HOUSE OF ASSEMBLY

Monday 3 May 2004

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

AUSTRALIAN BROADCASTING COMMISSION

A petition signed by 14 citizens of South Australia, requesting the house to take all steps possible to place public pressure on the ABC management to observe its own charter—to be an ABC for everyone—and restore local sports coverage to ABC TV news bulletins, was presented by the Hon. M.D. Rann.

Petition received.

RYAN'S FUEL AND GARDEN SUPPLIES

A petition signed by 20 electors of Elder Ward, requesting the House to urge the government to give urgent attention to the living conditions endured by your electors as a result of the on-going breach of EPA orders by the business known as Ryan's Fuel and Garden Supplies, was presented by the Hon. P.F. Conlon.

Petition received.

HOSPITALS, REPATRIATION GENERAL

A petition signed by 406 residents of South Australia, requesting the house to urge the government to maintain the Repatriation General Hospital as an independent hospital to serve the particular needs of veterans and for the Hospital to retain its Board and receive its funding directly from the Minister for Health, was presented by the Hon. Dean Brown.

Petition received.

CONSTITUTIONAL CONVENTION

A petition signed by 22 residents of South Australia, requesting the house to pass the recommended legislation coming from the Constitutional Convention and provide for a referendum, at the next election, to adopt or reject each of the convention's proposals, was presented by Mr Snelling.

Petition received.

QUESTIONS ON NOTICE

The SPEAKER: I direct that the written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 119, 120, 133, 189, 221, 222, 225, 242, 256, 259, 260, 264, 266, 274, 277, 278, 280, 282, 284, 290 to 293, 298, 307 and 308.

WORKCOVER

In reply to **Hon. I.F. EVANS** (18 September 2003).

The Hon. K.O. FOLEY: The 2002 report prepared by Treasury & Finance into the operations of WorkCover Corporation to which the honourable member refers was tabled in the parliament by the Minister for Industrial Relations on 23 September 2003.

POLICE NUMBERS

In reply to **Mr BROKENSHIRE** (20 October 2003).

The Hon. K.O.FOLEY: The Commissioner of Police has advised that 21 cadets graduated. These graduates will replace police officers that have separated. The establishment level remained at 3 778.1 (FTE) at the end of December 2003.

POLICE COMPLAINTS AUTHORITY

The SPEAKER: I lay on the table the report of the Police Complaints Authority 2002-03.

PUBLIC WORKS COMMITTEE

The SPEAKER: I lay on the table the report of the Public Works Committee entitled 'Millicent and District Hospital Sheoak Lodge Extensions' that has been received and published pursuant to section 17(7) of the Parliamentary Committees Act 1991.

MITSUBISHI MOTORS

The Hon. M.D. RANN (Premier): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.D. RANN: On Friday 3 April the news broke from Germany of statements made by Daimler Chrysler and released on its web site that it would not provide additional capital to Mitsubishi Motors Corporation to restructure its worldwide operations. We were informed that Daimler Chrysler did not want to deal with losses arising from its Japanese operations and the failure of its recent strategy to offer cheap car loans to customers in the United States. It is important to note that Daimler Chrysler intends to retain its 37 per cent share of Mitsubishi Motors.

In place of Daimler Chrysler's contribution, I was heartened by reports in *The Financial Review* on the weekend following a news conference in Tokyo by the incoming CEO, Mr Okazaki, that the Mitsubishi Group, comprising Mitsubishi Corporation (a trading company), Mitsubishi Heavy Industries and the Bank of Tokyo, together with a new executive team, intends to mount a $3.8 billion restructuring plan of Mitsubishi Motors Corporation later this month.

I was delighted to read Tom Phillips' reply to one of my letters that reflected his confidence that a new car will be built at Tonsley Park in 2005 and recent statements by incoming Chief Executive, Mr Okazaki, that decisions on individual plants would only be made after detailed studies. Certainly the news from Tokyo on Friday was consistently more hopeful than the news a week before.

It is also important to note that the situation is, as the federal Treasurer Peter Costello has pointed out, entirely outside the control of Mitsubishi Motors here in Australia, the South Australian government or indeed the Australian government. The problems have emanated from Japan and the United States and have seen the corporation accumulate a debt of 1.14 trillion yen. They have nothing to do with the work force at the Tonsley Park and Lonsdale sites of Mitsubishi's South Australian operations, and nothing to do with the leadership of CEO Tom Phillips and his management team.

Both the management and work force of Mitsubishi in South Australia have done a wonderful job in turning around the South Australian operations and I pay tribute to them all. They deserve and have, I am sure, the support of us all. Well before the Daimler Chrysler announcement, the South Australian government had been on an alert footing, and I have written to key executives in Japan, Germany and the United States to underline South Australia's view that this state should be home to a growing business for Mitsubishi in

Australia and in export markets. As I explained in my letter to Tom Phillips of 19 April, both the Deputy Premier and I have been on stand-by to travel to Japan and Germany at any time requested by Mr Phillips or other key decision makers in the Mitsubishi and Daimler Chrysler groups. We have been in close contact with Tom Phillips and his team at all times.

Already this year the Deputy Premier has undertaken two trips to Japan to discuss Mitsubishi's future with head office executives, most recently on Easter Monday, when he met with the then Mitsubishi Motors chief executive, Mr Rolf Eckrodt. The house should note that even though Mr Eckrodt resigned last week, it was less than two months from the day he was due to retire. We have acted in a constructive and bipartisan manner with the federal Liberal government and I am delighted to be able to say we have been working lockstep with John Howard, industry minister Ian Macfarlane and the Australian ambassador to Japan.

The Prime Minister and I jointly signed a letter to the head of Daimler Chrysler's Corporate Development Division, Dr Rudiger Grube, on 16 April, prior to Daimler Chrysler's announcement, seeking a meeting with the company and noting that the Deputy Premier and Ian Macfarlane were ready to fly to Germany at a moment's notice for that meeting.

I am pleased that the Deputy Premier and Mr Macfarlane have secured a meeting with senior Mitsubishi executives in Japan next Monday. At virtually the same time, I will be in Germany, where I am seeking a meeting in Stuttgart with Daimler Chrysler executives. It is essential that all key investors and decision makers be presented with the strongest possible case for continued investment in Mitsubishi's Australian operations. That is what the simultaneous representations by the Deputy Premier and me are intended to do.

We are fighting for South Australian jobs, and it is vital that we present a united front. I am confident that the partnership formed between Mitsubishi and the South Australian and Commonwealth governments which saw both governments commit $85 million in return for nearly $1 billion in new investment in the development of a new model Magna and an export vehicle provides a solid platform for the growth of Mitsubishi in both Australian and export markets.

It was my great pleasure early in April to see the progress of major works at Tonsley, such as the new press shop (which is the largest of its kind in Australia) as part of this aggressive expansion program. I am in no doubt that, if it is given the chance by its parent companies, Mitsubishi has a strong future here in South Australia.

ASYLUM SEEKERS

The Hon. M.D. RANN (Premier): I seek leave to make another ministerial statement.

Leave granted.

The Hon. M.D. RANN: Today I have written to the Prime Minister to ask him to intervene urgently in the case involving five young asylum seekers who last week were the subject of a decision of the High Court of Australia. In its judgment, the High Court has in effect ruled that the commonwealth can maintain control of the children and the Family Court does not have the power to make orders concerning the welfare of children who are held in immigration detention.

My government has always maintained a strong position against the detention of any child who has not been found guilty of a crime. Over the past two years, we have worked hard with the commonwealth to ensure better outcomes for asylum seekers, in particular, the children.

The working relationship between the state and commonwealth in dealing with the welfare, health and education of detainees has improved significantly. The recent decision that the commonwealth has made to release many more children both into the community and also into the community housing program in Port Augusta is to be welcomed, and I congratulate and commend the minister (Hon. Amanda Vanstone) for her work.

I also commend the decision of the commonwealth late last year to release Mr Ebrahim Sammaki and reunite him with his two young children who had so tragically lost their mother in the Bali bombings.

Last year, I met with the five children on a number of occasions in their home and also in mine. I was impressed with their eagerness to learn and also, in spite of the trauma that they have suffered in the their young lives, with their good behaviour and their love of life here in Australia. This is despite the fact that they live away from both of their parents and their baby brother. They get to see their mother only when they visit her and their brother in the suburban motel room where she is kept under constant guard.

In the light of the decision by the High Court, the Department for Immigration, Multicultural and Indigenous Affairs has moved to make the children's home of the past eight months a centre of detention. The children's carers, who have provided tireless love and support to all five children, are now appointed by the court to provide 24 hour supervision of the children.

This means that the children can no longer ride their bikes in the streets around their home. They can no longer join other local children for a scratch match of soccer in the local park. The older children can no longer even catch the school bus without the presence of a full-time supervisor.

The five children all attend local schools and by all accounts are studying hard, have made many friends and are supported by their school communities. What is most concerning are reports that there is a possibility that the children may be returned to the Baxter Detention Centre. I am absolutely convinced that it would not be in the best interests of the public, and especially not in the best interests of these children, for them to be detained behind the razor wire at Baxter. I have called upon both the Prime Minister and the Minister for Immigration to compassionately consider the wellbeing of these five children in any decision that is made by the commonwealth regarding their future. I have asked them to ensure that these children do not have to endure the continuing pain of uncertainty and also to make sure that the children are not forced to live in any form of detention.

DIRECTOR OF PUBLIC PROSECUTIONS

The Hon. M.J. ATKINSON (Attorney-General): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: On 30 July 2003, after the sentencing of Paul Nemer, the then attorney-general, the Hon. Paul Holloway, asked the Solicitor-General, Mr Kourakis QC, to advise on whether an appeal could be lodged against the sentence. The Solicitor-General was also asked to advise on these topics:

- Whether the process by which Nemer's plea to lesser charges was consistent with established practices and

whether the charge and factual basis agreed by the prosecution and defence were appropriate, having regard to the materials available to the prosecuting authorities;

- Possible improvements to the process of charge negotiations, including determining agreed facts, particularly having regard to the need to ensure the process is accountable and takes into consideration the interests of victims.

The issue of the appeal into Nemer's sentence has been the subject of statements to the house. It is a matter of common knowledge that the then attorney-general exercised his authority to direct the DPP to institute an appeal, and an appeal was heard and upheld by a majority of the Full Court of the Supreme Court. Nemer was re-sentenced by the majority judges of the court to four years and nine months imprisonment, with a non-parole period of one year and nine months. The sentence was not suspended. An application to the High Court by Nemer for special leave to appeal was refused.

On 7 April 2004, the Solicitor-General provided me with his report into the two remaining issues referred to him: the charge negotiations in the Nemer case; and charge negotiations generally. I released the Solicitor-General's report on 19 April 2004. Before I deal with the Solicitor-General's findings about the Nemer case and plea negotiations generally, it is important to note his findings about the performance of the Office of the Director of Public Prosecutions. The Solicitor-General observes that the work of the prosecutors of the DPP has been of the highest standard, and they enjoy and deserve the respect of the legal profession, the judges and the public. The Solicitor-General found that the public can be confident that the general principles by which the office selects charges and prosecutes guilty pleas properly serves the public interest.

On the Nemer case, the Solicitor-General finds that it was appropriate to agree to accept a plea to a charge of endangering life and to withdraw the charges of attempted murder and wounding with intent. However, it must be acknowledged that the Solicitor-General makes adverse findings about the manner in which the DPP himself, Mr Paul Rofe QC, conducted the Nemer case. The Solicitor-General specifically found:

- There was 'no clear record of all the terms of the agreement on the prosecution file' (paragraph 7);
- Errors of the sentencing judge were 'contributed to by confused submissions put by the DPP' (paragraph 6);
- The DPP failed 'to appreciate the real culpability of Nemer's conduct' (paragraph 6);
- 'It was inappropriate [for the DPP] not to dispute the version of facts put forward by the defence' (paragraph 9);
- 'The appropriate response of any experienced prosecutor in the position of Mr Rofe would have been to contest the defence version and to insist on Nemer giving evidence' (paragraph 58);
- The findings of the Court of Appeal after Nemer had given evidence and challenged prosecution witnesses confirms 'the strength of the prosecution evidence that was obvious from the time of committal (paragraph 57);
- There was no valid reason consistent with accepted prosecutorial practices for making such a concession: that is, not dispute the defence version of facts (paragraph 9);
- Mr Rofe was wrong to agree not to make an issue of the discrepancy over the gun barrel as some explanation was required before the defence case in mitigation could be confidently accepted (paragraph 45);
- Mr Rofe's concessions contributed to the manifestly inadequate sentence first imposed on Nemer (paragraph 10);
- The manifestly inadequate sentence first imposed on Nemer resulted from a failure to sentence him according to the facts proved on the statements (paragraph 9);
- It was misleading for the DPP to tell Mr Williams that he would have to concede that a suspended sentence was within the ambit of the sentencing judge's discretion without telling him that Mr Rofe himself would not make submissions that the most appropriate sentence was one of immediate imprisonment (paragraph 51);
- It was inappropriate for Mr Rofe to concede that the suspension of the sentence was within the ambit of the sentencing judge's discretion (paragraph 59); and
- Suspension of the sentence of imprisonment should have been opposed in the circumstances of this case (paragraph 59).

Although the Solicitor-General accepts that the DPP, Mr Rofe, at all times acted in good faith, the report's findings lead to the inescapable conclusion that Mr Rofe failed to prosecute the case properly.

The Solicitor-General also examined the circumstances of the plea arrangements associated with the death of Stacey Lee Brown, who was shot in the eye at very close range while alone with Darren Schmidt. Schmidt was sentenced following the acceptance of a guilty plea to manslaughter, and the DPP agreed not to proceed with the charge of murder. Schmidt was sentenced to three years and nine months imprisonment with a non-parole period of 15 months. The sentence was not suspended. The Solicitor-General found that:

- Schmidt was sentenced on a particularly favourable version appearing in the agreed facts (paragraph 78);
- In the view of the Solicitor-General the agreed facts were inconsistent with the evidence of Dr James, the forensic pathologist (paragraph 78);
- If Schmidt were required to give evidence and his version not accepted, a much more serious sentence is likely to have been imposed (paragraph 78);
- There was no record on the file of the reasons for deciding that the public interest was better served by accepting a plea to manslaughter than by proceeding to trial on murder (paragraph 72); and
- The decision to accept the plea warranted much more careful consideration and consultation than the file notes record (paragraph 77).

The Solicitor-General concludes that this may well be a case where, after proper assessment and consideration, the same decision might have been made (paragraph 80).

The Solicitor-General also considered the cases of Chawulak and Easton. The section of the Solicitor-General's report dealing with this case has not been released publicly on the advice of the Solicitor-General owing to the extensive court suppression orders that still apply.

An honourable member interjecting:

The SPEAKER: Order! The minister has leave and he will proceed.

The Hon. M.J. ATKINSON: I have already publicly acknowledged that the criticisms made of Mr Rofe in his handling of the Nemer case are serious. On Thursday 29 April 2004 I met Mr Rofe and I discussed the report with him. Mr Rofe accepted many of the findings of the Solicitor-General about the Nemer case but strenuously made the point that Nemer's is but one case. Mr Rofe also pointed to the very favourable findings of the Solicitor-General about the work

of the Office of the Director of Public Prosecutions. I agree with Mr Rofe that those matters must not be overlooked when considering the Solicitor-General's findings. Mr Rofe's reputation as a fearless and fair prosecutor is well known here and in jurisdictions around Australia. He has given distinguished service to the state and the criminal justice system over three decades. It is no secret that he has laboured under health problems since suffering a stroke in 1999.

The responsibilities and the burden of office that come with being DPP are difficult when one is in the best of health. Just before the release of the report, Mr Rofe commenced an indefinite period of sick leave. Medical documentation confirms that Mr Rofe is suffering from an illness not related to his stroke. He has previously been forced to take prolonged sick leave on more than one occasion. In January 2003, and again in August and September 2003, Mr Rofe was absent owing to ill health. It would not be right for me to say anything that might be seen to pass judgment on such an eminent career based on a short episode in his professional life, particularly as he is ill.

At our meeting on 29 April 2004, I made my concerns known to Mr Rofe about his handling of the Nemer case. I made it clear that there is no proper basis for me as Attorney-General to take any further action under the Director of Public Prosecutions Act arising from the findings of the Solicitor-General. I told Mr Rofe that his future was a matter for him to consider, and that the decision whether or not to remain as Director for the balance of his term of appointment was a decision for him alone. Mr Rofe indicated that he would consider his future, having regard to his health, medical advice that he reduce pressure on himself and in the interests of the stability of the Office of the Director of Public Prosecutions.

As a result, the Commissioner for Public Employment commenced discussions with Mr Rofe through his representative. After those discussions, Mr Rofe advised the government that he intended to resign. He has tendered his resignation by letter to Her Excellency the Governor effective from today. Mr Rofe's resignation means that all entitlements owing to him under the terms of his appointment, including superannuation, accrued long service leave and accrued annual leave in the amount of $344 874 will be paid to him. This represents Mr Rofe's lawful entitlements on resignation.

Under the terms of Mr Rofe's appointment, he had the right to remain in office until July 2006—about 26 months. The salary payable to him for this period would have been in excess of half a million dollars based on his current salary. The government will not pay Mr Rofe for the balance of his appointment, as this would be unreasonable. In addition to the superannuation and accrued leave entitlements, Mr Rofe will be paid $188 068 on account of his extensive period of service to the state and the uncertainty of his health which has led to his resignation in the interests of the Office of the Director of Public Prosecutions. This is equivalent to nine months' salary; that is to say, 64 per cent of the payment to Mr Rofe is entitlements that are already vested to him.

I am advised that this figure equates to an amount that would have been payable to an equivalent executive employee whose appointment is cut short before completing a contract of employment under the terms of the Public Sector Management Act. Although arrangements do not strictly apply to Mr Rofe, because of his unique position under the Director of Public Prosecutions Act, the government considered the making of such a payment fair and reasonable in the circumstances. Mr Rofe's resignation ends the speculation and uncertainty about the future of the Office of the DPP caused by his longstanding health problems, compounded by recent controversy. Ms Abraham QC, as Acting Director, and her highly dedicated and hardworking staff can concentrate fully on delivering a professional and efficient prosecution service to this state.

The Solicitor-General in his report makes recommendations to improve guidelines and practices in the office, although, as I indicated earlier, the Solicitor-General found no systemic deficiency in the guidelines or practices of the Office of the Director of Public Prosecutions in prosecuting guilty pleas. These recommendations are:

- more prescriptive requirements as to consultation with victims and police, and recording and reporting of negotiations should be adopted;
- unless there is good reason not to do so, a statement of fact should be provided to the sentencing judge setting out any facts agreed or not disputed and identifying material facts that remain in dispute;
- prosecutors should be directed to clearly inform sentencing courts whether they oppose, support or have no submissions to make on whether an unusually merciful sentence should be imposed;
- the DPP should be directed to inform the Attorney-General where in serious cases the police or victim strongly object to the plea arrangements or whether there is a real doubt about whether the charge or factual basis provides an adequate basis for an appropriate sentence; and
- a position of Crown Counsel appointed by the Governor should be created. The Crown Counsel would prosecute complicated trials and appeals on behalf of the DPP and provide independent advice to the Attorney-General if required.

I refer the house to paragraphs 201-204 and paragraph 212 of the Solicitor-General's report. In the opinion of the Solicitor-General, it is both unnecessary and unworkable to have an independent third party or victim's advocate approve charge selection decisions. The Solicitor-General also considered it inappropriate to allow separate representation of victims in criminal proceedings. The recommendations appear, on the face of things, to be reasonable and sound. I have already started consulting with the acting Director of Public Prosecution and others about the recommendations. I now table the report of the Solicitor-General.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Environment and Conservation (Hon. J.D. Hill)—

Aboriginal Lands Trust—Report 2001-02

Eyre Peninsula Catchment Water Management Board—Report 2002-03.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

Mr CAICA (Colton): I bring up the sixth report of the committee, entitled the Statutes Amendment (WorkCover Governance Reform) Bill.

Report received and ordered to be published.

PUBLIC WORKS COMMITTEE

Mr CAICA (Colton): I bring up the 204th report of the committee, on the modifications to River Murray Lock and Weir 9.

Report received and ordered to be published.

QUESTION TIME

MITSUBISHI MOTORS

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Premier. Will the Premier reconsider visiting Mitsubishi in Tokyo and agree to my joining him in a bipartisan approach to the company? Whilst in opposition the now Premier stressed the need for the then premier and opposition leader to visit Mitsubishi and claimed that this approach was successful in previously convincing the company to maintain its operations in South Australia, when he and previous premier Olsen both visited Mitsubishi in May 1997.

The Hon. K.O. FOLEY (Deputy Premier): The government's approach to the saving of Mitsubishi here in Australia has been done without petty local politics, without oneupmanship and without trying to exploit a difficulty facing thousands upon thousands of South Australian families. The Premier made it very clear to me at the beginning of the year that he wanted me to travel to Tokyo in February to establish rapport with the senior executives of Mitsubishi, which I did, and was accompanied by senior embassy officials.

The Premier was concerned, as was I and the government, at reports emanating out of Tokyo in late February that we could again be looking at great uncertainty here in Adelaide as it relates to Mitsubishi. The Premier asked me again to undertake a trip to Mitsubishi to find out what was going on and to try to get a better handle on what was the likely future of Mitsubishi. I undertook that trip without any public comment and it was deliberately designed not to seek any media. I attended the meeting with the Australian Ambassador to Japan, Mr John McCarthy. That meeting went for over one hour. I met with Mr Rolf Eckrodt, together with seven or eight senior Mitsubishi executives—most of the key decision makers at Mitsubishi—and we had a very good session where we sought a better understanding as to the process that Mitsubishi were undertaking to rescue their worldwide operations.

It was made very clear at the meeting that there was a worldwide crisis for the Mitsubishi group. Mr Rolf Eckrodt took me into his confidence and asked me to keep some matters strictly between ourselves and his company, as they worked through a very difficult period. One of the last comments that Mr Eckrodt made to me was that all of the best laid plans could be in jeopardy should Daimler-Chrysler choose not to back the worldwide rescue plan. As we did find out, the worldwide rescue plan for Mitsubishi was not supported by Daimler-Chrysler. That was a shock to everyone. Not only was it a shock to Tom Phillips and the government here, and the federal government, but it was particularly a shock to Mitsubishi and to the Japanese government. My advice was that the Japanese government was caught totally unawares, as was the senior management.

Every approach that we have undertaken has been done in consultation with Tom Phillips, the CEO here, for whom we all have, I am sure, a very high regard. But, importantly, we have discussed and sought advice and assistance from the commonwealth government. I want to place on the record that the support provided by the Prime Minister and his industry minister has been outstanding. They have done everything we have asked. They have provided assistance, support and guidance, and they have ensured that this, as a national problem for Australia, was not just for a state government to deal with.

On the issue of who should visit Japan, as the Premier has already said, he has scheduled to be in Germany. The advice of the ambassador in Japan is that I should be the point of contact, given that I have already visited them twice, that consistency was important, and that I am of sufficiently senior ranking in the government to represent the government.

Ian Macfarlane, the federal Liberal industry minister, said to me that he is not quite sure why this should be of concern (I am paraphrasing) because the Prime Minister was not representing the federal government. I stand to be corrected, but the words were that the Prime Minister expects his industry minister to undertake this task as an appropriate response by the commonwealth government. But, importantly—

An honourable member: Very bipartisan!

