly make favourable comparisons between our system and others interstate and overseas that they have visited.

Liberal governments look to the future. That is why this government has highlighted the need for every student to be computer literate. The computer program in South Australian schools is the best in Australia and the proportion of computers to students is better than in the United States of America and the United Kingdom. Partnerships 21 has provided rural schools with the freedom to adjust spending to their specific needs. One example comes from Elliston Area School. The cost for country children to attend events in Adelaide, whether for sport or study, is frequently prohibitive. Elliston Area School has used the freedom given by Partnerships 21 to assist students who have achieved at state level to be able to participate in events in Adelaide. It is a great incentive for students to put in that extra effort.

The state Liberal government, in cooperation with the federal Liberal government, has achieved good things in the sphere of the environment. Land salinity is one of the areas that has been tackled successfully. It is awesome to see a bare salt scald rehabilitated to the extent where it is covered in grass. The work that is being done on Eyre Peninsula in a cooperative effort between landowners, councils, departments and the government is among the best in Australia. Visitors come from interstate to learn what can be done, to see the results and to glean ideas for their own regions.

I mentioned before that Port Lincoln is the premier fishing port in Australia. The growth of the seafood industries under a government that encourages initiative and enterprise is phenomenal. We on Eyre Peninsula live in a paradise when it comes to the range, availability and freshness of the seafood we enjoy. Aquaculture continues to expand, with the development of onshore projects. Fisheries exports were up 14.1 per cent in the last financial year. They were part of the record performance that saw the state's exports at $8.3 billion, topping the $8 billion mark for the first time. South Australia outperformed the national average by 23 per cent.

For the opposition and some other groups, power supplies in this state have become an issue only in the past few months. The opposition stance is questionable when it is remembered that it sold the Port Augusta Power Station to international interests during its term in office. Electricity infrastructure and generation was in a sad state of neglect when this government assumed office in December 1993. I applaud the maintenance program that the Liberal government put in place that saw powerlines on Eyre Peninsula upgraded and support generators installed at Port Lincoln, but years of neglect, especially when the government was so constrained by its legacy of debt, are not quickly overcome.

The electricity industry has three components: generation, distribution and consumption. New South Wales and Victoria, about three years ago, generated more power than was consumed, hence low prices in those states. The situation has changed. Consumption has risen, so too have prices in those states. New South Wales constituents now contribute about $100 million a year to the state-owned power provider rather than it being a revenue raiser for their government. The South Australian Liberal government recognised the need to increase power generation and therefore established Pelican Point, an action that was opposed by opposition and minor party members.

Power consumption in South Australia has risen dramatically over the past few years. The increase in consumption comes about because of the improvement in the state's economy—more people with jobs, more money and more confidence in the future. The sale of air-conditioning units, big users of electricity, jumped again last summer. In Port Lincoln, commercial freezer units have been increasing rapidly and will again this year with another large increase in the pilchard quota. I have been working on power generation through wind farming on Eyre Peninsula for more than seven years and I am delighted that the government is supporting this method of sustainable energy. The first farm on Eyre Peninsula now has approval, with more to be approved soon.

We are a government and a party that looks to the future and plans for the future. The state Liberal government has taken the hard decisions that are in the best interests of South Australia and our people. Rather than becoming a high taxing, profligate government, we have divested projects to private enterprise where appropriate. One of these is the action that has been taken on the sale of Ports Corp.

Motion carried.

At 9.06 p.m. the House adjourned until Wednesday 31 October at 2 p.m.