The Hon. K.O. FOLEY: Exactly, it is very bipartisan. All I say to the opposition is that there are delicate negotiations and discussions, and we are—

An honourable member interjecting:

The Hon. K.O. FOLEY: Sorry? There is nothing I have said on the public record—

The SPEAKER: Order! The honourable the Deputy Premier will not respond to interjections.

The Hon. K.O. FOLEY: There is nothing on the public record that I have said, sir, that has not been discussed with others and has not been part of a considered response by this government. The important message here is—

The Hon. I.F. Evans interjecting:

The Hon. K.O. FOLEY: No, I didn't say that at all.

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am saying that no threats were made to Mitsubishi, and to suggest that threats were made is ridiculous. If the opposition wants me to go down that path I will, and I say this: the cost of the closure of the Tonsley Park and Lonsdale facilities is significant and well known by the company, and it is a matter that it will consider in terms of whether or not the numbers work for operation or closure of Adelaide. That is an understanding of the company. Any government (just as I am sure the former Liberal government would have made it known to Mitsubishi at the time, and again I stand to be corrected) would expect an appropriate level of remediation of the site. I would have thought that members opposite whose own electorates are close or nearby to the facilities would have thought that to be a reasonable position. If members opposite say they would not require remediation of the Tonsley site, they should say so, but the government and others are having to make clear to Mitsubishi this government's and our nation's position. That is exactly what the commonwealth government is doing.

I cannot go into the specifics at this stage, but certain discussions and communications occurring between the federal government and elements of the Mitsubishi group are tactical and appropriate—that is, we believe that as state and national governments we must ensure that we do all we can

to influence the decision of the Mitsubishi and, ultimately, the Daimler Chrysler board.

All I say to the opposition is that in times such as these they should follow the lead of their federal colleagues and, indeed, the lead of the federal Labor Party, because the federal Labor Party has ensured that this issue has not been politicised. With a federal election not far away, it takes great maturity and strength of character for a leader such as Mark Latham to resist politicising this issue. Mark Latham has not asked—

The SPEAKER: Order!

The Hon. K.O. FOLEY: —that the prime minister meet this—

The SPEAKER: Order! The honourable the Deputy Premier is not responsible for Mark Latham's views—

The Hon. K.O. FOLEY: No, sir, but I am responsible for bringing to the house—

The SPEAKER: —and it may be his good fortune—

The Hon. K.O. FOLEY: —an answer to the question that was just asked.

The SPEAKER: Order! The honourable the Deputy Premier will not speak when the chair is speaking. The honourable the Deputy Premier now has the call.

The Hon. K.O. FOLEY: Thank you, sir. As I said, I am responsible for giving an answer to the house on this question, and I say that Mark Latham has not played politics by saying that John Howard should go. I simply appeal to members opposite for once to put the interests of the state ahead of their own political interests—

Members interjecting:

The Hon. K.O. FOLEY: —and join with the Prime Minister and—

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

The Hon. K.O. FOLEY: The Prime Minister—

The SPEAKER: The Deputy Premier will resume his seat. I have pointed out before that questions will not be debated. I pointed out to the Deputy Premier that he is not responsible for Mark Latham or John Howard in this place. The Deputy Premier simply ignored the assistance the chair attempted to provide him with. The Deputy Premier has clearly answered the question more than adequately. The member for Bragg.

DIRECTOR OF PUBLIC PROSECUTIONS

Ms CHAPMAN (Bragg): My question is to the Attorney-General. Will the government undertake to have a comprehensive Australia-wide search for a new Director of Public Prosecutions? Premier Rann has complained that the South Australian profession is a club and, to ensure that the best possible candidate is secured for this position, I seek the government's undertaking.

The Hon. M.J. ATKINSON (Attorney-General): Yes.

Mr SNELLING (Playford): Under what circumstances would the Premier support the Attorney-General giving a direction to the Director of Public Prosecutions under the Director of Public Prosecutions Act? There has been recent comment by the Premier, by the former DPP (Mr Paul Rofe, QC) and by the President of the Law Society (Mr David Howard) on the question of the Attorney-General's power to give directions to the DPP and whether this amounts to political interference.

The Hon. DEAN BROWN: On a point of order, sir, this is a hypothetical question and therefore should be automatically ruled out of order.

The SPEAKER: The rule about questions being hypothetical is that in the general case the question cannot seek in hypothetical terms an answer that is hypothetical but rather enables members to ask, should something occur, what would be done by government ministers in the administration of their office and responsibilities and to tell the house what that would be. As I understand it then, there is no point of order. The Premier.

The Hon. M.D. RANN (Premier): My position on this matter is clear and a matter of record, so we are dealing with historical facts as well as anything prospective. In November last year, I stated in this house that 'the power to direct is one that should only be used in extraordinary and exceptional circumstances and in the public interest, which includes in my view the interests of justice'. I have the strong opinion that this should be done only after proper consultation and that it should be guided by high level legal advice, as was sought in the Nemer matter from Solicitor-General Chris Kourakis.

The question whether to give a direction to the DPP is, in any case, a matter for the Attorney-General. So, I was dumbfounded to read a pompous piece published in the weekend press in which Law Society President, David Howard, suggested that my stance is 'that the government will give directions to the DPP whenever it thinks it desirable'. In a further dig, he also complained that perhaps even I had 'developed a glimmer of understanding of the potential consequences of my so-called politicisation of the prosecutorial process'. This misrepresentation is either politically motivated, hopelessly inaccurate or, at worst (and I hope it is not the case), deliberately dishonest. It can only serve to raise concerns in the community that decisions like that in the Nemer case are made on a political whim, which is a long way from the truth. I am sure that even the opposition leader would agree with me, given that he suggested last August that he would have gone straight to Paul Rofe and directed him to appeal.

Members would also be aware of the statements made by the Hon. Robert Lawson QC. Apparently, rather than rushing to judgment, I was wasting time. So, for those on the Criminal Law Committee of the Law Society, who simply do not get it, the Nemer direction, and any future direction of the DPP should circumstances ever require it, will only be done in extraordinary and exceptional circumstances in the public interest, following thorough consultation and extensive consideration of legal advice. Even then, the required safeguards of consultation with the DPP, publication of a direction in the *Gazette* and having it laid before both houses of parliament within six sitting days are also in place.

So I trust that my position on directing the DPP should no longer be in dispute. My suspicion is that some members of the legal fraternity—maybe even Mr Howard, the President of the Law Society—are still reeling over the High Court's decision to throw out Paul Nemer's appeal, making it clear that the Attorney-General does have the authority to direct the DPP in particular cases. The intervention in the Nemer case was right, it was in the public interest, it was in the interest of justice and the Attorney-General's actions have been totally vindicated. It is quite apparent that it has offended the sensitivities of those in the Law Society who misread or misunderstand the law of this state.

GLENELG TRAMS

Mr BROKENSHIRE (Mawson): When will the Minister for Transport announce the successful tenderer for the provision of new trams for the Glenelg tramline? Will the minister assure the house that the government will meet its promise to have new trams operating by the end of 2005?

The Hon. P.L. WHITE (Minister for Transport): That contract outcome will be announced as soon as the contract negotiations have been completed. We are currently in the tender negotiation stage. This is a commercially sensitive negotiation and, for reasons of probity, the state government does not give air to speculation about the outcome of such negotiations or aimed at influencing the tender outcome. We are currently in the process of a contract negotiation and, as soon as that is completed, I will report the outcome.

O-BAHN

Mrs GERAGHTY (Torrens): My question is to the Minister for Transport. What is the government doing to improve security for drivers and passengers using the O-Bahn, which is used by many people in my electorate, and who have been subject to attacks in the past?

The Hon. P.L. WHITE (Minister for Transport): I thank the honourable member for her interest in this very important matter which concerns the safety of members of the general public and, indeed, our bus drivers. In a bid to improve that safety and better protect the interests of our passengers and drivers, we will be installing a security mesh screening at the Hill Street bridge overpass over the O-Bahn, which is the scene of an incident that occurred some days ago when a person threw a one kilogram statue onto the path of an oncoming bus and injured one of our bus drivers.

My department is also collaborating with the South Australia Police in conducting security audits of all our road bridges over the O-Bahn, and we will also be purchasing and installing security cameras and additional lighting to improve that security. We will also be speaking with local councils along the route of the O-Bahn to see whether improvements can be made in terms of visibility along the route for the drivers, so that they can anticipate any such mischief.

It is really unfortunate that we have to go to these sorts of lengths. The measures I have just talked about come at a cost of some $250 000 to guard against this sort of mischief. Of prime importance to the state government is the safety of our drivers and our passengers. The safety of people always must come first.

PARLIAMENT HOUSE THEFT

Mr BRINDAL (Unley): My question is to the leader of government business in this house. Were the offices of the Deputy Premier and leader of government business in this Parliament House broken into over this last weekend? How was access obtained, and what are the security implications for all honourable members in this place?

The Hon. K.O. FOLEY (Deputy Premier): I can confirm that my office was broken into, unfortunately, and some equipment was stolen. Some other things were done to my office which one would not want to describe publicly. The damage has been repaired quickly, and I commend Parliament House staff for that. Access was obtained via a window. Unfortunately, some very clever people left some scaffolding on the outside of the building close to my window, and those involved gained access. However, my office staff and Parliament House staff moved quickly this morning to repair the damage. Nothing, other than a computer and a few other things, was stolen because, thankfully, my officers were diligent enough to ensure that all government papers were removed at the end of our last sitting week—not that we have any issue with our trusting anyone in this place, my own side included. We ensured that any references to the budget or any other confidential matters were not residing in my Parliament House office. So, nothing other than a computer and a few other things were taken.

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

The Hon. R.G. KERIN (Leader of the Opposition): My question is to the Premier. When will the government complete the restructure of the Department of Business, Manufacturing and Trade, and approximately how many employees will the department have?

The Hon. M.D. RANN (Premier): An announcement relating to that restructure will be made very shortly, and I will get a report on the matter for the honourable member.

ECONOMIC DEVELOPMENT

The Hon. R.G. KERIN (Leader of the Opposition): My question is again to the Premier. Will the Premier review the government's total approach to exports and economic development given the state's significant fall in exports over the last 12 months? The state government has a stated goal of tripling exports to $25 billion by 2013. The latest figures show that the annual figures have dropped from a level in excess of $9 billion when Labor took office to the most recent figure of $7.4 billion per annum in the 12 months to the end of February.

The Hon. M.D. RANN (Premier): It is interesting that the Leader of the Opposition appears to have changed tack. He has been belting on about how high the unemployment figures were in this state. Apparently now that—

The Hon. R.G. KERIN: I rise on a point of order, Mr Speaker. The Premier might have misunderstood: the question was actually about exports.

The SPEAKER: The Premier will address the question.

The Hon. M.D. RANN: You cannot deal with exports without dealing with employment, economic growth and all the other factors. That is why it is very interesting that the honourable member has been talking about the unemployment rate until, of course, we got figures showing that it is down to 6 per cent. Suddenly, he has changed his tune: now it is exports. Apparently, the Leader of the Opposition has control over the climate; we know that he is interested in climate change. Of course, he knows full well that we had a drought that caused considerable damage. I am not sure, but the figures were from about seven million tonnes down to about four million tonnes. What he was then talking about was the appreciation of the Australian dollar. Perhaps he believes in the principles of social credit or the theories of Major Douglas; he would know all about that. The fact is that a whole range of figures have just recently come out.

Employment numbers grew 4.4 per cent from March 2002 to March 2004 and seasonally adjusted total employment has gone up from 689 700 in March 2002—and remember who the premier was before March 2002—to 719 800 in March 2004, an increase of 30 000 jobs. The unemployment rate also

fell from 7 per cent to 6 per cent in the same period, yet the Leader of the Opposition bellyaches about it. Of course, Econtech—and we know how members of the opposition love Econtech—forecast unemployment at 5.6 per cent in 2006 and 5.1 per cent in 2008-09.

Business SA reports that 26.8 per cent of businesses showed an increase in their employment levels to March 2004. What about state expenditure and demand? State final demand was up 7.8 per cent in 2002-03 and 4.3 per cent in the year to the December quarter 2003; household consumption grew by 4.3 per cent; and—here is the figure that you will not hear from the Leader of the Opposition—the value of non-residential building approvals increased by 35.2 per cent in the year to February 2004. I will be taking advice on exports from the Economic Development Board headed by Robert Champion de Crespigny and by the export council—people who know what they are talking about.

The Hon. R.G. KERIN: I have a supplementary question on the figures that the Premier used. Given that the state's strategic plan identifies that employment targets will be measured in trend terms, why did the government—one week later—ignore the trend figures released on 8 April 2004 and concentrate its media release on a more favourable seasonable figure rather than on the trend figures, which actually showed a further loss of full-time jobs?

The Hon. M.D. RANN: I will give you a trend figure—March 2002 to March 2004, upwards of 30 000 jobs. That is the difference.

SOUTH AUSTRALIAN REPRESENTATIVE OFFICES

The Hon. R.G. KERIN (Leader of the Opposition): Will the Premier advise the house when final decisions will be made about the future of the South Australian representative offices in Hong Kong, Singapore and Shanghai? Concerns have been raised with the opposition regarding the future and lack of certainty of these overseas offices. Recently, the Hong Kong office lost a valued long-term employee, which has raised concerns amongst the state's exporters.

The Hon. M.D. RANN (Premier): I will get a report from the minister, but I have to say that a number of offices have been closed. Members will be aware of the decision to close the United States offices in New York and Washington, and I am sure that members opposite will not want me to go into too many details about that given the provenance of the appointment and the cost of that appointment. There are also the Indonesian offices, which I am sure members opposite are most proud of in terms of the way that they functioned in Bandong and elsewhere. Apparently they had a number of functions, but none particularly suited to the efforts of South Australia in terms of exports and economic development. In November last year I was in China and I was particularly impressed by the efforts of the Shanghai office, and I understand that the office in Dubai also does a very good job. But I will get a report for the honourable member.

MITSUBISHI MOTORS

Mr HAMILTON-SMITH (Waite): Does the Premier believe that there is any inconsistency in the message that the state is promoting regarding the KPMG report on competitiveness, compared with the aggressive statements made by the Treasurer that have appeared in international newspapers regarding the government's attitude to big companies? The international newspaper *The Herald Tribune* has reported the Treasurer's comments on Mitsubishi.

The Hon. M.D. RANN (Premier): I do not want to be provocative. A question was asked of me earlier which the Deputy Premier answered and which actually dealt with this issue. The fact is that we have a very great case to tell the KPMG survey. A US company, one of the biggest companies in the world, has found us to be the 10th most competitive city in the world in which to do business out of 98 cities: No. 1 in Australia, No. 1 in the Asia-Pacific region and No. 3 in the world of cities with a population between half a million and one and a half million. This is the sort of marketing message that no government could buy. That is why we are out there selling the message and why we were having meetings in Sydney and Melbourne last week. I think members opposite would support that. Obviously, the business community strongly supports it.

We were particularly well received interstate last week. In fact, opposition members would be interested to know of some of the comments which were made and which were very favourable towards our state—and, indeed, in terms of doing business with our state and doing business with this government.

I know there has been big elevation. It is very interesting to see the new configurations. I have noticed that there are no women on the front bench of the Liberal Party, but I have noticed the new leadership team whilst in transition—

The SPEAKER: Order, the Premier! The question sought information about the Premier's understanding of the substance.

BUSINESS, MANUFACTURING AND TRADE DEPARTMENT

Mr HAMILTON-SMITH (Waite): My question is to the minister representing the Minister for Small Business. When will the Centre for Innovation, Business and Manufacturing close its South Terrace office; and who will administer the services that it has provided to small business once it is closed? The opposition has received many concerned inquiries regarding the windback in services offered by the Department for Business, Manufacturing and Trade, largely from this office.

The Hon. K.O. FOLEY (Deputy Premier): I am happy to get a response from the minister. The work undertaken by this government to restructure the Department for Business, Manufacturing and Trade has been on advice from the Economic Development Board. I would be interested to know whether the member—if he is being critical of these decisions—has taken up the matter with the Economic Development Board.

CHOWILLA, RIVER RED GUMS

Mrs MAYWALD (Chaffey): My question is to the Minister for the River Murray. What are the findings to date of the flooding trial conducted at Monaman Island at Chowilla into the survival of River Red Gums, some of which are more than 100 years old?

The Hon. J.D. HILL (Minister for the River Murray): I thank the honourable member for this important question, and I acknowledge her very strong and passionate interest in this area. It is true that in many parts of the river, particularly in the Chowilla area, many hundreds, if not tens of thousands,

of River Red Gums are sick and dying. I visited the Chowilla flood plain on the River Murray a couple of weeks ago and saw first-hand the condition of these trees. I also had a tour of the trial watering project at Monaman Island.

As members may know, the aim of this project is to examine the impact of flooding on River Red Gums, Black Box trees and the wetlands. The Chowilla flood plains would naturally be flooded every two or three years, but under current conditions, with the extraction of water from the eastern states and the drought, this area has not had a significant flooding in about 10 years. I visited the site four weeks after a 1.4 kilometre section of the dry creek was blocked off and filled with 135 megalitres of water. This water came from the allocation that is held in my name as a result of the savings from the Loxton rehabilitation scheme. Signs of recovery on trees that were feared dead are already evident.

I was also advised of significant improvements in ground water levels and reductions in our ground water salinity. This is an example of how the River Murray fund is working to save the river. The contributions by South Australians were matched by support from other governments as part of the Living Murray implementation program. I was joined at the Monaman Island site by the member for Chaffey, the federal member for Wakefield and the federal member for Barker, who is a member of the now infamous commonwealth parliamentary committee that questioned whether there was enough science regarding the need for extra water in the River Murray.

Hopefully, the experience for the member for Barker was educative. I am hopeful that on a visit to the electorate of Barker by the Deputy Prime Minister (Mr Anderson) accompanied, as I understand, by the member for Chaffey, the member for Barker (Mr Secker) would have been educated as to the needs of the river and the importance of getting environmental flow down that river. The clear findings from this research are that extra water to recreate flood events is needed to give the river red gums a chance of recovery. And we are looking forward to Mr Secker's agreeing with that conclusion.

YELLABINNA WILDERNESS AREA

Mr HANNA (Mitchell): My question is to the Minister for Environment and Conservation. Given the government's commitment at the last election to consult with stakeholders in relation to wilderness protection in the Yellabinna area north of Ceduna and the prospect of the government permitting mining in the region, will the minister inform the house what consultation has taken place with indigenous groups or people who have claim to the greater Yellabinna area? Last week, Sue Haseldine, a Kokatha woman, showed me some of her country in the Yellabinna area, where there are numerous sites of significance to local indigenous people. My discussions with her give rise to the question.

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the member for Mitchell for this important question and congratulate him for visiting that area. It is not an easy place to get to and I guess not many people from South Australia have actually been there. The government remains committed to appropriate consultation in relation to any proposed additions to wilderness under the Wilderness Protection Act. I have yet to receive a formal piece of advice from my department via the Wilderness Advisory Committee in relation to this area, and we are still working through that at a departmental level. When I do get that, we are obliged under the legislation, as the member for Mitchell would be aware, to consult with appropriate stakeholders, not only the Kokatha people but other stakeholders who would have an interest in any change in land use in that area. We remain committed to doing that at the appropriate time.

SMALL BUSINESS

Mr HAMILTON-SMITH (Waite): My question is to the Treasurer, representing the Minister for Small Business. What is the cause and what has the government done to address the rapid decline in the number of small businesses in South Australia? The ABS has just reported that our state has experienced the worst decline in the number of small business operators across the nation, of 13 per cent compared to a national decline on average of 0.4 of 1 per cent.

The Hon. K.O. FOLEY (Treasurer): An opposition that will always talk down the economy does not do this state a service. Members opposite went on and on about statistics coming out of the ABS on unemployment, as the Premier said before, then all of a sudden they realised that they had got it wrong. So, what they do now is start to nitpick at another number. I will simply say this: state final demand up 7.8 per cent; household consumption growth, 4.3 per cent; value of non-residential building approvals up 35.2 per cent.

The Hon. DEAN BROWN: On a point of order, under standing order 98 the minister is prohibited from debating the question. He has in fact strayed from the question at any rate. The question was specifically about small businesses.

The SPEAKER: I uphold the point of order. The Deputy Premier may choose to—

Mr Brokenshire interjecting:

The SPEAKER: The member for Mawson might find his time and term in here truncated. The honourable Deputy Premier.

The Hon. K.O. FOLEY: I'm done, sir.

Ms HALL (Morialta): My question is to the minister representing the Minister for Small Business. What action will the minister take to address the fall in the number of female small business operators in South Australia? South Australia has recorded the largest decrease in the number of female small business operators in the nation over the past two years. The ABS reports that the female small business operators in South Australia are down 25 per cent.

The Hon. K.O. FOLEY: I take this opportunity to welcome back the member for Coles to the front bench.

Members interjecting:

The Hon. K.O. FOLEY: My apologies, the member for Morialta. How quickly we forget! But I cannot help noticing that the member for Morialta is sitting next to the member for Bragg, the member for Davenport is sitting next to the deputy leader and that there are some interesting tensions. We need to watch the body language over the next few months. But, anyway, I say, 'Welcome back to the member for Morialta.' I will take this very important question on notice and come back to the member with a considered reply.

WORKCOVER

The Hon. I.F. EVANS (Davenport): My question is to the Minister for Industrial Relations. How many employees will be made redundant from WorkCover as a result of the implementation of the Mountford consultancy?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank the member for his question. Was it about the organisational review? I missed the last part of the question.

The Hon. I.F. Evans: The Mountford consultancy.

The Hon. M.J. WRIGHT: Thank you. That is obviously dependent upon a number of factors. The government has been waiting for the parliamentary committee to report on the WorkCover governance, which it has done today. Obviously, the other report that we still await is that relating to the Safe Work Bill, and the report to which the member for Davenport refers is in regard to that bill. Of course, in the Safe Work Bill that area of occupational health and safety would, in fact, be transferred—provided, of course, that the legislation is passed successfully—and work is under way in regard to working up the types of information that the member for Davenport is seeking. Once that work is complete, I am happy to share it with the house.

FAIR WORK BILL

The Hon. I.F. EVANS (Davenport): My question is again to the Minister for Industrial Relations. Does the minister have a response to the question I raised during question time on 1 April, namely:

> Why did government officers at a briefing to the Industrial Relations Society advise that meeting that the government was targeting specifically the transport industry through the Fair Work Bill?

The minister promised to give a report on that question and bring it back to the house.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I can provide some additional information to the member for Davenport. I was a little bit surprised at the tenor of the question at the time and I checked that matter. To the best of my knowledge the advice I have received is that there is no targeting of any particular organisation. Having said that, obviously in providing information and briefings the departmental people need to highlight the tenor of what is in the draft bill. But there is certainly no attempt to target any specific organisation.

The Hon. I.F. EVANS: I have a supplementary question. Can the minister please confirm to the house—

The SPEAKER: Order! The honourable member knows there is no necessity for him to beg the minister to do anything.

The Hon. I.F. EVANS: I am just being polite, Mr Speaker.

The SPEAKER: It is not that that is out of character for the honourable member, but it is still not necessary.

The Hon. I.F. EVANS: Can the minister please confirm for the house that the departmental officers at the meeting of the Industrial Relations Society advised that the government was specifically targeting the transport industry with the Fair Work Bill?

The Hon. M.J. WRIGHT: As I said, the advice I have received is that no particular sector is being targeted.

Members interjecting:

The Hon. M.J. WRIGHT: Does it matter? No particular group is being targeted.

EDUCATION, INVESTMENT

Ms THOMPSON (Reynell): My question is to the Minister for Education and Children's Services. How does this government's investment in education compare to that of other states and territories, and what were the outcomes of the recent meeting of education ministers in Sydney?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Reynell for her question. I know that she is passionate about education and the opportunities for young people in her electorate. It is particularly true that this government has taken education as one of the key planks of its policy. Since being elected, we have given a dramatic commitment to funding both schools and supporting teachers in order to make a real difference to South Australia's future. From the start we have redressed the balance of the many years of Liberal governments, when there were cuts to education, and we have re-funded schools continuously since our first state budget in 2002-03.

This financial year we have increased to around $8 900 the amount of funding per student in our schools. This is an increase of 12 per cent, compared to the last Liberal government in 2001-02. Since the member for Bragg would like to talk about how many students are in the education system, I am happy to inform her that $140 million has gone in, despite a decrease in enrolments. That is an answer she might like to listen to.

In addition, our government's increase in expenditure by federal government assessment is the highest of any state in the nation. The average increase in education funding across the nation for every state was 2.1 per cent, whereas in South Australia the increase was 4.9 per cent. The member for Bragg is correct in relation to one matter. She was quoted as saying that once you fall behind it is difficult to catch up, and that is the way this government has been trying to develop education funding: by increasing funding to schools which fell behind during the last Liberal government.

At last week's MCEETYA meeting, ministers around the country asked the federal government to demonstrate its commitment to those schools that were disadvantaged by disability or distance. They failed to do so. Instead, they created divisions between government and non-government schools.

The states and territories called on the federal government to fund schools according to their level of disadvantage, whether in the non-government or government sector, but they failed to do so and will fail to do so in the next quadrennium. It was clear from the meeting that the government's next four-year funding package does not deliver to needy families in South Australia, whether in the public or private sector. It is time that the opposition gave a commitment to what it thinks it would like to get out of the federal government and to start lobbying for those students who are needy instead of those in the minority, and to fund the needy students who go to public schools—the 171 000 public school students and the many in the non-government sector who have needs that are not being met by federal funding.

POLICE, MOUNT BARKER STATION

Mr GOLDSWORTHY (Kavel): My question is to the Minister for Police. Will he advise what progress has been made in the building of the new Mount Barker police station? The government has reannounced for the past two years the Liberal initiative of building a new police station at Mount Barker, due for completion in 2004-05.

The Hon. K.O. FOLEY (Minister for Police): I am happy to get a considered response. The Mount Barker police station was committed to early in the life of this government and, together with the other police stations that were brought on line or funded in the budget, the build program is well advanced. However, I will get the detailed answer and come back to the honourable member.

Mr BROKENSHIRE (Mawson): By way of supplementary question, will the Minister for Police guarantee building the Mount Barker and other police stations if the PPI is not satisfactory?

The Hon. K.O. FOLEY: I have never heard of a PPI before. I think the shadow minister for police meant either a PPP or a PFI. The honourable member is also responsible for transport on the opposition benches, and PPPs and public finance initiatives are often a feature of that portfolio. So, he has a lot of learning to do. We have already answered this question. We are committed to—

An honourable member interjecting:

The Hon. K.O. FOLEY: Well, if I have not answered it, I apologise. I reckon I have had a crack at it, but I will take your word for it. I will say this: we are committed to the new police stations—Mount Barker, Victor Harbor, Gawler, Port Lincoln—because this government is putting policing right up the front of the government's capital works list and we will have these police stations built as soon as we possibly can.

ORGAN DONATIONS

Ms BEDFORD (Florey): My question is to the Minister for Health. What action is being taken by the commonwealth and state health ministers to achieve a nationally consistent approach to using information on the Organ Donor Register and ensuring that the wishes of donors are respected?

The Hon. L. STEVENS (Minister for Health): I thank the honourable member for Florey for this question. Commonwealth and state health ministers have agreed with a proposal from South Australia that all state and federal organ donation legislation should clearly state that the expressed wishes of a deceased person regarding organ donation should be respected and given effect. The ministerial council ordered an expert working group to advise on the implementation of this decision, including an examination of whether it should be compulsory for medical authorities to look at the Australian Organ Donor Register to ascertain the wishes of the deceased. The expert group will report back to the next health ministers' meeting in July. Ministers have also asked that uniform guidelines and protocols be in place to assist where a family may oppose a donation recorded on the register.

Given the renewed focus on organ donation and the increasing number of people signing up to be donors following the death of David Hookes, it is important that we have a nationally consistent approach to giving effect to people's wishes. Ministers also agreed that increasing the organ donation rate is a national priority and that we should take all steps to ensure that organ donation rates are maximised. Achieving this will require ongoing communication and education initiatives, but also administrative arrangements which facilitate putting into practice an individual's express decision to donate.

CFS HELICOPTER

The Hon. W.A. MATTHEW (Bright): Will the Minister for Emergency Services advise the house whether his government has provided extra funding to cover the $250 000 per day cost of operating the helicopter *Isabella* from New South Wales, as he indicated publicly on 16 February 2003 that he would, or has his government instead required the Country Fire Service's existing budget to cover this cost?

The Hon. P.F. CONLON (Minister for Emergency Services): I think the member for Bright is new to this role. He may not really understand how it works and he could ask the member for Mawson about the funding arrangements for emergency services each year. Each year the funding sets out to cover the recurrent costs of the CFS, and I point out that it has had something like a 10 per cent increase in budget in each of the first two years of this government. It has never done better, and we are very proud of that, because the CFS does a fantastic job. Also within the funding allocation is a set of moneys that is available to the CFS for bushfires, and, as the honourable member holds down this job he may come to realise that you cannot plan bushfires, they just tend to occur. The money for the *Isabella*, as I understand it, comes from that fund, making no disturbance at all to the budget of the emergency services.

The feedback on those preparations from the people of South Australia was fantastic. I know that we have received a large number of letters and calls to the Premier congratulating him on the initiative of having that available. It is part of a very good national initiative in our firefighting capacity, one which has also seen a very big increase in funding in recent years. This government has not only recognised the work of the CFS and stood behind it but has also increased its capacity to respond on behalf of the community.

MITSUBISHI MOTORS

Mr HANNA (Mitchell): My question is to the Premier. What will the Premier do to ensure that Mitsubishi gets a better go in terms of state government vehicle procurement? This morning, *The Advertiser* newspaper highlighted that 61 per cent of vehicles procured by the government are Commodore; 21.8 per cent, Falcon; and only 13.6 per cent Magna or Verada.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank the honourable member for his question.

An honourable member: Why is Mike dodging this one?

The Hon. M.J. WRIGHT: He is not.

An honourable member: It's a fair question.

The Hon. M.J. WRIGHT: He is not dodging the question; it is quite the opposite. It is a fair question, and it is an important question; and I am the minister responsible. The advice I have received is that the information that was in *The Advertiser* this morning is incorrect.

Mr Hanna interjecting:

The Hon. M.J. WRIGHT: I'm going to provide those, Kris. We also need to take account of the fact that the government is a signatory to the Australia-New Zealand

procurement agreement. That agreement, of course, explicitly prohibits practices that discriminate between state-based suppliers and those in other parts of Australia and New Zealand. South Australia's commitment to the agreement has been on the basis that it provides South Australian businesses with a much greater opportunity to win significant contracts interstate and in New Zealand.

Mitsubishi, of course, no longer makes an Australian four-cylinder vehicle for the government to purchase. However, comparative figures with which I have been provided differ from what appeared in the newspaper this morning, in that the South Australian government fleet currently comprises 22.65 per cent of Mitsubishi vehicles. Year-to-date purchases for six to eight cylinder passenger vehicles comprise Ford, 11 per cent; Holden, 66 per cent; Mitsubishi, 19 per cent; and Toyota, 4 percent.

TRAINEESHIPS, SCHOOL-BASED

The Hon. G.M. GUNN (Stuart): Will the Minister for Education and Children's Services give the house an assurance that school-based traineeships will continue beyond this week? It has been brought to my attention that people who participate in school-based traineeships must sign Australian workplace agreements to comply with certain award conditions. An officer in the department, Mr Clem Bradley, who is well known for his dislike for these particular arrangements, has now interfered and stopped the program from going ahead. I am advised that as from 1 May there will be no more school-based traineeships. As you would know, Mr Speaker, from your constituency, these traineeships have been an outstanding success. Therefore, we wish to see them continue, even though—

The Hon. P.F. CONLON: I rise on a point of order, Mr Speaker. My point of order is very simple: in about two minutes time, we can have a grievance debate. That was not an explanation: it was a rather long debate.

The SPEAKER: I uphold the point of order. The minister.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): My understanding of apprenticeships or traineeships in schools is that they would still require a contract of training to be signed and that they would be signed under the normal procedures.

MOTOR VEHICLE BURNOUTS

Dr McFETRIDGE (Morphett): Will the Premier ensure that his government departments facilitate and coordinate the introduction of regulations to allow local councils to access the details of owners of motor vehicles where the vehicle has been reported to council for doing burnouts and leaving shredded rubber littering the road? These are safety issues as well as littering issues, and the departments of transport, local government, environment and police are involved. I have asked not only the present transport minister but also the former one but still have not had an answer.

The Hon. K.O. FOLEY (Deputy Premier): You have to hand it to him—he has asked the question of seven ministers. I am not sure who is responsible for that collection of requests but, on behalf of the government, we will work our way through them and try to decipher them.

Mr Hanna: Law and order.

The Hon. K.O. FOLEY: Law and order. Well, we will try to get an answer if we can work out what the question was.

BRANCHED BROOMRAPE

Dr McFETRIDGE (Morphett): My question is to the Minister for Local Government. What is the government doing to assist the City of Murray Bridge in controlling the outbreak of branched broomrape on the western side of the River Murray adjacent to the new Flagstaff-Jervois Road intersection?

The Hon. J.D. HILL (Minister for Environment and Conservation): As you well know, Mr Speaker, quite an extensive program is in place to deal with branched broomrape in the Murray Bridge area. I can get a briefing for the member for Morphett about how that program is unfolding, but this government is very committed to eradicating branched broomrape from South Australia and we have a strong commitment from the federal government to support that program. I will get the member a thorough briefing.

QUESTIONS, HYPOTHETICAL

The SPEAKER: Before proceeding with other matters, I would like to give some clearer explanation to honourable members about the concept of hypothetical questions that are inadmissible as compared with those that are admissible in that they seek information in certain circumstances.

For the benefit of honourable members, the chair points out this distinction. Where a question is asked, 'If such and such happens, what will the government or the minister do?', that is inadmissible because it seeks not a hypothetical answer but rather for the minister to address a hypothetical situation. In past circumstances, in this and in other parliaments, where such questions have been asked, the answer given very often comes back to haunt the government of any political persuasion at some later time, or even the minister explicitly, and the later time may not be so much later.

That is to be compared to a question where the inquiry seeks examples of situations in which the government might intervene. That is admissible because it does not require specifics from any minister of the government about what the government will do, but rather seeks examples of where the government would intervene. It is admissible because in circumstances where a bill is before the house which contains provisions proposing that the government have power to intervene it is, of course, quite legitimate for any honourable member to ask for an explanation of the circumstances in which the government would intervene and, to get absolute clarity, in what other circumstances the government or the minister would not intervene. The same applies to the administration of affairs as clarity is sought by honourable members through the process of question time.

Whilst I am on my feet, I would like to briefly point out that there were two things during question time today. The first illustrates the validity and the general understanding that the house has of that practice in that there were three such questions asked by honourable members from the opposition benches about examples of what the government would do should it be necessary to intervene. One other remark the chair would make is that, during the course of many of the questions, honourable members again sought to make points explaining their questions which are really debating points. No less frequently, and indeed more so, government ministers

sought to make points which, again, are really debating points and which are unnecessary to explain the information provided in response.

It would be better for our standing as a chamber in the eyes of the community if we were to allocate more of our time to debate the issues of the day under the terms of debate rather than under the standing orders governing question time, since those standing orders do not permit us to do anything other than seek and obtain information by questioning ministers on issues of the day. Having obtained explicit information on those questions, debate on those matters is more even-handedly facilitated through the debate process which should follow.

INNOVATION FESTIVAL

The Hon. P.L. WHITE (Minister for Science and Information Economy): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P.L. WHITE: South Australia's Innovation Festival begins today and goes through until Saturday 16 May. It features more than 40 events across the state and is part of the Australian Innovation Festival National Program. History shows that South Australians can be well proud of their innovations from the dual flush toilet to penicillin and antibiotics, home-grown ideas that have made a real difference to the lives of people (and we cannot dispute that) and the environment all over the world.

This festival is about celebrating some of those successes and exploring possibilities and new ideas for the future. There will be events and activities to demonstrate the importance of innovation, including information sessions, seminars, industry workshops, forums, launches and conferences that encourage networking and business opportunities across industry sectors. All events are closely aligned with South Australia's 10-year science vision, which the Premier and I launched last month and which is linked to the state's strategic plan. Festival program highlights include:

- The Connecting Up Conference from 3 to 4 May, focusing on bridging the digital divide between those who easily access and understand information communication technology, such as the internet, and those who do not.
- The 2004 Irrigation Australia Conference from 5 to 13 May, highlighting industry as becoming smarter in its use of water conservation.
- The 105th anniversary of Australia's first railway between 15 and 18 May, celebrating the line running between Goolwa and Port Elliot, which was once as significant to Australia as the rail line to Darwin.
- Ideas and Inventors; Invention Protect and Product Commercialisation on 19 May, providing information on how innovative thinkers can commercialise inventions and not lose the rights to the intellectual property.

Events will also take place in regional areas, including the Limestone Coast Innovation Expo, showcasing regional innovation products and services, smart technology and innovation resources, and networking meetings in Port Pirie, Whyalla and Port Augusta, highlighting the relationship between business success and innovation; and motivating local business to become innovative.

If members would like to know more, the web site address www.innovationfestival.com.au lists very many events that are part of this wonderful festival of innovation.

GRIEVANCE DEBATE

O-BAHN

Mr SCALZI (Hartley): Today I bring to the attention of the house the O-Bahn rock throwing incident and local crime prevention strategies, which I believe should be supported. Members would be aware that on 28 April vandals threw a garden ornament at a bus on the O-Bahn busway at the Hill Street overpass at Campbelltown, breaking its windscreen. I know the place well, as I was brought up in the area and it is in my electorate. It is very fortunate that the driver of this bus escaped serious injury, sustaining as he did only a broken finger and lacerations. Three youths were seen running from the scene.

First, I give my support to the bus drivers who carry a heavy responsibility for the safety of their passengers and too often are called upon to deal with difficult, dangerous situations. It is estimated that on weekdays 35 000 passengers use the O-Bahn. Secondly, I would like to commend the authorities, local councils and state government—

Mr KOUTSANTONIS: On a point of order, sir, the member for Hartley is describing an event where some people were charged with an offence, and I understand that that is sub judice.

The SPEAKER: The chair regrets that it had not heard the remarks being made by the member for Hartley as they related to any case in any court. Can the member for West Torrens detail for the chair and for the benefit of the house which matter it is which he believes the member for Hartley to be referring to and which is now sub judice?

Mr KOUTSANTONIS: The member for Hartley was describing an offence that occurred last week where three youths were seen dropping items off a bridge onto the O-Bahn track. Subsequently, one of those youths has been charged.

The SPEAKER: Then the question the chair must ask the member for Hartley is: do the substance and the thrust of the remarks he is making to this chamber do other than draw attention to the general public concern about the incident, or do they debate the merits or otherwise of the case for the prosecution or the defence in this instance?

Mr SCALZI: As the local member, I wish to complement the minister's statement today to bring to the attention of the house what is happening on the O-Bahn busway. I do not wish to reflect on any individual case.

The SPEAKER: The member for Hartley having explained that, can I say to the member for West Torrens that there is no point of order, in that the member for Hartley is not debating the merits either way of the case for the prosecution, should one have been put on foot by a charge being laid against one of the perpetrators or, on the other hand, the case for the defence. He is, as I understand it, merely drawing attention to what has happened, in that damage has been caused to a bus that is believed to have been caused by some miscreant element, and in that belief the minister has acted, and the member for Hartley seeks to commend the minister and make other remarks about the general concern that his constituents have.

If I am mistaken in any particular in that respect, I will direct the member for Hartley otherwise. In the meantime, his remarks are in order. The honourable member must not reflect upon the particular case in the way in which it might be dealt with in the courts.

Mr SCALZI: As I said, I do not wish to reflect on any individual case. I would see it as a poor state of affairs if a local member could not comment on behalf of his or her constituents. As I said, I commend the authorities, whether they be local councils or the state government, on the planned introduction of protective strategies, including bridges, barriers and increased surveillance. This has gone on since the former minister (Hon. Diana Laidlaw) installed 24-hour cameras at the Paradise interchange.

Much has been said in the media since this incident, reflecting on the rise of community fear of vandalism and crime. In the first months of this year alone we have heard of vandalism of historic graves at West Terrace Cemetery, problems with suburban gangs, vandalism of cars and systematic tyre slashing, and more than $6 million damage caused by vandalism to public schools, including $1.5 million in graffiti damage. One can therefore understand the disquiet of the community.

However, I agree with the comments of the member for Heysen, as the shadow Minister for Families and Communities and a fellow member of the Juvenile Justice Select Committee, that the vast majority of our young people are good kids and that, of the young people who get into trouble and come in contact with the legal system, over 90 per cent do not reoffend. There are many good news stories, and we must not lose site of that.

In Campbelltown, youth groups have been involved in developing major projects in conjunction with council to provide skateboarding and BMX facilities and have secured a major grant, the first payment of which I was honoured to present on 23 April. Whilst I can understand it, I do not subscribe to the shame and blame approach that has received much attention. This is, I believe, in the long run, a simplistic approach which does not address the root of the problems. Alongside taking appropriate steps to ensure the safety of the public, we must focus on strategies which keep young people active and engaged in our schools and communities. We must look at school attendance for such initiatives (as commented by the member for Bragg in the introduction of her Compulsory Education Bill) to support parents and school staff in improving attendance rates and provide for early intervention measures for students. Perhaps we should also be looking more closely at the options available for students who are suspended from school. Finally, I consider that we must revisit the issue of support for local crime prevention programs.

Time expired.

ANZAC YOUTH VIGIL

Ms THOMPSON (Reynell): During the small break we have had, we have experienced Anzac Day and witnessed the increasing importance of this day in our community. Once again, the Anzac Youth Vigil was held in the south with even greater success than last year. Over 90 young people participated in an overnight vigil at the City of Onkaparinga war memorial with a number of supporters ensuring the safety of the young people and the organisation. What is so incredible is that today we see it necessary to provide about 20 adults, as we call them, to ensure that these young people are safe overnight. The young people of previous generations were on the Gallipoli Peninsula, up the Kokoda Trail and in many other places, fighting for our safety.

This year, with the youth speaker, we took the step of asking a young youth leader in our community, Carmen Lazic, to interview Olive Weston. Olive Weston is a local resident from Christie Downs, who has received a presidential citation for selective service in the United States Army, and on Office of Arms Award from the Queen Mother for 60 years of service in the Allied Armed Forces, as well as an Order of Australia for her contribution during World War II as a nurse. Olive Weston enrolled as a nurse at 16 and at 18½ she was discharged. In those 2½ years, she had been mother, girlfriend, sister and aunty to countless soldiers, sailors and airmen who were dying, sick and delirious. She stepped up to their bedside and fulfilled whatever role was necessary to make their time in hospital, and often their time at death, more comfortable.

Carmen is 16 and she spoke with amazement about what Olive had done at her age, some 60 years beforehand. Carmen was able to draw on Olive's experience and talk to the young people and the older people who were assembled for the commemorative service, which was held at 8.30 on Anzac eve, about the way that today's young people are indeed facing different traumas, different pressures, and different threats to freedom than the young people in the 1914-18 campaign, those in the 1939-45 campaign, and subsequent campaigns. The pressures are different, but we all know from the conversation in this chamber that there are many pressures on young people. Carmen called on them all to look within themselves and find the resilience, the strength and the courage that our forebears showed during times of crisis for our nation.

The success of the Anzac Youth Vigil in the south is due to many sponsors and many volunteers who organise the event. This year I am pleased that many of those have been young people themselves—youth leaders who took on the responsibility of the rostering and caretaking of many of the younger guards. Mitsubishi contributed this year, and we were pleased on the night to have that mark of its contribution to our community, and to wish the families of all Mitsubishi workers well at this difficult time in their lives and to indicate that our thoughts are with them.

I thank all those who were involved in the youth vigil, particularly Brian Holecek, the coordinator; Frank Owen, the President of the Morphett Vale RSL; and councillors Doreen Erwin and Darryl Parslow who, among the quite large organising committee, were outstanding in the work they did to ensure that this event continues. I encourage other members to look within their own communities and see whether it might be possible to adopt this practice. It takes a lot of hard work and cooperation but it was indeed an important event for young and old in the south.

McFETRIDGE, Dr D.

Dr McFETRIDGE (Morphett): It is with great pleasure that I rise in this place as a member of the shadow front bench, and I accept with humility my responsibilities for the shadow portfolios of local government, consumer affairs, volunteers, and sport and recreation. I thank the Leader of the Opposition for giving me the opportunity to get on with some of the harder tasks of running this state, and I accept the challenge with enthusiasm.

As we know, local government is very dear to everybody in this state—it is not just roads, rates and rubbish. As we know, with the sustainable development bill coming up, there will be far more discussion. Although it is slightly different from the portfolio of local government, all councils are very interested in that bill. I thank the Minister for Local Government, the Hon. Rory McEwen, for his cooperation so far, and I think I can go forward in the hope that all ministers will cooperate with the opposition, and particularly me in my portfolios, because it is a matter of moving forward in this state, not just being in opposition and opposing. It is a matter of cooperating and constructively going forward.

Consumer affairs is another huge issue. The moment you spend a dollar you are a consumer, and many people have consumer affairs issues. I thank the Attorney-General for his cooperation. I have already had briefings with some members of the Office of Consumer and Business Affairs.

In regard to the Office of Volunteers, the parliamentary secretary (the member for Wright) has been very cooperative and I thank her for her assistance. I have had some briefings by her public officers and they have been more than helpful.

In relation to sport and recreation, I have been promised briefings by the minister and I look forward to those briefings on a number of issues, particularly those that affect my electorate of Morphett but, more particularly, those that affect the whole of South Australia.

These are really cradle to the grave portfolios and I look forward to the challenge ahead. As I have said to the public servants with whom I have dealt, I do not expect them to betray any secrets because I know they are far too professional to do so, but I will try to ask them questions to get the maximum benefit from any contact I have with them. But I respect their position and the job the ministers have to do and look forward to moving ahead in these portfolios.

One of the pleasures of being on the front bench is that you get lots of invitations. Certainly, in the areas of sport and recreation and volunteers there are many organisations that I will be going to see, and I will be delighted to go to as many as is practically possible. Yesterday morning I attended for the second time the deaf community evangelical church service. Last time it was held at St Peter's Cathedral and this year it was at the deaf community hall on South Terrace. The Minister for Family and Communities (the Hon. Jay Weatherill) was there and we enjoyed the company of about 150 members of the deaf community. The hall in which they held the service this time was not the usual chapel—it was held downstairs so that some of the older members of the community and those who were less physically able could come and share in the service.

However, it was unfortunate that the service was disrupted in some ways by the poor equipment that the community is using. It has a very old overhead projector and a sound system which did not work until the very last moment, as the Minister for Family and Communities will acknowledge. I have offered to assist this group and I know that the minister will be bipartisan in searching out a government grant so that we can buy them some new equipment. This particular part of our community needs support—it is a very brave part of the community. I was asked whether they could have interpreter services put into multicultural affairs rather than in the disabilities area because they do not see their deafness as a disability but rather another area that needs the provision of interpreters. Those are a couple of ways in which we need to help the deaf community church.

I was asked why, when I spoke last year, it was called a grievance, and certainly it is not a grievance to speak about the deaf community church: it is a pleasure to get up and speak about any volunteer group in the community and support them. It is with pleasure that I do so, and perhaps we should rename grievances to matters of importance so there is no confusion. But, thank you for the opportunity to be on the front bench, even if it is in opposition this time. Hopefully I will be over there in the not too distant future. I look forward to the challenges ahead.

LIBERAL PARTY

Mr KOUTSANTONIS (West Torrens): I also wish to congratulate the member for Morphett and the member for Heysen—two formidable opponents—and I am sure that their leader has chosen well. However, I wish to comment on the other shuffling around of the deck chairs of the *Titanic* opposite. The member for Unley has been roundly dumped by the Liberal Party in a manner that maybe you might understand, Mr Speaker, given that the Liberal Party summarily executed your membership of the Liberal Party in the same kangaroo court way that it dealt with the member for Unley. What is forgotten by people in the community is that the member for Unley lost the deputy leadership ballot after the state election by one vote. This is the person who lost the second highest position in the Liberal Party's structure by one vote who has now been dumped to the backbench.

It is interesting to see the dynamics of the reshuffle by the Leader of the Opposition. This is a grab for power by the member for Finniss (the deputy leader). He has retaken control of the Liberal Party that was taken away from him all those years ago in 1996. To prove my point I will give an example. I read in *The Advertiser* that the member for Unley had written to the President of the Liberal Party asking for the preselection of Unley to be brought forward. The President of the Liberal Party then responded in *The Advertiser* that there would be no more state preselections until after the federal election. I was stunned today to see in the newspaper an advertisement by the Liberal Party for preselections for the seat of Hammond. Applications close on 28 May 2004 for all interested parties, and can be sent to Graham Jaeschke at the Liberal Party, Greenhill Road, Unley.

If the man who lost the deputy leadership by one vote in the Liberal Party cannot have his preselection brought forward—

An honourable member: It was tied.

Mr KOUTSANTONIS: It was tied initially, that is right. Here he is, Mr Speaker—the man from the grave is here and has come back to take back control of the Liberal Party. Mr Speaker, if they can open preselections for the seat of Hammond, why can they not do so for Unley? Why does the federal election not interfere with the preselection for Unley? Can it be that the real reason the member for Unley was dumped is that the moderates have seized control of their state executive? The left wing of the Liberal Party (otherwise known as the 'wets') have seized control of the Liberal Party and are seeking to dump all those who opposed the failed Premier who won in a landslide in 1993. It seems to me that this is retribution against John Olsen.

Look who has been promoted—the member for Morialta! This is interesting, because she was one of the pivotal traitors who turned on the former Premier, the now deputy leader, and sided with the new Olsen forces to depose Dean Brown. The member for Morialta has now found favour again with

the deputy leader of the opposition. Has she turned again? This is a woman who knows how to survive in politics. She chooses one side one day, the other side the next and survives and, in the process, knifes one of her colleagues and comrades—the member for Unley—with whom she was in the barricades in the leadership challenge involving Dean Brown and John Olsen. Who will pay the price? The member for Unley will. I say this: as President of the Labor Party I believe that Mark Brindal was an excellent performer in this house, and he has been replaced by the member for Hartley. In saying that, I mean no reflection whatsoever on the member for Hartley.

I want people to know that the member for Unley, who tied in the Liberal Party deputy leadership ballot, has been replaced by the member for Hartley, who is now the sole spokesperson for the Liberal Party on employment and training. The person who wanted to have Mark Brindal as his deputy leader has replaced him with the member for Hartley.

Two years is a long time in politics, and revenge I understand is a dish best served cold, but not by the Liberal Party: it likes it piping hot. We on this side of the house admire the member for Unley and look forward to his making a decision about his future.

C31 TELEVISION STATION

Mrs REDMOND (Heysen): As much as I adore the member for West Torrens, I am pleased that I will be able to say something more edifying and less fanciful than the contribution we have just had from him. I rise to bring to the attention of members of this house the recent launch of a new free to air television station. For those who are not aware, C31 TV, our new free to air television station, was launched on 18 April and commenced transmission on Friday 23 April. The transmission commenced at 6.30 p.m. with an address by Her Excellency the Governor, and it was a really worthwhile and good choice to have someone as eminent and non-party political as her to perform the launch.

The launch was attended by a range of people and a number of volunteers. Without the volunteers, this station would not have got on the air. A number of people were aware of the old Ace community TV, which failed dismally in this community. I assure members that what we have in this new C31 TV station is a far more professional production under the leadership of John Giles, and it is certainly not 'old fogies' TV. Another name was given to it in its previous incarnation, but this new television station is certainly a far cry from that. It will have a terrific range of programs, going through from preschoolers.

In the promotion that started the transmission, I saw the Ticklish Allsorts, a well-known group of young adults who perform for youngsters around the state in various kindergartens, schools and stage productions. A lot of stuff is available for young people in the music industry in terms of programs regarding the various hotel gigs around the metropolitan area and the opportunity for groups to do productions and performances as part of their promotion of themselves and as a way of bringing themselves to the notice of the public.

In addition to the opportunity for those sorts of programs, one of the things I welcome is that during the day there will be a feed coming through from Melbourne that will show many of the old television shows. Maybe I am old-fashioned, but I preferred a lot of the old shows like *I Love Lucy*.

The Hon. M.J. Atkinson: *Peyton Place*?

Mrs REDMOND: Not *Peyton Place*. A lot of those old television shows, both from the UK and the US, can only be accessed through pay TV, but they will be free to air on a feed from Melbourne coming through this television station.

The Hon. M.J. Atkinson interjecting:

Mrs REDMOND: The Attorney interjects about *McHale's Navy* being included. I have not been at home and doubt that I will be in the next little while to catch daytime television, but when one is at home during the day and gets the chance to turn on the telly there are a lot of those old programs which I remember with a great deal of fondness, and I will happily have the chance to look at them again at some stage.

This new television station gives a lot of opportunity for local production to do things about local issues. It is a sad fact that we have a decreasing local content in Adelaide. Mostly our television news is not produced locally, with the one exception of a free to air television station, so with this we will be able to have local productions about local issues and will be able to give a lot of local people opportunities to develop skills which in this city will become increasingly rare.

I congratulate John Giles and all the committee members who got it all together. They spent many months doing so and had a lot of input from people who were keen to help get the station off the ground. There are always hiccups in producing any new television station, but I am delighted to say that so far things have gone relatively well. We now have this station on air and, whilst I cannot tell members exactly where to find it, my television has found it automatically, and I did not need to twist a dial to locate it. Those who have not yet turned on station C31 should give it a chance and turn it on as soon as possible.

ENDERSBEE, Ms B.

Mr SNELLING (Playford): I rise to congratulate Ms Beverly Endersbee, the teacher librarian at Para Hills East Primary School in my electorate, for receiving the Australian Teacher Librarian of the Year Award presented by the Australian School Librarian Association.

Ms Ciccarello interjecting:

Mr SNELLING: The member for Norwood points out that she herself is a librarian, and I am sure that she is full of praise for the work Ms Endersbee does at the Para Hills East Primary School. She has been a teacher librarian at the school for the past 13 years, and the school newsletter tells me that she has established the school library as a hub of the school community. To further quote the school newsletter:

> [Ms Endersbee had to] cooperatively plan innovative units of work that accommodate diversity in cultural backgrounds; ensure the development of information literary skills as a high profile priority and the driving force of the school's change and improvement agenda; use many students from reception to year 7 as library monitors, ensuring they are critical role models in the use of information resources; and establish a library promotions group, which has planned events for students within the school.

It further states:

> Beverly's collaborative and cooperative work has extended well beyond the walls of the school library. She has facilitated and presented at a number of conferences and workshops within South Australia, nationally and in New Zealand. She has also played significant roles in national and state projects.

School libraries, I do not need to tell anyone here, are an integral part of any school, and reading skills and developing or fostering an interest in reading are vital to future success

for our young people. I congratulate Ms Endersbee on her award and congratulate Para Hills East Primary School, which is a fabulous school in my electorate that is doing tremendous work educating the young people of my district. I wish her well in her future work.

PRIVILEGES COMMITTEE

The Hon. M.J. ATKINSON (Attorney-General): I move:

That the time for the bringing up of the report of the committee be extended until Thursday 6 May.

Motion carried.

MEAT HYGIENE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 1846.)

Mr VENNING (Schubert): The opposition supports this bill, as its prime objective is to amend the existing legislation so that all meat processing operations, whether for wholesale or retail, fall under a single consistent legislative framework. The opposition does wonder why, though, we are amending this act when, as we understand it, the minister actually took leave to introduce another bill a few weeks ago, the bill called the Primary Produce Food Safety Schemes Bill 2004. This bill will provide for food safety matters relating to the production of primary produce and to repeal the Dairy Industry Act 1992 and the Meat Hygiene Act 1994—the very act being amended by this bill today. It is slightly ridiculous. Unless the minister can tell us otherwise, I am sort of bewildered, and we assess that this is just tying up of parliament's time. If the government ever comes out and says the opposition have delayed any of the parliamentary processes, then they need to have a good hard look themselves. However, I will address the bill before us at the current time.

The bill itself, in effect, will make accreditation for all butchers compulsory. It will expand the act to include butchers who do not kill their own meat, but handle it before packaging and selling. These proposed changes are consistent with the National Competition Policy. So, I strongly support PIRSA's new role in carrying out the audits of premises. I do have a personal concern, or a question. Why, when we are bringing all meat processing operations under a single consistent legislative framework, do we leave the administration under the two separate authorities? It is the Meat Hygiene Unit of the Department of Primary Industries and Resources for the processing meat for the wholesale market and, at the consumer end, retail sales come under the Food Act 2001 and the Public and Environmental Health Act 1987. It is administered and enforced by the Department of Human Services and Local Government.

I think the government should consider it coming under the one authority because there will always be anomalies and dispute over which category the sale of various meats would fall into. Yes, I support that pre-packed meats should have a lesser scrutiny, but what about the butchers who are selling pre-packed meats processed somewhere else? Will they get two lots of visiting inspectors, to say nothing of the bookwork and red tape? Also, what about meats that fall into other categories: uncooked but smoked smallgoods such as metwurst, German sausage, kabana, bratwurst, peperonis, and the list goes on? Do they all come under the same pre-packaged category? I hope the minister can address these questions. The process of manufacture of some of these products does not fall into the usual category of the word 'cooking', and I will not mention the salient lesson we all experienced about 10 years ago now. My, how time flies. We know what we are talking about there and I will not highlight it any further.

Fish and chicken are both meat that can also slip between the two very general guidelines. Is fish included? If it is, where do oysters fit into this matrix? There are over 500 retail meat outlets in South Australia, and 232 of them also come under the wholesale processing category administered by the Meat Hygiene Authority. I note the minister's comment about:

A memorandum of understanding between Primary Industries and Resources South Australia [PIRSA], the Department of Human Services and the Local Government Association of South Australia Inc. that would clearly define the responsibility of each agency in regard to retail butchering operations.

The minister goes on to say that the memorandum of understanding will ensure that retail meat processes will be subject to only one regulatory regime. I contend that this legislation should contain exact guidelines to avoid dispute in setting up those memorandums of understanding. So, the minister may wish to address that. The bill also ensures representation from the retail meat processors to the South Australian Meat Hygiene Advisory Council. Of course, we fully support that.

The opposition does have concerns about the audited fees. The $128 twice yearly audit fee is an impost on small business and, as these audits are for the greater health of the community, the government should bear or heavily subsidise the cost. It may be doing that already. I understand the government has picked up 70 per cent of audit costs in relation to similar standards in the meat industry in the past. I would appreciate if it was confirmed by the minister today that this $128 audit fee only represented 30 per cent of the actual cost to government and that full costs were not being passed onto small retailers.

There are concerns over the fact that huge meat retailers, such as Coles and Woolworths, may not face this impost or cost, because they have their meat pre-packed at a central premises and the meat is not handled in the individual supermarkets. This could force the relative cost of small independent butchers up, compared to those massive organisations. So, this is, indeed, a worry. The local butcher is a vital part of community life—personal service delivered one to one. The family butcher must not pay an unfair price because of this legislation. I hope the minister can allay our fears on that one.

Whilst the opposition supports this bill, I find it very strange that the government can continue on when the minister has introduced the Primary Produce Food Safety Scheme Bill in another place. I support the bill and we certainly await the minister's comment.

The Hon. R.B. SUCH (Fisher): I will just make some brief comments. I support this bill. I think it is a step, hopefully, towards a more simplified system and, I guess, echo the query of the member for Schubert about why it

could not have gone a step further in terms of simplification. I will be interested to hear what the minister has to say about that. The less complicated the regimes are that apply to business the better. I think business accepts that you have to have standards, but it is helpful to business and the community if they are as simple as possible and preferably carried out under one act and one agency, rather than a multiplicity of agencies and acts. The point I would like to make is—I think generally, from what I see—and I confess to being a meat eater, that the standard within the meat industry, certainly at the retail level—I do not know much about the wholesale side—I think is a very high standard in this state. The quality in terms of hygiene treatments and so on seems to me to be very good and outstanding.

One aspect—and I know it is not related strictly to hygiene in a sense—is the question of the standard of the meat in regard to tenderness and so on. I appreciate that there is what I think is called an MSA (which must be the Meat Standards of Australia). However, generally speaking, we do not have a grading for a lot of the meat that is sold in this state or in this country. To some extent, it is a bit of hit or miss. I suspect that, partly, the issue is whether the meat is hung properly and for any length of time. People who know more about it than I do say that often abattoirs process the meat and, before you know it, it is almost at the point of sale. From a hygiene point of view, that might be a good thing. If you are going to hang the meat for any period of time, it needs to be done properly and in accordance with proper standards. However, as someone who is partial to good roast beef, I find that there is quite a variability in the quality of what you get.

I know that supermarkets have premium and budget meat, but I am not sure how they classify it. The member for Schubert made the point that in supermarkets all meat is prepacked. That is not quite the case. I know that some of the stores owned by one of the big supermarket chains have butchers employed on site. For example, the one at Blackwood does, but the one at Aberfoyle Park does not: its meat comes prepacked. I prefer to purchase meat where butchers are employed locally on site. I find that the small, independently owned, family butchers are generally very good, but I will not name those businesses that I patronise.

For the industry, the grading of meat to reflect what the consumer is getting could be useful and it would take some of the hit and miss out of it. I remember when we had an inquiry into genetically modified foods that I asked the Grocery Council to define some of the terms that are used in supermarkets and elsewhere in relation to food—things such as natural, fresh, fresher than fresh—and the council could not define them. I do not know how people define premium meat vis-a-vis budget cuts. With mince, for example, there is premium mince and low-fat mince. There is no actual standard of which I am aware other than what I have seen in some situations under the labelling of MSA, and I am not sure how far that goes.

Overall, our retail meat industry is an excellent one. I hope the small, family-owned butchers keep going. However, I have to say that a lot of the supermarkets have really lifted their game and buy top-quality meat. I know from relatives who produce meat that the supermarkets buy only the best. One of the supermarket chains buys only top-quality meat. It is a very competitive industry. I would like to see the issue of standards addressed, particularly in relation to the proper storage of meat for those who want to buy steak that has been properly hung and allowed to mature, but that does impact on hygiene standards. I would be interested to hear what the minister has to say about consolidating all this into a simpler arrangement.

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): I thank the members the Schubert and Fisher for their comments. I also thank the member for Schubert, on behalf of the opposition, for supporting this minor amendment to the Meat Hygiene (Miscellaneous) Amendment Bill. In terms of a couple of comments made by the member for Fisher, this bill is about safety rather than quality. As much as I acknowledge his comments about quality, we cannot legislate for quality. This bill is simply about safety. I see it unfolding in the wholesale and retail areas under a single legislative framework, which we can do now by amending this bill ahead of a more significant change, which is foreshadowed in the Primary Produce (Food Safety Schemes) Bill. That bill has a long way to go, and we could not even presume that it will pass the house. It would be inappropriate to say, 'I'm not going to do anything because that bill is going to pass.' That would reflect badly on all of us in this place. Ahead of that, it is important to put this minor measure in place. It will then be folded into the new Primary Produce (Food Safety Schemes) Bill, if it is supported by the house in time. Even if we were to do that, it would take another 12 months or so to have that debate, get that bill in place and put the regulations in place, etc. So it is important that we move ahead of that at this time with this minor amendment.

I also take on board some of the observations about fees. Cost recovery generally is an interesting debate. The first question to be asked is: what is the split between public and private good? The second question can then be asked: how do you distribute the charges across the population at large and the individual beneficiary? That is a debate we have quite often as part of full cost recovery. The member for Fisher made a point about cost shifting. Equally, it is inappropriate that someone who does not require a service is asked to contribute towards it. As part of a cost recovery strategy, it is only those people who are a beneficiary who should be contributing in some way to the fee. The member for Fisher makes a good point, and I will take that on board.

In the interim, as part of this bill and, more importantly, when we have the debate about the Primary Produce (Food Safety Schemes) Bill, there will be a more significant debate about the level of fees and the appropriate mix between the public at large and the private individual sharing that cost. Having made those comments, I think I have covered most of the issues raised. I thank the members for Fisher and Schubert and, obviously, the opposition, for its support.

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

The Hon. R.J. McEWEN: Mr Acting Speaker, I draw your attention to the state of the house.

A quorum having been formed:

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 1452.)

The Hon. M.J. ATKINSON (Attorney-General): This bill is not easy to follow because it introduces two systemic reforms at once as well as updating some particular offences.

It restructures existing non-fatal offences against the person, some of them outdated and inconsistent, so that they become simple offences of causing harm. It spells out the circumstances that will aggravate an offence and makes them elements of the offence. In this way it is the jury, not the sentencing court, that determines whether the offence is so serious that it warrants a higher maximum penalty than it would if it were committed without aggravation.

It does not follow that when a bill appears complicated the end result will be a difficult law to apply or understand. As with any systemic change, there may be some initial confusion in transition from the old system to the new but when the dust settles the result should be a much simpler and fairer system of law to apply and understand.

Honourable members asked many questions in debate on the bill and I will do my best to answer all of them. During this reply I will also foreshadow some government amendments to the bill drafted after consultation. I will also respond briefly to opposition proposals for amendment to the bill.

The member for Bragg says that the opposition will support the bill if it can be satisfied that in the longer term there will be benefits in adopting the partial codification proposed by the Model Criminal Code Officers Committee, and asks whether any state or territory has adopted certain provisions in the bill that follow the model criminal code. The answer to this last question is yes; I shall refer to what happens in other jurisdictions in this reply.

As to the longer term benefits in adopting the partial codification proposed in the Model Criminal Code Officers Committee the law that we now have on non-fatal offences against the person is already a partial codification. Only assault was an offence at common law; all the rest is statutory in origin and most of it is of ancient provenance. What we have now is a direct descendant of the consolidation effected by the Imperial Act of 1861 incorporated into the Criminal Law Consolidation Act in 1876. It is in great need of reform. For example, in the English case of Lynsey the UK Court of Appeal said of this consolidation:

> The present appeal. . . is of no practical importance whatsoever, but is yet another example of how bad laws cost money and clog up courts with better things to do.

As early as 1877 Sir James Stephen, one of the great common law judges, wrote of the 1861 offences and structure:

> Their arrangement is so obscure, their language so lengthy and cumbrous, and they are based upon and assume the existence of so many singular common law principles that no-one who was not already well acquainted with the law would derive any information from reading them.

The aim of setting up a model criminal code and encouraging each state and territory to progressively adopt it is so that, to the greatest extent possible, the same kinds of conduct are considered criminal wherever they occur in Australia, that those crimes are treated in the same way wherever they are committed, and that the crimes are sensibly legislated. This is not to say that each state and territory may not criminalise some different kinds of conduct: it is their prerogative to do so. But if the structure and elements of offences we have in common are standardised across Australia our criminal law will become much more certain and consistently applied. All Australian attorneys-general are committed to carrying out, in the fullness of time, the model criminal code.

My predecessor, the Hon. K.T. Griffin, nominated South Australian representatives to the Model Criminal Code Officers Committee and supported proposals to carry out aspects of the code whenever appropriate. I am doing the same. The member for Bragg quotes extracts from a letter to me by the Law Society's Criminal Law Committee throughout her speech. One of the points she draws from that letter is that codifying the law makes it more rigid and less adaptable to the individual circumstances of the case. It may do so—depending on the drafting—but for the reasons already given, and which should now be evident, the government is committed to carrying into effect the model criminal code which substitutes causing harm offences for traditional non-fatal offences against the person, and introduces aggravating circumstances as elements of an aggravated form of offence. The bill does not follow the wording of the model criminal code precisely: where it digresses it is to allow greater flexibility, not less.

On this point I endorse the remarks made by Mr Matthew Goode in a paper he delivered in Dublin in 2003 to an international symposium on codification of laws. I quote:

> It is commonly argued against codification that the effect is to 'freeze' the criminal law at a given point in time. In general terms, that is simply not true. Examination of the modern statute books of any Australian jurisdiction and one will find that not a year goes by without at least one, and often more, amendments to the general governing criminal law statutes. Parliaments examine the criminal law often, albeit in areas which tend to be at the direction of the government of the day. There is an admitted risk that the general principles of the criminal law can be frozen beyond their use-by date. The history the criminal law in the last 100 years shows, for example, that what was a perfectly respectable view of the law of criminal fault by Sir Samuel Griffith in the 1890s—

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: —a fine judge, says the member for Bragg—

> —has developed via judicial intervention into a fully blown (albeit in England, at least, inconsistent) form of subjectivism which, in my submission, is more just, coherent and workable.
> In general terms, the concept of voluntariness has appeared, been developed and taken shape, and the ideas of fault and mistake have been rationalised and developed to a significant degree, both in Australia and in common law and code systems overseas. However, it can be said that there is a risk of rigidification of the general principles but not a complete freeze. The experience of codes all over the common law world, including criminal codes, is that judges can and do operate flexibly within them and that, as thinking evolves, so, too, does the code. In this case, we are not talking about the general principles of the criminal law in any event.

I point out that the member seems to want it both ways in this argument. On the one hand, she says that by codifying the law of assault 'the common law is sidelined [and] the result is an inflexible rule or, as the Law Society puts the matter, it creates a degree of inflexibility'. On the other, she says that codifying the kind of conduct that she agrees should not constitute assault 'will give rise to endless argument, debate, uncertainty and cost'. I cannot say more than that the arguments appear, on their face, to be inconsistent.

Another criticism of the bill by the member for Bragg, although she concedes it is not a ground for the opposition to withdraw its support for the bill, is as follows:

> Generally speaking, we agree with the aggravating indicia. One way of meeting the Labor Party's policy objectives would have been to amend the Criminal Law Consolidation Act. By that means the sentencing regime rather than the maximum penalty regime could have been adjusted by requiring courts to impose higher penalties where aggravating circumstances exist. Of course, at present, tribunals already take account of aggravating circumstances in the ordinary sentencing process. There is a good deal of scepticism in the community about maximum penalties. Everyone knows that very few criminals are ever sentenced to the maximum.

The government has chosen to use the maximum penalty, rather than a sentencing regime, and the opposition does not

propose embarking on the futile task of seeking to insert this new scheme into the sentencing act. I take it that the honourable member actually means to refer to the Criminal Law (Sentencing) Act when she speaks of the Criminal Law Consolidation Act in these remarks.

That said, I think the member objects to the way the bill allows the circumstances of aggravation to change the nature of the offence itself, rather than being factors that may be taken into account by the judge in sentencing after a finding of guilt. The bill takes this approach because it is the one taken by MCCOC, after considering all the arguments for and against both positions. I share MCCOC's view that it is important that the question of whether an accused person did something that will make him or her liable to a greater maximum penalty than would ordinarily apply to the offence is left to the jury. It should not be left to the sentencing judge to work this out without the evidence being tested at the trial and after the court has determined guilt. To do otherwise would be unfair to accused persons.

This leads me to another assertion by the member for Bragg, who said:

> . . . it is an aggravated offence to assault a victim when the offender knows the victim to be over or under a particular age. In other words, it will be necessary for the prosecution to prove actual knowledge on the part of the offender. . . If this government were really interested in the interests of victims, as it pretends, it would have removed the element of knowledge and imposed a strict liability on offenders. In other words, if you attack a child without knowing their age, you run the risk that they may be under 12 and you may be exposed to the possibility of a higher penalty.

There are two answers to this. First, the bill does require proof of full and complete knowledge. Proposed section 5AA(1)—

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: The member for Heysen refers disapprovingly to the Leon Byner clause. It defines an aggravated offence by reference to the circumstances in which that offence is committed. Because most aggravating circumstances depend on whether a person knows a particular fact, section 5AA(2) defines how a person is to be taken to have known of a particular fact. The effect of section 5AA(2) is that, even if an accused person did not actually know the relevant fact at the time of committing the offence, for example, the fact that the victim is under the age of 12, he or she may be taken to know, if it can be shown that he or she knew the fact was possibly true; for example, that the victim was a prepubescent child and it can be shown that, with this limited knowledge, the accused was reckless as to whether the relevant fact that the victim was under the age of 12 was true. Secondly, framing the requirement in this way is much fairer than strict liability.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: The member for Bragg says, 'Oh yeah'. As the member for Mitchell says, we will look forward to her putting her amendments where her mouth is.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Who is in charge of the bill: the member for Bragg or the member for Heysen?

The DEPUTY SPEAKER: Order! The Attorney-General does not have to worry about that. It is not his responsibility.

Members interjecting:

The DEPUTY SPEAKER: Order! The Attorney-General is summing up, I thought.

The Hon. M.J. ATKINSON: The point of this legislation is to punish more severely those who commit crimes in particularly objectionable ways. In most cases described in this bill, what is objectionable is the perpetrators' taking advantage of a vulnerability in the victim that he or she knows or is reckless about. If the perpetrator is not aware at all of that particular vulnerability brought about by, say, age, illness or occupational engagement and did not take advantage of it, his or her actions are by definition not so objectionable. In other cases, what is particularly objectionable about the offending is that it was done in the knowledge that there was a court order prohibiting it. Again, that knowledge is central to our perception of the crime being so specially objectionable. The member for Heysen shakes her head. Has she no respect for apprehended violence orders? Does she treat them lightly?

Mr Goldsworthy: Just get on with it! Stop the drama.

The Hon. M.J. ATKINSON: I'm sorry?

The DEPUTY SPEAKER: Order! The Attorney-General has the floor.

The Hon. M.J. ATKINSON: I am just trying to respond to opposition quibbles with the bill.

The DEPUTY SPEAKER: It is out of order to do that, so the Attorney does not have to do it.

The Hon. M.J. ATKINSON: Deeming that knowledge to exist in the way suggested by the member misses the point. This brings me to another question asked by the member for Bragg, namely, whether Family Court orders and orders made under commonwealth legislation are covered by the aggravating circumstance that the offender was at the time of the offence acting in contravention of an injunction or other order of a court. The answer to her question is in section 5AA(1)(l). That subsection makes it an aggravating circumstance that the offender was at the time of the offence acting in contravention of an injunction or other order of a court made in the exercise of either state or federal jurisdiction and that the offence lay within the range of conduct that the injunction or order was designed to prevent.

The honourable member goes on to ask about the interaction between these aggravated penalties under state law and penalties for contempt of court, especially commonwealth courts. The bill makes it an aggravating circumstance that certain non-fatal offences against the person are committed in contravention of a court order or injunction directed against the conduct the subject of the offence. If committed in such circumstances, the offence attracts a higher maximum penalty. I expect that a sentencing court, considering imposing a penalty upon a person who has committed an offence aggravated by acting in contravention of an order of the court exercising federal or state jurisdiction, will take into account defence submissions on whether the offender is also liable to be punished for contempt or has already been punished for contempt by that court.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: What I am telling the member for Bragg is that there would be an interest in defence counsel to disclose. I am confused about the opposition's position on age related aggravating circumstances. The member for Bragg said the following:

> We do accept that the stipulation of age rather than other criteria of vulnerability is inevitable. We accept that there are already in the criminal law age limits, such as the age of consent, the age at which children can give evidence, etc. There are also similar arbitrary age stipulations in other areas of the law, such as contractual capacity, qualification to vote, eligibility for pensions etc.

The member for Heysen then says precisely the opposite, as follows:

I believe that we should be concentrating on the issue of the vulnerability and not the issue of their age.

The view of the government expressed in this bill is clear. I respect the views expressed by the honourable members for Heysen and Fisher about the arbitrariness of age limits and their desire for the bill to refer to vulnerability instead. But, to change the bill in this way would make this aggravating circumstance much harder to establish than if the statute deems the offences committed against people within a certain age bracket to be aggravated. The prosecution would have to establish a knowledge or recklessness as to the vulnerability of that particular victim.

I do not think that would be appreciated by victims or that it would send the kind of message that this law is trying to give; that, as a society, we value and wish to protect those whose age may make them less capable of protecting themselves and that those who knowingly or recklessly commit criminal offences against such people should expect a greater than usual punishment. I do not think it is necessary to find out exactly how many sentences over the past five years have applied the maximum penalty. None, other than murders, I should think. The member for Bragg states:

Everyone knows that very few criminals are ever sentenced to the maximum.

The honourable member for Fisher also acknowledges this. He states:

The maximum penalty is rarely ever implemented. Judges and magistrates are not silly; they will take into account the particular circumstances. . .

I agree with both statements. The maximum penalty is reserved for the worst conceivable instance of the crime. That, of course, must be a rare event indeed. Precisely how many maximum penalties have been imposed in the past five years, or in any other number of years, is neither here nor there. This bill has not been introduced on the assumption that it will change the way courts approach maximum penalties. The bill simply increases the maximum penalty for some crimes when they are committed in particularly objectionable circumstances.

Once the bill is passed, a court may, if the circumstances warrant it, impose a penalty that is greater than the maximum penalty that could have been imposed before the passing of the bill. At no time have I said or implied that this bill requires courts to impose any maximum penalty. Plainly, the bill does no such thing. The member for Bragg also criticises proposed new section 23(2), which allows the court, in limited circumstances, to impose a higher penalty than the maximum prescribed for an offence of intentionally causing serious harm. Let me explain how this section works before explaining the reason for it.

The higher penalty may be imposed only where the victim, in a particular case, suffers such serious intentional harm that a penalty exceeding the maximum prescribed for the offence is warranted, and this only on the application of the Director of Public Prosecutions. These are highly restrictive criteria. Say, for example—

Ms Chapman: Well, why have it at all?

The Hon. M.J. ATKINSON: The member for Bragg asks, 'Why have it at all?', so I take it that she and her party will vote against this particular clause. Say, for example, a young female uniformed police officer attending the scene of a suspected armed robbery is beaten with baseball bats by a gang of three hooded adult male suspects. The suspects are later charged and convicted of both the armed robbery and the aggravated offence of intentionally causing serious harm. But the harm in this case is extremely serious. The attack causes permanent brain damage, blindness and quadriplegia. The impact on the police officer, her spouse and young family is severe in the long term. The offenders have histories of offences of violence. The DPP considers this to be one of the worst cases of its kind. The law would give the DPP a discretion to apply for, and the court a discretion to impose, a penalty of more than 25 years for such conduct. Whether the court will give such a sentence in this or in any other case will depend also on what the defence has to say in mitigation.

The reason for this provision is that some of the non-fatal offences against the person that the bill replaces with offences of causing harm are old and carry outdated penalties. An example is the non-fatal offence of wounding with intent to do grievous bodily harm, which presently carries a maximum penalty of life imprisonment. That is a penalty that no court is likely to give for a non-fatal offence. As a matter of public policy, we think parliament should give the courts better guidance about penalty.

Ms Chapman: So you have reduced the penalty.

The Hon. M.J. ATKINSON: We have reduced it to a determinate penalty. In general terms, to fix a maximum of life can be seen as an abdication by parliament of its constitutional role in giving guidance to the courts as to the relative seriousness of offences.

Ms Chapman: Well, cut out the section altogether.

The Hon. M.J. ATKINSON: This is why this bill substitutes a determinate maximum (a term of 25 years' imprisonment) for the offence of causing serious harm with intent—the offence that will replace the most serious form of the offence of wounding with intent to do grievous bodily harm. We recognise that this leaves a gap between the current maximum penalty and the lesser proposed penalty. In some cases where grievous bodily harm is caused, the harm may be so serious that a prison term of 25 years would seem inadequate.

Ms Chapman: Well, leave it at life. How ridiculous!

The Hon. M.J. ATKINSON: We want to cover that gap by allowing the DPP to seek, and the courts to consider, the possibility of a greater penalty than the prescribed maximum in rare cases.

My answer to the member's other questions on this point are these. First, as far as I know, no other jurisdiction has a comparable provision.

Ms Chapman: For good reason.

The Hon. M.J. ATKINSON: Second, I decline the invitation to say who recommended this provision.

Ms Chapman: Why?

The Hon. M.J. ATKINSON: The proposals were put to cabinet and cabinet's deliberations and decisions are confidential.

Ms Chapman: Who suggested it?

The DEPUTY SPEAKER: Order! The member for Bragg is getting ahead of herself. We are not in committee yet. If she is patient, we will be in committee eventually. The Attorney.

The Hon. M.J. ATKINSON: Third, I have received no advice on the constitutional validity of indefinite maximum penalties. This is because it is not a live or relevant constitutional question. In the High Court case of Cable, the appealed court order was made under legislation that allowed the detention of a prisoner (namely, Mr Cable) for a fixed extra period after he had served the sentence imposed by the court on the ground that he was considered to be a danger to the

public and specific people. It was not about the legislative power to prescribe indefinite maximum penalties or to permit a court to impose a sentence greater than a prescribed maximum sentence.

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! The member for Bragg can ask as many questions as she might like shortly.

The Hon. M.J. ATKINSON: In Cable, the order complained of was extra to sentence, not the sentence order itself. As Justice Kirby said recently in hearing an application for special leave to appeal in the case of Silbert, if you look at the cases since Cable, save for the recent case in the Supreme Court of Queensland Court of Appeal, it looks like a dog that barked only once. In Silbert, the High Court found that a law deeming a person to have been convicted of a relevant offence for the purpose of confiscating his assets did not oblige the court to act in a way that was inconsistent with or repugnant to the judicial process.

The recent case to which Justice Kirby referred is Fardon. In that case, leave has been granted to appeal an order made under Queensland sex offender legislation that allows a court to extend a prisoner's period of detention indefinitely—not at the time of conviction and sentence but later, when the prisoner has served most of the sentence. Again, that case is not about legislation allowing a court to impose an indefinite maximum penalty or a penalty that exceeds the prescribed maximum: it is about legislation that has the potential to compromise the judicial process by allowing, effectively, executive government to seek an additional punishment to the one imposed by the sentencing court well after that sentence was imposed and not as a penalty for the crime for which the sentence was imposed.

Fourthly, section 23(2) is by no means motivated by a desire to see South Australian courts adopt the American system of sentencing people to 100-year gaol terms. It may be noted, however, that in recent times a New South Wales court gave a sentence of 55 years on conviction of the ringleader of an aggravated pack rape. The member for Bragg says this about criminal negligence:

> Unless and until the opposition receives a satisfactory explanation for the incorporation of criminal negligence into our criminal law, it will not support this proposal.

This is not a tenable position. The concept of criminal negligence has long been incorporated in our criminal law as a mental element in cases of causing death. Examples are the offences of manslaughter and causing death by dangerous driving.

Ms Chapman interjecting:.

The Hon. M.J. ATKINSON: Yes—but I am. Like the model criminal code, and the laws in most other states and territories, this bill establishes an offence of causing serious harm by criminal negligence. To avert unnecessary litigation on the meaning of criminal negligence, it includes the standard test for criminal negligence approved by the High Court in Wilson. This is not a proposal to introduce corporate manslaughter. Manslaughter is an offence of unlawful death. The offences proposed in this bill are non-fatal offences. Criminal negligence offences of causing harm or serious harm are common in Australia.

For example, the Victorian Crimes Act, in section 24, contains an offence of negligently causing serious injury, carrying a maximum penalty of five years' imprisonment. The Queensland code, in section 328, contains an offence of negligent acts causing harm, carrying a maximum penalty of two years' imprisonment. The Western Australian code, in section 306, contains an offence of unlawful acts causing bodily harm, carrying a maximum penalty of five years' imprisonment. The Northern Territory code, in section 86, contains an offence of causing bodily harm that carries a maximum penalty of five years' imprisonment. The ACT Crimes Act, in section 25, contains an offence of causing grievous bodily harm by any unlawful or negligent act or omission that carries a maximum penalty of two years' imprisonment. The New South Wales Crimes Act, in section 54, contains an offence of causing grievous bodily harm by negligent or unlawful act, carrying a maximum penalty of two years' imprisonment.

Ms Chapman: And none of them for criminal negligence.

The Hon. M.J. ATKINSON: Yes, sir; all of them.

Ms Chapman: None of them.

The Hon. M.J. ATKINSON: All of them! Finally, the Tasmanian Criminal Code Act, in section 172 of schedule 1, contains an offence of unlawful wounding or causing grievous bodily harm to any person by any means. South Australia is the only Australian jurisdiction not to have a statutory offence of causing serious harm by criminal negligence.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: The member for Bragg just is not listening.

The DEPUTY SPEAKER: The member for Bragg is out of order and is not listening to the chair.

The Hon. M.J. ATKINSON: It is time we caught up so that conduct that is criminal everywhere else in Australia is also criminal here. The opposition is asking this parliament to reject a clear proposal to bring South Australia into line with other Australian jurisdictions on a matter of basic criminal liability. The member for Bragg has placed on file an amendment to delete the parts of the bill that establish a liability for causing harm by criminal negligence. These amendments will be opposed with vigour.

The member for Bragg suggests that the offence of causing serious harm by criminal negligence may, she says, apply unfairly in the workplace. The member for Davenport avidly takes up the theme by asserting that by this offence workers and employers 'will be exposed to criminal prosecutions'. This is unnecessarily alarmist. As I have explained, all other Australian jurisdictions have statutory offences of causing harm or serious harm by criminal negligence. All of them also have occupational health, safety and welfare laws that allow prosecution when a worker suffers harm as a result of an unsafe workplace practice or environment. As far as I know, the co-existence of these two sets of laws—criminal and industrial—has caused no particular problems for employers or workers in these jurisdictions.

The members for Davenport and Bragg have found a mare's nest. We are not, after all, talking about or proposing an offence of industrial manslaughter. I have made this fact plain since introducing the bill. This is not to deny that there may well have been prosecutions elsewhere in Australia for offences of causing harm or serious harm by criminal negligence within the workplace, or that there may be such prosecutions in South Australia under this new law. It is not an industrial issue for the rest of Australia and I do not think it will be here.

The member for Bragg is also critical of the bill's including in the definition of 'harm' the concept of mental harm. She quotes again the Law Society on this. In summary, the Law Society says that the concept of mental harm, although carefully drafted, may catch the ordinary disappoint-

ments in life in a way that existing legislation does not and so criminalise behaviour that should not be considered criminal. In answer to that, let me first say that it is already the law that it is an offence to cause mental harm to another.

The expression 'bodily harm' in offences of causing bodily or grievous harm has been interpreted as extending to a recognisable psychiatric illness, including clinical anxiety and depression. I refer the honourable member to the decision of the House of Lords in Ireland & Burstow in the 1997 edition of the *Weekly Law Reports*. MCCOC said of that decision:

> In *Ireland & Burstow*, Lord Steyn for the court noted that 'Neuroses [which were involved in the case] must be distinguished from simple states of fear, or problems in coping with every day life. Where the line is to be drawn must be a matter of psychiatric judgment. . . It is essential to bear in mind that neurotic illnesses affect the central nervous system of the body because emotions such as fear and anxiety are brain functions.'
>
> The distinction between real harm and the ordinary results of every day life is appropriate—indeed essential. However, it is this latter sort of distinction, such as between things that affect the brain or not or the central nervous system or not, that the committee wishes to avoid.

Hence, great care has been taken by MCCOC and in this bill to define mental harm so that it covers 'significant psychological harms. . . [and] does not include normal everyday reactions such as distress'. It is not intended that ordinary reactions of fear or distress should make the conduct that caused them criminal conduct because, as MCCOC said, this would be to 'greatly extend the reach of the criminal law. Not every "harm" should amount to criminal harm'.

Now let me explain how strictly the bill limits the offence of causing mental harm. Proposed section 22(5) of the Criminal Law Consolidation Act (in clause 10 of the bill) says that the offence of causing mental harm can be established only if at least one of two prerequisites are present. This section must be read with the previous subsection (4), which says that conduct that lies well within the limits that would be generally accepted by the public as normal incidents of social interaction or community life is not considered capable of causing criminal harm unless it is established that the defendant intended to cause serious harm.

One of the prerequisites for causing mental harm is that the defendant's conduct gave rise to a situation where the victim's life or physical safety was endangered and the mental harm arose out of that situation. That, I would have thought, is a very specific precondition, mirroring precisely the common law on the subject (in Ireland & Burstow). The other prerequisite is that the defendant's primary purpose was to cause mental harm to the victim. This limits the offence even further.

The bill goes on to set out examples of conduct causing mental harm that will be considered not to cause harm in a criminal sense. The examples describe conduct that lies within the limits of what would be generally accepted by the public as normal incidents of social interaction or community life. In each example, the result of that conduct was diagnosed mental harm, and the conduct took place in the knowledge that such harm might result.

The examples show that otherwise lawful conduct that causes mental harm will not be treated as criminal conduct by this law, even if the person knew that mental harm might result from it, unless the prosecution could establish that the defendant wanted to cause harm and that this was the primary motivation for the defendant's conduct. One example given in the bill is of an examiner failing a student known to have a mental illness, knowing that the failure might exacerbate the illness, with the result that the student has an episode of that illness. The other example is of an employer legally terminating the employment of a worker knowing it will exacerbate a pre-existing mental illness, which it does. In each example, the conduct is not criminal of itself and will not be treated as such unless it was done with an intention to cause harm and with the primary purpose of causing harm.

The bill cannot confine the offence of causing mental harm any further without making it inconsistent with the common law.

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: I am answering all the questions that the opposition asked. I now turn to the member for Bragg's assertion, referring to proposed section 5AA(k)(ii), that prescribing an occupation or employment that is part of an aggravating circumstance is bad policy. She says this is so because 'all elements of criminal offences should be on the statute book'. Section 5AA does not refer to the elements of basic offences. It refers only to elements that will aggravate an otherwise basic offence. The occupational aggravating circumstances described in section 5AA(k)(ii) must be read with the preceding one in the proposed section 5AA(k)(i).

The proposed section 5AA(1)(k)(i) lets the court determine the relevance of a victim's occupation to the culpability of the offender. If a person's occupation places him or her in a situation where he or she is particularly vulnerable to being the victim of an offence, and an offence is indeed committed against that person by someone who knew the victim's occupation and resulting vulnerability and took advantage of it to commit the offence, a court may decide that an aggravated offence has been committed.

The bill allows a court in such a case to impose a greater penalty than if the offence had not been aggravated in this way. What makes the circumstances of the offence aggravated is that the alleged offender has taken advantage of a vulnerability in the victim caused by the victim's engagement in his or her occupation. For example, applying subsection (1)(k)(i), a court may find an assault against a bus driver on night duty in an empty bus in an isolated area (and our minds might go back to the assault on Dorothea Fraser by Steven Wayne McBride, whom the Liberal Party would by now have released on parole), or against a taxi driver in similar isolated circumstances, or against a doctor making a home visit at night, to be aggravated. It would make this finding because it is the victim's occupation that places him or her in that vulnerable position at the time of the offence, and also, importantly, because the offender knew this.

Proposed subsection 5AA(1)(k)(i) does not specify any particular occupations, nor does it need to. It allows the relevance of the victim's occupation to the offence to be determined by the court in each particular case. Proposed section 5AA(1)(k)(ii), on the other hand, allows the government to prescribe certain occupations as being ones against which an offence is deemed to be aggravated and so incur a higher level of penalty.

The effect of such prescription will be to convict people of aggravated offences regardless of whether their crimes had anything to do with a work-related vulnerability in the victim.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: If an occupation is prescribed, an offence against a holder of that occupation is deemed to have been aggravated if the offender knows the victim to have that occupation and to be engaged in it at the

time of the offence, or was reckless about that fact. The member for Bragg joshes about prescribing Liberal MPs, but I recall a Liberal MP, in the west country of Britain who was attacked and, I believe, killed, with a sword by an angry constituent. However, I believe the Liberal MP's electoral assistant was merely wounded in the attack, or I may have that the wrong way around.

Ms Thompson interjecting:

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: No, it wasn't in the 1500s. For the information of the member for Kavel, it was within the last five years, and the member for Reynell alerts me to the fact that the member survived (albeit wounded) and the electoral assistant was murdered.

Mr BRINDAL: I rise on a point of order, Mr Deputy Speaker. The Attorney is supposed to make his own speech; he is not allowed to rely on interjections to pad out the time that he is wasting in here.

The DEPUTY SPEAKER: It was hard to hear the point of order, but I think it is timely to encourage the Attorney to get back to the substance of the bill. I know that he likes to be thorough, but—

The Hon. M.J. ATKINSON: Altitude has not improved the member for Unley's points of order. Society may wish to protect certain occupations by this kind of prescription but, because the bill already protects the occupations of police officer and prison guard (section 5AA(1)(c)—this simply replicates the current law) and also under proposed section 5AA(1)(k)(i) any individual whose occupation places him or her at the time of an alleged offence in a position of vulnerability that the offender appreciates and takes advantage of in committing the offence, it is intended that very few occupations be prescribed.

As mentioned, proposed section 5AA(1)(k)(ii) spells out the elements of one particular aggravating circumstance. First, it describes the physical element that at the time of the offence the victim was a member of a prescribed occupation or employment. This is something that can be established as a fact without reference to what was in the accused's mind at the time. Proposed section 5AA(1)(k)(ii) also requires the prosecution to establish fault elements: that when committing the offence the offender (a) knew the victim was then engaged in an occupation or employment and (b) knew the nature of that occupation or employment. The fault elements do not refer to what is prescribed. In other words, it does not matter whether the offender knew whether the occupation or employment was prescribed. There is nothing unusual—

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! I point out that the Attorney is only allowed an hour for a response and that his time will expire in about 4½ minutes. I do not know whether he is aware of that, but there is a one-hour limit. We did not put the clock on because normally responses do not take quite this long.

The Hon. M.J. ATKINSON: Alas, we will have to go without many responses to the member for Bragg's question. There is nothing unusual about this kind of prescription—examples abound. An offence is committed by taking water without a licence from prescribed lakes or watercourses. It is an offence to sell a prescribed poison. It is an offence to supply a therapeutic substance for a purpose that is prescribed by regulation. One is presumed to commit an offence of sale or supply of a prohibited substance if one knowingly has more than the prescribed quantity of it in one's possession. The first three examples (such as proposed section 5AA(1)(k)(ii)) do not require proof that the offender knew that the object of the offence was prescribed. The last example requires knowledge only of a prescribed quantity. One does not need to prove that the defendant knew the substance to be prohibited.

Another objection to the bill made by the member for Bragg is to the requirement that a jury, finding one or two or more allegations of aggravating circumstances to have been established, must say which when giving its verdict. She says that this is contrary to the principle that a jury does not have to give reasons. I point out that proposed section 5AA(4) does not require a jury to give any reasons but simply to state which of the circumstances of aggravation stated in the charge it finds to have been established. Without such a provision, the sentencing court would not have a proper basis for sentence, the defendant would not know what to address in sentencing provisions, and the prosecution and defence would be denied information crucial to an appeal.

Following on from this, I wish to foreshadow an amendment that clarifies what a sentencing court may take into account. During consultation on the bill, the Office of the Director of Public Prosecutions and SAPOL asked that two things be made clearer, albeit that they are already expressed or implied by this bill and other provisions of the Criminal Law (Sentencing) Act, to avoid confusion about what a sentencing court may take into account when dealing with a person who has been charged with an aggravated offence.

First, the bill provides that a person may not be found guilty of an aggravated offence unless an aggravating circumstance that has been stated in the instrument of charge has been established. This means that, unless at least one aggravating circumstance stated in the instrument of charge is established, the person may be found guilty of, and sentenced within the maximum penalty for, a basic offence only. This is so even though other aggravating circumstances not stated in the instrument of charge are clearly established. Those other aggravating circumstances may, of course, be taken into account when sentencing, but the maximum penalty remains the maximum penalty for the basic offence. This is one of the things that the DPP and the police want made clear.

Secondly, they want it made clear that a court sentencing a defendant for an aggravated offence (that is, when it has found that an aggravating circumstance stated in the instrument of charge has been established) may have regard not only to that aggravating circumstance but to any other aggravating circumstance that was established on the evidence, whether or not stated in the instrument of charge. Of course, the sentencing court may not take into account an alleged aggravating circumstance the jury has rejected. I foreshadow amendments to clause 4, which introduces new section 5AA, to achieve both these things.

I return to the comments of the member for Bragg. The honourable member says that the bill should impose the same obligation on a judge trying a case as judge alone as it does on a jury. The provisions that impose these obligations on juries already apply to trial by judge alone by virtue of the Juries Act 1927. Section 7 of the Juries Act governs what happens when a defendant in a criminal trial before the district or supreme courts chooses to be heard by judge alone instead of by judge and jury. Subsection (4) provides that a judge may make any decision that could have been made by a jury and that this decision will have the same effect as if made by a jury. The bill does not need to restate this and will not do so. However, I have taken this opportunity to update

the language in section 7(4) of the Juries Act, and I will be moving an amendment to do so.

Mr Deputy Speaker, I draw your attention to the state of the house.

A quorum having been formed:

Bill read a second time.

The SPEAKER: In relation to my own position on this matter, can I apprise the house, and my constituents who may be interested in it, that, whilst I support strongly what the government proposes to do, I am disturbed that the amendments to criminal law consolidation in the last two years have not included provisions which were drawn to the attention of parliament by extensive petitioning some 12 years ago. Whilst they may not be germane to this legislation, they could have been included, and certainly need to be addressed, and I refer in particular to those people who engage in stealing motor cars, whether they personally have licences to drive them or not, and then drive them at very high speed in breach of the law, and/or use them in ram raids, in some measure organised in conjunction with others who are doing stealing to distract the attention of the police.

That has become a more modern and recent feature greater in frequency than is desirable, or even, for that matter, safe and comfortable for the community. I trust the government, indeed all members of this house and the other place, will now address those matters which were the subject, to my certain knowledge, of petitions that had well in excess of 15 000 signatures on them. I look forward to the occasion upon which the government brings such legislation into the chamber to make such offences as I have referred to serious criminal offences, where the offenders are given a stiff jail sentence, regardless of their age.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr HANNA: I ask the Attorney about the likely effect on the extended penalties for certain circumstances, which are listed in clause 5 but come under the definition of aggravated offence, on the crime rate for the offences which this bill covers. In other words, I would like to know from the Attorney the impact on the crime rate of this regime of aggravated penalties which he brings into this place. Has any consideration been given rationally to the impact? Is it claimed that this will reduce crime rates, or would the Attorney frankly say to us that it is based on people's gut feeling for retribution when certain circumstances apply in cases of assault, etc.?

The Hon. M.J. ATKINSON: My feeling is that the chances of getting caught deters the criminal much more than the severity of the penalties. The bill before the committee is just another attempt by the Rann Labor government to bring the criminal law of South Australia into line with public values. That is its principal purpose.

Mr HANNA: To reiterate the question, when the Attorney refers to public values, is he referring to the gut desire for retribution, which is commonly the first response when people are exposed to stories of violent crime, etc.?

The Hon. M.J. ATKINSON: I will not allow the member for Mitchell to put words in my mouth. I just say that we hope there will be some general and personal deterrence.

Clause passed.

Clause 5.

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

New section 5AA(1)(b), page 3, lines 29 and 30—
Delete paragraph (b) and substitute

(b) the offender used, or threatened to use, an offensive weapon to commit, or when committing, the offence;

Proposed section 5AA(1)(b) on page 3 at line 29 says that an offence is aggravated if committed when, and I quote:

The offender had, when committing the offence, an offensive weapon in his or her possession.

This is an error. The aggravating factor is supposed to be that an offensive weapon is used or threatened to be used when committing the offence—not simply that it was present. It should not aggravate an offence that a person had an offensive weapon unless the weapon was used or the offender threatened to use it. If merely in possession, the person should be charged with the basic offence and may also be charged with the offence of carrying an offensive weapon under section 15 of the Summary Offences Act. For the purposes of this clause, an offensive weapon is as defined in the main act.

Amendment carried.

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

New section 5AA(1)(c)(ii), page 4, line 1—
After 'knows' insert:
or believes

In consultation on the bill, the Hon. R.D. Lawson pointed out that it should also aggravate an offence against a police officer, prison officer or other law enforcement officer that it was committed in retribution for something that the offender believed to have been done by the victim in the course of his or her official duty, not just something that the offender knew to have been done by the victim. I agree with him, and propose to amend proposed section 5AA(1)(c)(ii) to include belief as well as knowledge. I thank him, as well as the Liberal opposition.

Amendment carried.

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

New section 5AA, page 5, after line 23—
Insert:

(6) This section does not prevent a court from taking into account, in the usual way, the circumstances of and surrounding the commission of an offence for the purpose of determining sentence.

Example—

1 A person is charged with a basic offence and the court finds that the offence was committed in circumstances that would have justified a charge of the offence in its aggravated form. In this case, the court may, in sentencing, take into account the circumstances of the aggravation for the purpose of determining penalty but must (of course) fix a penalty within the limits appropriate to the basic offence.

2 A person is charged with an aggravated offence and the court finds a number (but not all) of the circumstances alleged in the instrument of charge to aggravate the offence have been established. In this case, the court may, in sentencing, take into account the established circumstances of and surrounding the aggravated offence (whether alleged in the instrument of charge or not) but must not (of course) take account of circumstances alleged in the instrument of charge that were not established.

During consultation on the bill, the Office of the Director of Public Prosecutions and SAPOL asked that two things be made clearer in the bill, albeit that they were already express or implied by the bill and other provisions of the Criminal Law (Sentencing) Act, to avoid confusion about what a

sentencing court may take into account when dealing with a person who has been charged with an aggravated offence.

The bill states that a person may not be found guilty of an aggravated offence unless an aggravating circumstance that has been stated in the instrument of charge has been established. This means that unless at least one aggravating circumstance stated in the instrument of charge is established, the person may be found guilty of, and sentenced for, a basic offence only. This is so even though other aggravating circumstances not stated in the instrument of charge are clearly established. Those other aggravating circumstances may, of course, be taken into account in sentence but the maximum penalty is the basic penalty. This is one of the things that the DPP and the police want made clear.

The other thing is that a court sentencing a defendant for an aggravated offence, that is, when it has found an aggravating circumstance stated in the instrument of charge to have been established, must have regard not only to the aggravating circumstance but to any other aggravating circumstance that was established on the evidence, whether stated in the instrument of charge or not. The sentencing court may not take into account an alleged aggravating circumstance that the jury has rejected. The amendment to clause 5 standing in my name gives examples to make these points plain.

Mr HANNA: This question is pertinent not only to the amendment but also to clause 5 generally. It is a fundamental point in the bill. Why was the government not satisfied for judges to take into account the various circumstances of a particular case in coming to a higher penalty if that is what is warranted in the particular case? In other words, why does the government have to spell out this range of aggravated circumstances when, under the usual sentencing practice to this time, judges have always had the responsibility to look at the facts of the case? If, for example, a vulnerable person was taken advantage of or assaulted in a particularly malicious way, the offender would receive a high penalty. Why does the government say that there is an inadequacy in that current system of sentencing?

The Hon. M.J. Atkinson: We believe in trial by jury.

Mr HANNA: With respect, that is hardly an answer to the question. It is not in dispute that there ought to be trial by jury; it is a constitutional right. However, this bill is about sentencing. It purports to bring about higher penalties when certain circumstances are present in the commission of an offence. The fact is that, under our current law, heavier penalties will generally be applied by judges where such factors are present in the commission of offences. Why is there a need for this list of aggravated offences?

The Hon. M.J. ATKINSON: The member for Mitchell is incorrect. It is not a bill about sentencing. If an offender is going to be liable to a much higher maximum penalty, we think that a jury should make the finding.

Mr HANNA: The current trial practice is that the facts, generally, are going to be quite clear once the jury delivers a verdict. In relation to any dispute about sentencing, as the Attorney well knows from Mr Nemer's case, if there are disputed facts there ought to be a hearing about that dispute so that a judge may determine the facts upon which the sentence is to be based. Generally speaking (and I mean in the vast majority of cases before the court), the factual scenario is quite clear once the jury has delivered its verdict. Does the Attorney dispute that?

The Hon. M.J. ATKINSON: I do not dispute what the member for Mitchell says: I just do not see its relevance.

Ms CHAPMAN: I thank the Attorney for his explanation in relation to this amendment. I understand the importance of being able to exclude from the sentencing judge any aggravating circumstance which the jury has determined has not been satisfied. You can have a situation where there is a basic offence. There might be three aggravating circumstances that are detailed on the complaint and the jury determines that two are proven and one is not. The sentencing judge can then take into account the two aggravating factors and not the third.

Of course, in the course of the case it may be determined that there is a fourth or fifth aggravating factor which had not been detailed on the summons, and the Attorney's amendment makes it clear that those factors, even if they had not gone before the jury for determination, could be taken into account. Of course, they would not have been tested in any way, other than the submissions from defence counsel and the prosecution being heard in relation to those circumstances. The jury has been given no opportunity to make a finding. How is it appropriate that that is taken into account when the other aggravating factors have been included or excluded as a result of evidence given?

The Hon. M.J. ATKINSON: In the member for Bragg's scenario, the first and second aggravations have been found by the jury, so the offence is an aggravated one, because it has been charged as an aggravated one and, the alleged aggravations having been found, the aggravated maximum applies. The fourth and fifth aggravations that were not charged can be taken into account in determining the level of sentence but not the maximum sentence. The fourth and fifth aggravations can be disputed in a disputed facts hearing after conviction but before sentencing.

Ms CHAPMAN: I understand what the Attorney-General says. I appreciate that one can have a disputed facts hearing, but it may simply have been discovered. Let me amend the scenario to three charges of aggravation being included in the complaint; all three fail, but other factors become clear during the hearing, so you might have a fourth or fifth type that becomes clear. They have not been found, so you are left with the basic offence. You are saying that in the event that there is no need for a disputed facts hearing, that is, there is agreement between the prosecution and the defence—I am not sure whether we are allowed to have those any more—the sentencing judge is then in a position to proceed and take into account that aggravation under your amendment, notwithstanding that subparagraph (iii) requires the aggravation to be stated. I think the attorney is saying that this requirement to state it is necessary for the purposes of taking it from a basic to an aggravated, as distinct from taking it into account on penalty. Do I have that correct?

The Hon. M.J. ATKINSON: Yes.

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

Amendment carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10.

Ms CHAPMAN: I move:

Page 10, lines 35 to 42 and page 11, lines 1 to 5—Delete subsections (4) and (5)

The purpose of this amendment is to remove the new offence of causing serious harm by criminal negligence. This is one of the five new offences that have been introduced by the government for reasons that have been well traversed in the debate. Areas of concern have been detailed but, notwithstanding the Attorney-General's lengthy response in relation

to these and other matters in his presentation to this house, it seems to me that this new offence has still not been adequately consulted upon. Quite frankly, the government has not produced the answers, the facts, the information or the argument to support the inclusion of this new offence, other than the fact that it was recommended by a committee of legal officers. That is of concern; but, quite clearly, the government has not demonstrated that there is any defect in the current law and that in fact there is a gap that needs to be closed.

The offences contained in proposed sections 23 and 24 cover the field. They cover both the intentional causing of harm and serious harm in the second category and also the reckless causing of harm and serious harm. We, the opposition, consider that the inclusion of the new concept of criminal negligence into the criminal law is potentially confusing, because the Criminal Law Consolidation Act already includes the concept of culpable negligence. I have referred to section 19A in relation to that aspect. We are covered and do not need to have the aggravation (pardon the pun) of this complication that can only help to ultimately confuse and therefore water down the value of having such an additional and fifth head of harm.

I also refer to the general principles as enunciated by Roma Mitchell QC, the then chairperson of the Criminal Law and Penal Methods Reform Committee of South Australia. She reported in the fourth report on substantive criminal law in July 1977, on page 342, and referred to the question of negligence and strict liability. The report states:

> An offence of negligence is one for which the defendant can be convicted if the court concludes that when he committed the external elements of the offence charged he was careless to an extent which justifies criminal conviction. Negligence does not require that the defendant be aware that he is creating a risk of causing the harm prohibited by the offence, still less that he have an intention to cause that harm. It postulates that, although the defendant did not advert to the consequences, he ought to have done so. In theory it is difficult to justify criminal conviction on the basis of negligence, for by definition the defendant need not have intended or been aware of the likelihood of causing harm.
>
> This immediately gives rise to the question, what good is to be done by convicting him of something of which he was unaware. It can be argued that his conviction may serve as a warning, both to himself for the future and to others. This argument depends upon acceptance of the deterrent value of criminal conviction, both special and general, and assumes that it is justifiable to convict one person in order to deter others. These are questionable assumptions and raise serious theoretical doubts about negligence as a basis for criminal responsibility. We do not believe however that the true position is accurately reflected by the theoretical analysis. The value of negligence in the criminal law lies not so much in any character which it may have as a basis of liability to conviction in itself as in its role of complementing the concept of recklessness.

The committee goes on to report in relation to recklessness and the level of demand that requires no less than advertence to a serious risk and other aspects. But it indicates in its summary, in reference to relatively minor offences, that it is in this area that the concept of negligence becomes useful as a criminal law enforcement and accordingly, in its recommendations, the committee says at page 344:

> We therefore recommend the retention in the law of the concept of negligence as a basis for criminal responsibility, but for summary offences only.

For the benefit of the house, that of course relates, in summary offences, to minor breaches. So, what is important, we say, is that the Mitchell committee put this recommendation at the time against incorporating the concept of negligence into the criminal law—and for good reason. And we are certainly not convinced that Roma Mitchell, as she then was, and her committee were wrong then or now.

The Hon. M.J. Atkinson: So what do you say about section 19A?

Ms CHAPMAN: I have referred already to section 19A, as the Attorney shouts. He might read my contribution in relation to section 19A as to the reference in that regard. It is for the government to make this decision to codify the law, and it has indicated to the house why it wants to do that. There is no basis—nothing that the Attorney has put today—that justifies adding criminal negligence. We already have well-defined and well-understood culpable negligence provisions that are operative in other areas of our law. Why complicate a situation and bring about circumstances where it will only serve to confuse?

Therefore, I think there are two things: one is to confuse the criminal system to the extent that you can reduce the successful conviction when it is appropriate to do so or, in the alternative, to have a situation where people are carrying out unsocial or unacceptable and unlawful behaviour, as far as society is concerned, and that we place the barrier in such a way that they are able to escape any penalty that the community would otherwise expect because of the confusion created by complicated legal process. There is no need for this. Sadly, I think that the Attorney has failed to identify any good reason.

I was interested to note that, in his claim of other areas of jurisdiction in relation to this provision, none of the other jurisdictions referred to criminal negligence. Whether that was section 328 in Queensland, section 306 in Western Australia, section 86 in the Northern Territory, section 25 in the ACT, section 54 in New South Wales or section 172 in Tasmania, they all refer, if I can paraphrase here, to unlawful and negligent acts. They do not introduce what is a new concept of criminal negligence. Whilst they have gone down the line as identified by the Attorney-General, they have not sought to confuse and introduce a potential contradiction in their legislation.

I urge the government to support this amendment and ensure that we do not follow suit and that we are in a situation where we can have clear, identifiable behaviour about which law-abiding and the non law-abiding citizens can be clear on, and where we can have a successful prosecution where appropriate and the reasonable protection when they have not breached that behaviour. So I urge the government to support the amendment.

Mr HANNA: While the Attorney considers his reply to the member for Bragg, I have a question about this concept of criminal negligence. If the government's drunk's defence abolition legislation goes through, are we to effectively read into the new subsection 23(5) 'a reasonable sober person'? In other words, if the drunk's defence, so called, is abolished, is it a 'reasonable sober person' who is examined to see what standard of care and behaviour is required of people?

The Hon. M.J. ATKINSON: In response to the member for Mitchell, yes, that is our intention. Moreover, it has always been law that drunks can be convicted of criminal negligence offences such as 19A of the Criminal Law Consolidation Act—cause death by dangerous driving; manslaughter, for instance. In response to the member for Bragg, we consulted a vast number of people. It was one of the most extensive consultations on any criminal legislation in the history of the state.

Ms Chapman: Name one.

The Hon. M.J. ATKINSON: We consulted the usual suspects: the Supreme Court, the Chief Magistrate, the Law Society and the Legal Services Commission. You asked for one; there's four, but there were others. All of the interstate provisions that the member for Bragg refers to refer directly, or indirectly, to criminal negligence. We are just following them. It is one of the joys of a federation to see how well a provision can work in another state or territory and then adopt it in South Australia. There is no shame whatever in being the last jurisdiction in Australia to adopt this proposal.

Mr HANNA: I have a question for the attorney about how these criminal law provisions apply vis-a-vis the occupational, health, safety and welfare offences. I am looking at the suggested new clause 23, whereby people who are criminally negligent in causing serious harm to another are guilty of an offence, for which the maximum penalty is five years. I am also looking at the proposed new subsection 24(2) whereby people who cause harm to others recklessly are guilty of an offence for which the maximum is also five years, for a basic offence.

I also note that under the Occupational Health, Safety and Welfare Act section 59 sets out what is called an aggravated offence under that legislation for which the penalty is a maximum of five years. The offences there are various because they concern contravention of part 3 of the legislation and that might, for example, be an obligation for an employer to provide a safe work environment. It occurs to me that there might be a lot of common ground between those three offences if there is an injury in the workplace. Is it envisaged by the government that, where there is harm which may or may not be serious (it might be somewhere near the borderline), there might be three charges, perhaps, if there is obviously some degree of lack of care in the alleged offender's behaviour? There might be those three offences under section 59 of the Occupational Health, Safety and Welfare Act and under sections 23 and 24 of the amended act, should this go through. Is that the sort of scenario that might be possible under the legislation?

The Hon. M.J. ATKINSON: The member for Mitchell's scenario is theoretically possible but it has long been the practice, where more than one charge is brought, to charge in the alternative. The High Court case of Pearce says that only one penalty can be imposed for any given course of conduct if the charges are substantially the same.

Mr HANNA: I am not suggesting that a person would be penalised two or three times, but I can imagine those circumstances in a workplace where a worker is injured and an employer might expose himself or herself to numerous charges. I want to clarify that answer, and this is quite pertinent to the point of the concept of criminal negligence. If an employer, for example, directs a worker to work at a machine which should have a guard and which does not have a guard with the consequence that the arm of the worker operating the machine at some point slips into the machine and is mangled, it seems to me that is likely to be called serious harm and it may be that a prosecuting authority would find it easier to prove the matters required under the proposed new section 23 rather than go to proof on matters such as a safe working environment under the Occupational Health, Safety and Welfare Act. I am simply checking that that is the case—that the government envisages that these provisions could be used in the context of the workplace in examples such as I have given.

The Hon. M.J. ATKINSON: Yes.

Amendment negatived.

Ms CHAPMAN: I wish to ask a question in relation to new section 23(2), which is this rather unique provision that enables that, in exceptional circumstances (as explained by the Attorney), on the application of the Director of Public Prosecutions, a victim have imposed a penalty greater than that imposed by this parliament. As I understand it, no other jurisdiction has such a clause. Is that correct?

The Hon. M.J. ATKINSON: Yes.

Ms CHAPMAN: I will clarify this. From the note I made, I understand that the Attorney is unwilling to disclose who even suggested this proposal. Is that correct?

The Hon. M.J. ATKINSON: The government does.

Ms CHAPMAN: In the presentation given to the parliament, as I understood it, the Attorney was unwilling to disclose where that recommendation has come from. It has not come from the model, and it is not identified anywhere else.

The Hon. M.J. ATKINSON: The government is not in the habit of disclosing cabinet deliberations, as I said in my second reading contribution.

Ms CHAPMAN: Let me put this to you: has the government received any submission from any person, group or organisation seeking the inclusion of a clause to this effect?

The Hon. M.J. ATKINSON: No; it is a burst of creativity by the government of the day.

Ms CHAPMAN: I see; thank you.

Mr HANNA: In relation to proposed new section 23(2), can the Attorney outline some examples of what serious harm might be so great as to warrant an application by the DPP (possibly directed by the Attorney, of course) to impose a penalty exceeding 20 years for a basic offence?

The Hon. M.J. ATKINSON: I refer the member for Mitchell to my marathon second reading reply.

Mr HANNA: I think there was one example.

The Hon. M.J. ATKINSON: Well, if the member for Mitchell allows me to go away, I can construct any number of examples.

Mr HANNA: I will put this another way. Currently, for murder most people stay in prison for not much more than 20 years, if that—and that is for killing someone. What would warrant a greater sentence for injuring someone than that imposed for murder? That is really the question.

The Hon. M.J. ATKINSON: The kind of offending that would attract this provision is offending that led to life-long injuries just short of death and consigned the victim to a living death. As a supporter of active voluntary euthanasia, the member for Mitchell should know what that means.

The CHAIRMAN: The issue has arisen in relation to the sentence for gang rape in New South Wales. The issue is whether there is an incentive for someone to kill rather than, in this case, maim. If someone gets rid of some of the evidence, someone who can point the finger at them, is there not an incentive to go one step further as I suspect is the case in New South Wales? If you are to get 45 years for rape, why would you not kill the victim and end up with 25 years?

The Hon. M.J. ATKINSON: The incentive to kill in these circumstances is much more likely to be an attempt to avoid detection or capture rather than to avoid an envisaged head sentence or non-parole period. I do not think as legislators we are giving anyone an incentive to kill.

Mr HANNA: Now the debate gets interesting because for the first time the Attorney has recognised that these penalties where increased are not there for deterrent value. Earlier in answer to a question I put to the Attorney he shied away from the concept of retribution, perhaps because it was a bit too

naked and ugly to admit to, but he said that general and specific deterrents were the reasons for increasing penalties. The question from the member for Fisher exposes the contradiction because, if the Attorney was right before, this provision we are talking about means that potential offenders would be more motivated to kill than to seriously maim because the penalty for wounding is potentially more than that for murder.

The Hon. M.J. ATKINSON: People who make frenzied attacks on their victim do not normally have section 23 of the Criminal Law Consolidation Act at the front of their mind.

Clause passed.

Clauses 11 and 12 passed.

Clause 13.

Ms CHAPMAN: I move:

Page 12, line 21—After 'Kidnapping' insert 'and unlawful child removal'.

Page 12, after line 21—Insert:

38—Interpretation

In this Division—

child means a person under the age of 18 years;

detain—detention is not limited to forcible restraint but extends to any means by which a person gets another to remain in a particular place or with a particular person or persons;

take—a person takes another if the person compels, entices or persuades the other to accompany him or her or a third person.

New section 39(3), (4) and (5), page 13, lines 2 to 23—

Delete subsections (3), (4) and (5)

Clause 13, page 13, after line 23—Insert:

40—Unlawful removal of a child from jurisdiction

(1) A person who wrongfully takes or sends a child out of the jurisdiction is guilty of an offence.

Maximum penalty:

(a) for a basic offence—imprisonment for 15 years;

(b) for an aggravated offence—imprisonment for 19 years.

(2) For the purposes of subsection (1), a person acts wrongfully if—

(a) the person acts in the knowledge that a person who has the lawful custody of the child (either alone or jointly with someone else) does not consent to the child being taken or sent out of the jurisdiction; and

Note—

As a general rule, the parents of a child have joint custody of the child (see *Guardianship of Infants Act 1940*, section 4).

(b) there is no judicial or statutory authority for the person's act.

The effect of these amendments would be to delineate between what we traditionally know as kidnapping, that is, taking a person with the intention of holding him or her to ransom or as a hostage, and a separate and quite different offence—nonetheless, still a serious one—of wrongfully taking a child out of the jurisdiction.

As I indicated in my contribution during the second reading debate, sadly, there is an all too prevalent circumstance in the community where children are removed from a jurisdiction, sometimes in direct contravention of court orders or injunctions from either the Magistrates Court or, commonly, the Family Court of Australia. That causes considerable pain and expense in locating those children and taking proceedings in other jurisdictions, either in Australia or out of Australia, for their return. Undoubtedly, it is a serious offence. But it is not kidnapping in the sense that we know it, where we recognise that one of the most heinous offences that we can have under the traditional kidnapping (if I can describe it as that) is quite distinctive.

The purpose of these amendments is to provide a separate definition to specifically insert in the interpretation. The definition of 'child' would remain as is the usual case, that is, a person under the age of 18 years. 'Detain' for the purposes of the proposed section would be defined as 'detention not being limited to forcible restraint but extends to any means by which a person gets another to remain in a particular place or with a particular person or persons'. 'Take' would be defined as 'A person takes another if the person compels, entices or persuades the other to accompany him or her or a third person.' In the definitions we would specifically add a separate status to this type of behaviour and provide an independent offence and penalty for the unlawful removal of a child from the jurisdiction. For a basic offence, the penalty would be imprisonment for 15 years and, for the aggravated offence, imprisonment for 19 years.

By this amendment, the opposition wants to send a message that is consistent with that of the government in this area. We are not seeking to try to frustrate the government's position. We have made our position quite clear in relation to increasing these penalties, whether it be to fit in with public values (as the Attorney-General presents to the parliament) or not, and whether it makes any scrap of difference in relation to the reduction of crime in these areas or helps consequentially to protect people in the community.

We have traversed our concerns about whether there is any merit in those sorts of arguments, but we are not here to frustrate the general presentation by the government in relation to that aspect. We have certainly raised concerns but, consistent with that, we are not suggesting that the unlawful removal of a child should be treated, in a penalty sense, in some significantly lighter manner. But, certainly, it ought to be identified as a separate offence for those circumstances that are not covered in 'kidnapping' as we clearly know it. For those reasons, I invite the government and other members to sympathetically consider these amendments and to support them.

Mr HANNA: The member for Bragg has raised a very serious issue but, as I see it, the matter is covered under the provision that the government is putting forward.

The Hon. M.J. ATKINSON: The member for Bragg's amendments would separate the offences of kidnapping and child removal. The amendments would retain each offence as drafted but place each under a separate heading. By including the general offence of kidnapping, and the specific offence of wrongfully taking or sending a child out of the jurisdiction under the one heading of 'kidnapping', the bill follows the structure of the National Model Criminal Code in chapter 5, Non-fatal Offences against the Person, division 8, section 5.1.30. This recommendation of the Model Criminal Code Officers Committee states:

A great deal of child abduction is already dealt with under Commonwealth law. Abductions that take place in the course of a custody dispute or marital breakdown are dealt with criminally if at all in section 70, Removal of a Child Contrary to Custody Order, section 70a Taking Child out of Australia contrary to court order, section 112AD, Failure to Comply with a Court Order, and Section 112AP, Contempt of the Family Law act. In framing the draft, in the discussion paper the committee used the UK draft bill as a starting point. Unlike the UK draft Bill, however, it was and is intended to cover the situation where a parent steals a child for the purpose of taking a child out of the jurisdiction. The UK draft bill dealt with that behaviour in a separate lesser offence. The committee took the view that child abduction is a very serious matter which leads to great anguish and consequent international litigation. It sees no reason why this sort of kidnapping should be different to any other.

Mr Goldsworthy interjecting:

The Hon. M.J. ATKINSON: I am quoting. It continues:

It should be noted, however, that in relation to this issue the custodial parent, or a person acting with the consent of the custodial parent, commits no offence against this section.

The committee treated the unlawful removal of children from the jurisdiction as a form of kidnapping precisely because it thought this conduct so reprehensible. The opposition takes the opposite view that it should be distinguished from kidnapping, because kidnapping is a more serious offence. I disagree. I cannot say whether it is worse to kidnap a person and hold them hostage than to kidnap a child and take the child out of the jurisdiction.

It will depend on the individual circumstances of each case. A common example of kidnapping is a man holding a spouse hostage to demands about family law matters during a suburban house siege. This offence is likely to be resolved with the release of the victim within hours or days. By contrast, a child who is taken or sent out of the jurisdiction may never be returned, or the return may take years. The anguish caused by each criminal act is acute but is often protracted in cases of taking children out of the jurisdiction. I would prefer our laws, like the Model Criminal Code, to treat each offence as seriously as the other.

Amendments negatived; clause passed.

Clauses 14 to 25 passed.

New clause 25A.

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

Page 16, after line 12—Insert:

Part 3A—Amendment of Juries Act 1927.

25A—Amendment of section 7—Trial without jury

Section 7(4)—Delete subsection (4) and substitute:

(4) If a criminal trial proceeds without a jury under this section, the judge may make any decision that could have been made by a jury and such a decision will, for all purposes, have the same effect as a verdict of a jury.

During consultation on the bill—and there were extensive consultations—it was asked whether the provisions about alternative verdicts were confined to trial by judge and jury or extended to trial by judge alone. The answer is that these provisions apply to trial by judge alone by dint of the Juries Act 1927. Section 7 of the Juries Act governs what happens when an accused in a criminal trial before the District Court or the Supreme Court chooses to be heard by judge alone instead of by judge and jury. Subsection (4) provides that the judge may make any decision that could have been made by a jury and that this decision will have the same effect as if made by a jury. The provisions of this bill about alternative verdicts do not need to restate this, but I am taking this opportunity to update the language in section 7(4) by way of this amendment.

New clause inserted.

Clauses 26 to 29 passed.

Title.

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

Page 1—After 'Criminal Law (Sentencing) Act 1988,' insert 'the Juries Act 1927,'.

I seek to amend the long title so that it refers to amendments to the Juries Act 1927.

Amendment carried; title as amended passed.

Bill reported with amendments.

The Hon. M.J. ATKINSON (Attorney-General): I move:

That this bill be now read a third time.

I thank the members for Mitchell and Bragg for their careful attention to the provisions of the bill. Their diligence is appreciated by the government.

Mr HANNA (Mitchell): Although the bill has been slightly improved by means of the government's amendments, it remains objectionable. The bill arises out of two streams: first, an attempt to codify the criminal law and bring some uniformity into the criminal law in certain respects (for example, in relation to violent offences) and, secondly, the populism which has been the hallmark of this government when it comes to criminal justice measures.

The bill contains a number of amendments to the criminal law which increase penalties, that is, gaol terms, in relation to some offences of violence. The problem I have with that is that it is based on misinformation; it is not based on science. It relies on people's gut reaction to crimes of horror when they are sensationalised in the media. There might be only two or three a year, but, when they are reported for the deliberate effect of shocking people and inducing an emotional effect, people respond angrily, which is only natural. However, real leadership in government comes from informing the people so that they can make wise choices about the justice system.

As I have said, it has been quite clearly established that increasing custodial sentences by a couple of years, or even a more substantial period, does not have any substantial impact on the crime rate. What people really want is less crime. The Attorney, when questioned today, rightly pointed out that the greatest deterrent factor is the likelihood of being caught. At that point, it is up to the police minister and the government to ensure that there are adequate policing resources to bring about the threat of capture and conviction. However, adding two or three years for certain sentences, or saying to potential offenders, through legislation, 'You might get an extra couple of years in prison if you pick on someone who is 61 rather than 59, or someone who is 11 rather than 13,' is going to have absolutely no impact at all. The government and the Attorney know this, but it is a political game. That part of the bill which increases sentences as a result of that cynical reasoning—that appeal to the uninformed gut reactions of people in the community—is odious.

Bill read a third time and passed.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 31 March. Page 1835.)

The Hon. I.F. EVANS (Davenport): It is my privilege to speak briefly on this bill. I indicate that I am not the lead speaker in this matter: it is always the leader of the opposition, which is a longstanding tradition. So, the member for Torrens will not have to suffer a more lengthy contribution than normal. I want to make some comments particularly in relation to stamp duty and the stamp duties charged throughout the state budget. I encourage the state government to take some action in the forthcoming budget in relation to stamp duties. It is becoming a concern to South Australians, particularly those seeking to buy their first home and, indeed, those with high mortgages, that stamp duties are now out of step in South Australia when compared with those in other states.

When talking to the Supply Bill I want to make some comments about South Australia's stamp duties. South

Australia, as I understand it, now has the second highest rate of stamp duty, that is, mortgage and transfer duties, payable in the nation. We are second behind Victoria on the purchase of a property for non-first home buyers, and we are one of only three remaining states or territories that charges mortgage stamp duty to a borrower when they choose to refinance their home from one lender to another. So, a number of different stamp duties apply here in South Australia, and at higher levels when compared to interstate charges for stamp duties.

South Australia now has the honour of having the second worst level of stamp duty rebates of all states and territories for first home buyers and, in fact, we are second only to Western Australia. I understand that the Western Australian government has recently indicated that it is going to review its stamp duty package as part of its forthcoming budget. So, I am calling on the South Australian government to give South Australian home owners and potential home owners some relief through this budget in relation to stamp duties.

I want to walk through a couple of examples of where South Australia is out of kilter on the stamp duty issue, and I will be using the figure of the purchase price of $246 000, which is the median house price in the Adelaide metropolitan area for the March 2004 quarter. That is a reasonably high figure when we consider that only four years ago the median price in the March 2000 quarter was $132 000. So, the median value of a house in metropolitan Adelaide has nearly doubled in four years. As a result of that, stamp duty has increased at the same time. I also note that, in the March 2002 quarter, the median price of a house was some $168 000. So, there has been a steady climb in the median purchase price over the last four years. This, of course, has been an absolute bonanza to this state government and the stamp duty in the 2002-03 year was something like $428 million. So, there has certainly been a budget windfall for the government in relation to stamp duty collections.

It is the first home buyer who is now facing a very high barrier to entry into the home ownership market. In February 2004, the number of first home buyers who purchased a home was about 12.7 per cent of total sales, and that is a very low figure when we consider that the usual figure is around 20 per cent of all sales. That indicates that, for the first time in a long time in South Australia, the first home owner is facing a significant barrier to entry.

The first home owner's grant of $7 000 from the federal government at the introduction of the GST certainly helped, and that was matched in part by state governments, and that certainly helped, but unfortunately they were put in place when the median price was around $140 000. The median price is now $246 000, so the effect of those offsets is not as big as when they were introduced. In 2004, the fees that are charged in South Australia on the median purchase price of $246 000 are about $23 000. That is the fee the first home owner would contribute. This compares to something around the $12 600 mark if they purchased the median home in July 2000. Over four years, the amount of fees that a first home owner would be paying has gone from $12 600 to around $23 000. The first home owner finds themselves paying an extra $12 000 compared with four years ago.

I also want to look at how we compare state by state if we had purchased a home for $246 000. In South Australia, if you purchased a home for $246 000, the loan amount would be $233 700, which is 95 per cent of the purchase price. In South Australia, you face total fees of around $11 064; in Victoria, you face fees of $11 175; in Tasmania, $8 414; in New South Wales, only $128; in the ACT, $7 580; in Western Australia, $10 253; in Queensland, $1 014; and, in the Northern Territory, $4 139. South Australia has the second highest fees and charges for first home owners in Australia. They are the second highest—

Mrs Geraghty interjecting:

The Hon. I.F. EVANS: New South Wales has only $128.

Mrs Geraghty: What about the new one?

The Hon. I.F. EVANS: The Labor Party over there has introduced a new one; the member for Torrens is quite right. There is now an exit stamp duty—if they do not get you coming, they certainly get you going. Only Labor could think of such a strategy. South Australia certainly has the second highest rate of stamp duty and other government charges for first home buyers when you do an Australia wide comparison. In fact, in South Australia, for a purchase price of $246 000, there are no first home buyer rebates available at all. The South Australian first home buyer in particular is at great disadvantage compared with other states.

There has been some media that both Queensland and New South Wales have recently overhauled their stamp duty rebates in relation to first home owners, and the Western Australian Premier recently announced that they will be doing a similar thing as part of their state budget. Victoria, of course, has brought forward part of the GST package where they promised to abolish the mortgage stamp duty with effect from 1 July 2005. They will abolish it as from July this year. Victoria has certainly been pro-active.

The South Australian first home owner is certainly at some disadvantage. If members look at the rebates available, South Australia has a rebate for properties valued up to $80 000. In New South Wales, they have full stamp duty rebates up to $500 000, and in Victoria they get exemption for properties valued up to $150 000. Again, in South Australia we have the lowest rebate value compared with those two states. Certainly we are at a disadvantage. Where it really hurts the South Australian first home owner is when you look at the increase in loan repayment; that is, an increase in the total amount of interest paid over the life of the loan compared to a similar loan taken out in another state. The mortgage industry has provided me with some figures (and, indeed, other background information for this contribution, and for that I thank it) in relation to a comparison with Queensland.

Let us look at what the difference would be over the life of a loan in the case of purchasing a house for $246 000 in South Australia compared with purchasing a house for $246 000 in Queensland. Of course the purchase price is $246 000 in each state. The deposit on the purchase price in South Australia would be $12 300 and on the Queensland model it would be $23 350. The loan to value ratio is 95 per cent in South Australia and 90.5 per cent in Queensland. The stamp duty and other government charges payable is $11 064 in South Australia. It is close enough to $1 014 in Queensland—some $10 000 difference. Lender and other costs are about $3 000 in South Australia and $2 000 in Queensland. Total deposit and fees payable, therefore, are basically the same—$26 363 in each state. However, the loan amount in South Australia is $233 700, while in Queensland it is $222 650—a $10 000 difference in the actual loan amount, with the higher loan being in South Australia.

The interest payable over a 30-year loan at 7.07 per cent is some $329 993 in South Australia but only $314 390 in Queensland, so the monthly repayment in South Australia is $1 566 and in Queensland $1 492. As we can see, it is $74

less per month, and over the term of the loan a total of some $15 603 in interest is saved if you purchase the same house under the Queensland model than under the South Australian model. If you take that one step further, if the payment of $1 566 is then applied to the lower loan amount—therefore paying $74 above the minimum loan repayment—the loan will be repaid in 25 years and 10 months and a further $51 874 would be saved. So, essentially you are about $65 000 better off under the Queensland scenario than under the South Australian scenario for the same value house over the term of the loan.

What we are building in to home ownership in South Australia under the current model we have with our stamp duties is a huge differential because of the interest charged on the stamp duty when it is borrowed to pay the higher stamp duty amounts. So, I encourage the government to take some action in relation to stamp duties in the budget. It is a barrier to entry for first home owners and that, of course, is a concern to those who have people coming through who would like to buy their first home.

Other barriers to entry are things like land supply. I noticed an article in *The Advertiser* over the weekend mentioning Bob Day, from memory, where he talked about how one of the barriers to first home ownership—and, indeed, home ownership itself—is the cost of land. By putting in an urban growth boundary essentially what we have done is increase the value of land within that boundary. That, of course, builds into the barrier to entry to first home owners who now have to pay significantly more for their land, particularly when the government has a land bank through the Land Management Corporation and it releases land onto the market strategically on a demand basis and, indeed, on a market price basis. So, that also has an effect on the price of land which is built into the cost of first home ownership.

I return to the submission about stamp duties. I note that one of the government ministers, the Hon. Jay Weatherill, was recently quoted in *The Advertiser* saying that should the government provide greater stamp duty incentives to first home buyers the incentives would quickly be added to the price of homes, just like the $7 000 first home owners grant. The mortgage industry has some dispute with that theory. It believes—and quite rightly—that homes are bought not only by first home owners but also by second, third, and even fourth home owners. And of course the investment industry itself is involved in home purchase, which brings a market price to that particular product in the marketplace. So, I tend to side with the mortgage industry in relation to that particular debate.

I am glad that the Treasurer is here because I will be encouraging him, during the budget, to do something about stamp duties because I think it is clear from the industry that stamp duties in South Australia are out of kilter when compared with other states. The state government now has the philosophy that it is going to increase South Australia's population by 600 000 by the year 2050.

The Hon. M.J. Atkinson: I'm doing my bit.

The Hon. I.F. EVANS: I note that the Attorney-General is doing his bit. I have done my bit.

The ACTING SPEAKER (Mr Scalzi): Order! Members will get back to the debate.

The Hon. I.F. EVANS: Part of South Australia's attraction has been its relatively low cost housing market over the years, as well as our quality of life, compared to other states. However, we are fast pricing ourselves out of that marketing strategy through the imposition of very high stamp duties. We are now either second or third on virtually all the stamp duty measures in relation to home ownership and, of course—

The Hon. K.O. Foley interjecting:

The Hon. I.F. EVANS: Absolutely! I notice that the government is not getting rid of that in this budget. If we continue to maintain high levels of stamp duty, it will have an impact long term. I also want to make some comments in relation to the general—

Ms Thompson: You could have designed it so that it did not waste so much money in collections.

Members interjecting:

The ACTING SPEAKER: Order!

The Hon. I.F. EVANS: The member for Reynell says that we could have designed it so that it did not waste so much money in collections. I invite the member for Reynell to move an amendment any time she wishes.

Ms Thompson interjecting:

The Hon. I.F. EVANS: It is not difficult. If it is too difficult for the member for Reynell, find someone else in Reynell who does not find it that difficult. The member for Reynell has been in this place for five or six years. She can move a private member's motion and she can change the collection costs, but do not sit over there, chirping away—

The ACTING SPEAKER: Order!

The Hon. I.F. EVANS: —with the protection of the government back bench saying that it is all a bit hard. It is not that hard.

The Hon. K.O. FOLEY: I rise on a point of order, sir. I was quite enjoying the contribution from the shadow minister for finance until he was distracted by my colleague. I urge the shadow minister to continue his contribution. It was enlightening.

The ACTING SPEAKER: There is no point of order.

The Hon. I.F. EVANS: I will finish my short contribution by saying that I do think there is time for the government to look at tax relief for South Australian families—

The Hon. K.O. Foley interjecting:

The Hon. I.F. EVANS: Well, the Treasurer, as he well knows, has had significant windfall gains out of the GST—that tax which Labor never wanted but from which it is now benefiting greatly. It receives significant windfall gains out of the GST. The government has introduced a River Murray levy, even on those people who are not affected or use the River Murray.

Mr Brokenshire: Like the West Coast.

The Hon. I.F. EVANS: Like, for instance, the West Coast, but I am sure that is an equity issue for all those opposite.

The Hon. K.O. Foley: And you supported it.

The Hon. I.F. EVANS: And you supported the emergency services levy—

The ACTING SPEAKER: Order! The member for Davenport has the call.

The Hon. I.F. EVANS: Never did you vote against it. It went through twice and you did not vote against it either time. Even the member for Reynell voted for it twice. Can you believe that? Then, of course, the government introduced an NRM levy. There has simply been no tax relief for South Australian families. I encourage the Treasurer to take some steps to relieve the tax burden on South Australian families because, I believe, they are now reaching a point—

The Hon. K.O. Foley: Families or businesses?

The Hon. I.F. EVANS: I would argue both families and businesses. I would think that they are both over-taxed. I

encourage the Treasurer to look at that, because there is no doubt that, with the number of levies being introduced, governments are slowly but surely trying to shift expenditure onto sellable levies, marketable levies, such as the 'Save the River Murray' levy, for instance, into which the government does not put any extra money to accompany the levy. The River Murray levy is collecting $20 million, and the government is not matching it; not 1¢ extra is the government putting in. The state government is adopting that trend. I think that families deserve a tax break, and I would encourage the Treasurer to adopt a strategy that delivers that as part of this budget.

The Hon. R.B. SUCH (Fisher): I will be concise.

Members interjecting:

The ACTING SPEAKER: Order! The member for Fisher has the call.

The Hon. R.B. SUCH: The Supply Bill gives an opportunity to canvass matters, some of which have recurring themes and some of which are new, but all of which are related, obviously, to the matter of finance. The key underlying factor that causes me great concern in relation to expenditure is that the states as a whole and individually do not have the financial capacity to fund adequately the services they are legally required to provide. We have a federal system that is not working in the way it could or should because the federal government has the financial resources but often does not have the legal responsibility. In whichever area you look—and it does not matter which party is in power in South Australia—the resourcing is not adequate. In relation to schools, hospitals, police and juvenile justice the funding is not available to do what is required. I am not suggesting that state governments should go on a great spending spree, but the reality is that they are not funded and they are incapable, with the current structure, of properly funding themselves and their obligations.

I have tried to encourage the Prime Minister, the Premier and President of the Australian Local Government Association to look at the system. I think we can talk all we like about funding particular micro aspects, but until we deal with the key issue we will not get far. Sadly, I have not had any great success on this issue. I wrote to the Prime Minister and all the other key players at the end of last year saying that we need to look at reconfiguration of the system, in particular in relation to financial arrangements, including taxation, revenue sharing, expenditure obligations and financial accountability as they currently exist between federal, state, territory and local governments.

I posed the question to the Prime Minister and the other leaders as follows: does the expenditure obligation correspond to an appropriate revenue stream; has the GST reform package provided the necessary growth element for states; and how can local government meets its growing obligations, including road upgrades, etc. without fundamental change in revenue options? I am aware of the inquiries into cost shifting, but we need something fundamental to address the real bottom line, that is, a federal system that is not working in terms of states being able to do their job.

In terms of money coming into the system from whatever source, our state school system needs a lot of money put into it. In terms of capital works it needs hundred of millions of dollars. In terms of services it needs a lot of money. For example, it needs a greater provision of guidance officers and psychologists to help address issues that young people have, not only learning difficulties but behavioural problems as well. That needs to be added to in terms of having youth and social workers who can interact with families, so there is a linkage between the school and the family.

I am aware the commonwealth, through the Division of General Practice, in association with the state Department of Education and Children's Services, is having psychologists assess every child on Eyre Peninsula. I think that is a fantastic thing. It has already borne fruit in terms of less suicide, detecting dyslexia earlier and all those sorts of issues, and providing great benefits for the young people of Eyre Peninsula. I would like to see a similar approach throughout the state to tackle problems early on, but you can only do that if you are adequately resourced.

In terms of our state school system, we need to look at how leadership positions are filled in the state school system. I am all for gender balance, but I am more inclined towards having the best people in leadership positions. I am happy if they all are women, as long as they are the best people for the job. I think the selection process at the moment is somewhat constrained. I do not think it necessarily delivers the people who will provide effective management of staff and the leadership that schools need.

One of the things that has been found in the UK, in what you might call the Blair model, is that if you give school principals the responsibility and authority, and put the wood on them to deliver, they will and can deliver in terms of really lifting a school and its pupils in terms of the performance. I think that is the way to go, namely, to put the wood on the principals to deliver but give them the authority to actually carry out what is needed in the school environment.

So, I think that is something that should be looked at here. I think, in some ways—and I am not being overly critical of the union, the AEU, there seems to be a fear of the union within the senior levels of the education department, and I think it is holding back the reform that is in the interests of teachers and students. Part of that relates to the way in which senior positions, in particular, and notably the position of principal, are filled in our schools. I think many people who get senior promotion positions have engaged professionals to help prepare their CVs; they might be very good at using the buzzwords, but may not necessarily be the right people for the job. The whole selection process, particularly for principals, needs to be looked at.

In terms of vocational education in schools, it is a very costly option. There is no cheap way of training people for industry or in conjunction with industry. You cannot take 15 or 20 young people to Mitsubishi and let them loose for a day and say, 'We will pick you up at four o'clock.' It is much more expensive obviously than having a classroom where you teach mathematics or something like that. I do not believe any government of any persuasion in Australia has ever really got to a point where it is adequately funding or has adequately funded vocational education.

TAFE is another area that has been put through very tight financial situations in recent years, I think to a point where many of the people who are in the poorer category are denied a TAFE education or training opportunity simply because they cannot afford the fees and other charges. That is very unfortunate, and our first obligation as a community is to allow our own people to reach their potential in life: to be trained and educated to the maximum possible level.

Going beyond the medical aspects of hospitals in a narrow sense, I think that our mental health area is not funded adequately, particularly in terms of outreach services. I think we need to do a lot more in the way of mental health services

for young people, and it comes back to that earlier problem that I mentioned, namely, that the state government is not resourced enough and cannot get enough money out of existing approaches to do that. It needs greater support from the commonwealth and a revamped federal system.

Looking at transport, I think there is an opportunity for us to be innovative in many respects. I have mentioned before the need to have an extensive light rail system in Adelaide. We could be a lot more innovative, even with the infrastructure we have, if we want to use heavy rail better. For example, in France, they use buses on the heavy rail system as well. Sure, you have to be innovative, but you can do a lot more than we are currently doing. The opportunity is there for us to have progressive public transport systems. Now is a good time to do it before the population grows, property values increase and so on.

One issue relating to transport which I think has suffered in recent times in terms of cutbacks in funding is the provision of shared pathways, preferably off-road, for pedestrians and cyclists. I have been campaigning to have shared bike and pedestrian pathways linking the Belair area with Mitcham, and Craigburn Farm with Flagstaff Hill. I have seen the benefit of the cycleways which were put in combining cycleways and pedestrian pathways 20 years ago in the Mitcham Hills and which, incidentally, have not been added to in that time. The benefit to people now is fantastic, be they joggers, kids on trikes or adults on pushbikes. We should be doing more of that—indeed a lot more of it. I think that the concept of people on pushbikes sharing busy roads is a cheapskate way out of doing things properly and having an off-road facility, which I realise is not cheap. However, it is certainly a preferable way to go.

In terms of population, we need to look very closely at the catchcry that we need more people. We can do more along the lines of what Japan has done: that when people get to age 55 or 60 they do not automatically consign them to the rubbish heap. People in Japan often work in their seventies and even into their eighties. What they do is scale back the responsibilities, so that people of that age may not be the managing director but still have some useful function. This idea we have that everyone has to be young and youthful, and so on—something fast disappearing from my universe—is silly and unnecessary, and it creates this fear that, if we do not get a lot more people, suddenly we will not be able to run services and we will all be running around at Resthaven banging our heads against the wall. It is silly.

I have raised this before although I have not made much progress, but we should be targeting backpackers who come here, asking them, when they go back to their country, to consider migrating here. We could develop a sponsorship program. Alan Hickinbotham had a program years ago sponsoring people to come out, get jobs and, obviously, buy houses built by the Hickinbotham Group. I do not have a problem with that. I think it was a very smart thing to do. We should be targeting backpackers when they come here. We get more than our share here in South Australia and we should be encouraging them to come back. They are the people who have get up and go, and many of them are highly qualified.

Whilst on that subject, I think it is crazy that we do not allow people visiting like that to work in this country. If backpackers want to pick fruit and they are going to pay the tax and so on (you would have to change that system), why not let them? I cannot understand why we are so hostile to allowing people who want to work to make a contribution, even if they are only visitors. Likewise, we hear all this talk about bringing migrants here but the reality, as many of you would have had experience, is that the system is not all that friendly to people migrating here, even those who are married to people born here or who have been Australians for a long time. The system makes it very hard for them to come, and they are virtually treated like criminals. I know from experience in many situations that that is the case.

I think that land supply in Adelaide will become increasingly critical. People are talking about how much house prices have gone up. House prices have not gone up much at all really, if you look at the actual cost of the house and the techniques used. In relative terms, houses are probably cheaper now than they have been for 20 years. The difference between now and a few years ago is the cost of land. What we have to some extent in Adelaide is an artificially managed land supply, where the government is a player as well as private developers, and I am increasingly of the view that the concept of a satellite city—Monarto or whatever—was probably ahead of its time and was not given the consideration it deserved. I think we will come to regret the fact that we did not go down that path.

Some people have suggested to me that it would still be possible to have some type of satellite city, although it may not be as grandiose as the original Monarto, but I think that we threw the baby out with the bath water when it came to being a bit innovative in terms of supply of land and developing a satellite city. One concept that is probably beyond the resources of the state government but I think we could consider—a non-military community service. I know that the Premier has been a great supporter of the Conservation Corps. I would like to see a scheme where between leaving school and starting university or TAFE we encourage and provide incentives for young people to be in some non-military community service organisation.

It would need federal support, because you could, for example, give those young people a significant reduction on their HECS, pay them a living allowance, but say 'If you spend six months a year working in an old folks' home, helping in the Red Cross or any of those community service organisations, you will get some special consideration when it comes to HECS and you'll also get paid a basic amount for your survival.' It would not be a huge amount, but I think we need to stress over and over again the importance of community service, of commitment to the community. I think it would be best as a national scheme; non-military community service. I believe that South Australia could expand the concept locally and go beyond things like the Conservation Corps.

I am always keen to see, and I live in hope that one day we might get, a social, political and economic museum in South Australia. Some people might say, 'Well, this is it.' I mean somewhere where we can showcase the innovative and creative thinking of South Australians. We have a wonderful natural history museum and we have an immigration museum. I think we ought to have a social, political and economic museum where we can showcase South Australia to visitors and, obviously, to our own people. I keep lobbying on that; I have not managed to win that battle, but will keep trying.

In terms of conservation issues, great progress has been made in recent years. There has been a greater understanding of what ecology is about. I was very disappointed that the state government did not take the opportunity to be a bit more innovative on North Terrace. I accept the argument that we

do not need the new library or museum hidden by trees, but we could have planted a selection of very exciting, colourful and appropriate native trees which do not drop limbs and which encourage native bird life and send a water conservation message. If this government has made one mistake, it relates to what has been allowed to happen on North Terrace, where it has created a very uninteresting, non-Australian piece of landscape. Over time, I think it will be criticised for that. If Don Dunstan were around, he would have shown imagination and we would have had something more exciting than—

The Hon. M.J. Atkinson interjecting:

The Hon. R.B. SUCH: Well, I think Don Dunstan would have been a bit more imaginative rather than just go for plane trees again and again. People can see plane trees anywhere in the world, but part of North Terrace was an appropriate showcase for some of the hundreds of different eucalypts and other species such as grevilleas. I could go on and on, but I think a golden opportunity was missed and that is very unfortunate.

Finally, I am delighted that the government is moving for the addition of new land at the Sturt Gorge Recreation Park. I do not think that many people appreciate that the additional open space added to that park is in the order of 500 acres in the old language; it is a huge area. To its credit, the government has provided $200 000 to help kick-start that open space area. I have the privilege of chairing the steering committee, and it is not for me to say what will eventually end up there, but it could entail walking trails. We are very close to having an opportunity for a linear park along the Sturt, from the Hills down to Darlington. The City of Onkaparinga has to obtain only one more piece of land. There are some exciting and fantastic things happening in the metropolitan area in terms of recreation and conservation. That has been a long time coming, but I commend the government for that initiative. It is with money paid by the taxpayer—$3 million—some 10 years ago. Future generations will enjoy that wonderful piece of open space which is of a significant size.

I would like to see a reform of the financial arrangements for this state and all other states and territories, because until that happens I do not think we are going to get fundamental reform or adequate funding of schools, hospitals, police or anything else. We are going to keep going to the old money box.

Time expired.

Mr BROKENSHIRE (Mawson): It was interesting to listen to my colleagues the members for Davenport and Fisher raise concerns in this debate on the Supply Bill about the delivery of services, taxes and charges. Whilst I do not disagree with the member for Fisher from the point of view that it is always healthy to keep on the ministerial and Council of Australian Government (COAG) tables different ways of federal and state governments working in partnership on tax revenue, it is disappointing to see the enormous pressure that has been placed on the South Australian community with respect to state taxes and charges. Now, wherever I go in my electorate, people are saying that they are finding it more difficult to make ends meet. This is supported by five or six consecutive months of Australian Bureau of Statistics figures that show there is a downturn in South Australia in retail food sales. One would know that, when there is a downturn in retail food sales, the community is hurting and having to make decisions that compromise fundamental and essential requirements of a family such as food. They are doing that because of the enormous taxes and charges, whether it is increases in council rates (no matter what council you are in) or the ongoing impost of taxes and charges by the state government.

We have seen some enormous increases in taxes and charges. Some are only little amounts, but the increase in your motor registration is, I suggest, not a little amount—it has increased in excess of several hundred dollars for an average motor vehicle since the Rann government came into office. In relation to other government charges for any work that a community member may do, there are $6 and $10 increases here, there and everywhere—and, I might add, they are far above CPI.

We are seeing a combination of increased federal government taxes going to the state, and we heard of a $28 million windfall in unexpected GST payments to the state government by the federal government; and just a few months later we heard of further increased GST payments to the state government by the federal government. We have seen an enormous windfall on stamp duty—to the tune now of several hundred million dollars. I think in the last year we were in office our budget showed an increase to this government of about $60 million or $70 million, from memory, and we have seen even greater increases since then. Until this year we have had consecutive growth compounding since 1997, and the trend indicators—the actual figures for employment and general economic spending—show that we have had seven consecutive years of growth. I add the comment that that growth, even though it would like to claim the credit for it, did not come from the government. In fact, the government has been in office for only two of those seven years and has been able to ride on the back of the hard work that the Liberal government did in rebuilding South Australia and in fixing—

The Hon. M.J. Atkinson: Thank you very much! You beauty!

Mr BROKENSHIRE: The Attorney-General is the first member on that side, particularly in the cabinet, to acknowledge publicly that we did leave the government with a very easy ride. But the sad part is that, instead of fixing the State Bank mess and leaving this government with an extremely easy ride whereby a dividend could be paid back to the South Australian community, we are seeing ongoing imposts. Where is it going? It is not going on road expenditure: it is not going to support community services: it is certainly not going on health: and, when it comes to such things as the police, I can assure the South Australian community that this massive revenue increase that the state government has taken in taxes and charges is not going to the police.

I can pick up any number of newspapers, but I have one from the member for Light's electorate. It contains an article headed 'Shortage puts local police under stress', and there is a photograph of what the media has described as an 'all-too familiar sight at local police stations'. And guess what? The sign has a piping shrike on top of it and the three words, 'Police officer absent.' This is happening right across South Australia. In fact, on Easter Monday night, only two officers were available to go out on general patrol in the South Coast LSA: a sergeant and one other officer. I understand that on Easter Monday night one would expect to see three or four cars out on general patrol. I am advised that, in the end, they made a decision to pull in another crew to work a 12-hour shift on overtime, from 7 p.m. until 7 a.m. Of course, one has to ask whether or not that is good for our police officers from an occupational health and safety point of view.

We are seeing not only a shortage of police on the ground but day in and day out (including today, and it is still another couple of months before the police receive their budget for next year) we also read that mobile phone usage and STD calls are being impacted. I know that in one LSA some of the telephone lines in their headquarters have even been cancelled so that they do not have to pay rent on those lines for a couple of months. That shows just how tight the budget is. I note that in the member for Kavel's electorate (and he is certainly very committed to supporting the police in his electorate) they have even removed some of their mobile phones. That is indeed very concerning. I believe that the pressure the police are under at the moment is unprecedented.

The Hon. M.J. Atkinson interjecting:

The ACTING SPEAKER (Mr Scalzi): Order!

Mr BROKENSHIRE: As the opposition, we will do everything we can to ensure that the police are properly resourced and that we see the right increase in police numbers to combat the compounding crime that is certainly occurring in South Australia.

I want to touch on the compounding crime and law and order situation. I congratulate the member for Enfield, who is, in my opinion, one of the most intelligent members on the government benches—and there is no doubt about that. In fact, whenever you talk to any of my colleagues they say that it is very disappointing that someone with his capability is not in the cabinet, when there are members of the Labor Party in the cabinet with nowhere near his skill and capacity to utilise intelligence.

Last Saturday, the member for Enfield held a public meeting. I found it interesting that he was highlighting something that we have been saying for some time, that is, whilst this government is full of rhetoric and the Premier loves front-page stories about being tough on law and order, when all that is boiled down and you get to the meat of the situation, you find that, generally, law and order is not improving in this state. I suggest that it is going in the opposite direction: it is getting worse.

The member for Enfield highlighted the problems in the Parks area with prostitution, hoon driving and general damage to property, and I see such problems increasing wherever I go across the metropolitan area and also now in some of the rural and regional areas—and that is of particular concern. I suggest that the government has really missed it when it comes to a comprehensive and strategic law and order policy. However, I am pleased to see that one member on the other side has the fortitude to raise these issues on behalf of their electorate, rather than just fitting with the party line, as we see with the silent members of the Labor Party who just wag their tail to any decision that the Premier makes on a daily basis. It is good to see the member for Enfield representing his community. It is a pity that more Labor members are not prepared to do the same.

I want to talk about some local issues, and I hope that, in the forthcoming budget, the government will stop building this massive war chest, putting the sugar out in the community in the past few months.

The Hon. M.J. Atkinson: Whom are we talking about here—Peter Costello or John Howard?

Mr BROKENSHIRE: I am talking about the Rann-Foley budget coming to the South Australian community through the parliament on 27 May. It is time that the community were treated fairly and openly and that this war chest that the government is building up was opened up now to deliver the fundamental and essential services that any state government should deliver. I know that the South Australian community is an intelligent one, and it is getting more frustrated when it sees its hip pocket being hit in every way, yet seeing less service delivery, on top of the fact that it had a pledge card put in front of it prior to the last election on which the Labor government said it would fix health, education and so on.

The Hon. M.J. Atkinson: And we have.

Mr BROKENSHIRE: The Attorney-General must be away with the pixies if he says they have fixed it, because I am getting telephone calls even in the middle of the night at times from constituents laying on barouches in the Flinders Medical Centre and their triage is only occurring through the ambulance officer. They can lie there for several hours before they are seen by a doctor, even if they have serious problems such as internal bleeding, yet the Rann government said that it would fix health. However, it has not fixed health at all. In fact, health has got much worse under the Labor government.

Let us look at education. Of course this was to be the smart state when it came to education. The Premier made so much about being the education Premier, yet what are we seeing? We are seeing situations such as that last week, as reported in *The Advertiser*, where the facts came out and South Australia was seen to be at the bottom of the class when it comes to funding increases throughout the states and territories of Australia. Members opposite should hang their heads in shame for misleading the South Australian community in the way they have on these fundamental matters. Mark my words: from about the middle of next year they will been running around waving all these carrots in front of the community, but in the meantime they are putting the community through horrendous situations. Even at a local level, I can refer to things happening in Onkaparinga that disappoint me in relation to this government. Bus shelters, for instance, are essential.

The Hon. M.J. Atkinson interjecting:

Mr BROKENSHIRE: I will not forget the crime prevention program which the Attorney-General has just raised, nor will my constituents. I hope the Attorney-General has fought around the cabinet table and said, 'We made a mistake on crime prevention and we will reinstate those funds on 27 May.' Fundamental basic items such as bus shelters have been written out of this state government's agenda. In Mawson, the only form of transport for some people is public transport, and they are now expected, in the hot blistering sun, the rain, the hail and the stormy weather of winter, to stand and wait for a bus without any shelter. The City of Onkaparinga should not be expected to provide these services which are being cut by this mean-spirited government.

I now refer to crime prevention. Why is street crime increasing, as the member for Enfield highlighted on the weekend and as was illustrated on Friday in the media? It is because crime prevention programs are being cut and there is a lack of resources for and attention to the police. We must have a holistic strategy to justice and, sadly, this government has gone for the knee-jerk reaction, perception-type strategies rather than real strategic planning when it comes to law and order.

I refer also to land development. We have an appalling situation at Aldinga at the moment. We saw this state government being very quiet and at times trying to push the blame for the protests and concerns onto the council. The council was hamstrung in the way it had to go about managing the development. To give credit to the council, it negotiated with the developers to try to get a fairer deal for the local community down there. But the government has failed on two

counts. First, only last year the government completed a review into signing matters to do with the greater Adelaide metropolitan area, something that was started by the Hon. Diana Laidlaw when the Liberal Government was still in office. Again, it failed badly on this, because that development area around Aldinga clearly should have been part of that review. The government signed off on the review last year, yet it has now placed a 12-month moratorium on further development because it missed the fundamental requirements of important areas such as Aldinga. I support that community for challenging this government and asking why that was not considered while the review was taking place, because most of the problems would have been fixed if it had been.

We are also seeing very little, if any, commitment from the government to services in that area—in fact, the only commitment has been to put pressure on the developers to provide some land for a health community services facility at some stage in the future. In the meantime, if people in the Aldinga/Sellicks area want to see a doctor or someone to do with health and community services, when they contact the government they are told, 'Go to Seaford.' That is an appalling answer to these people, who work hard and pay their fair share of taxes and charges, and who are seeing huge developments in the area but are not being provided with the appropriate resources.

It is time that this government started to realise that it has erred and that it should provide some resources. I want them there first and foremost for my own electorate of Mawson, because we are also copping pressure as a result of the lack of resources this government is delivering in that area. Our schools now have to be zoned because they cannot handle the increase in numbers, but the government has no real plans for another school in the Aldinga area.

We still have serious problems with respect to youth unemployment. Again, the government, being media savvy, has made a lot of comments about 'by 2020 or 2030' (which is where most of its planning is), which is totally non-tangible because no-one can quantify what will happen in 2020 or 2030. Of course, that way, it does not have to be accountable. It is saying, 'We are going to bring more skilled migrants into South Australia' but, at the same time, it is saying that we are seeing significant problems with respect to youth unemployment. I would have thought that the first priority for employment and for a prosperous state would be to focus on our existing youth, who badly and urgently need jobs in the youth area.

I hope that the government will see the errors of its ways in this next budget period. But, government members have been so dogmatic about a AAA rating (a AAA rating, I might add, that this Labor government lost), they have been so focused on things such as that, they have forgotten the very important heart of any government, which is delivering the services that a community expects any government of the day, no matter what colour, to deliver.

Former premier John Olsen reminded me of that when I was a minister in his ministry. We had been delivering a lot of new police stations, fire appliances and fire stations: we had been growing a lot of the areas within the portfolios for which I was responsible. He said to me, 'Robert, don't expect people to vote for a Liberal government because you are delivering those things. They are the very things that the community expects the government of the day to deliver. What they want to see is a vision and a future which is strategic and which will deliver more for South Australia.' At the moment, all we are seeing from the Rann government is a plastic facade with no substance behind it. We are now seeing trend indicators that, by the next election (and, certainly, soon after it), will show South Australians that this government has not been capable of delivering and does not deserve to be kept in office. The challenge for us as an opposition is to get the true facts out there and to stop the facade and misrepresentation of figures that the Rann government has delivered to this community on an all too regular basis.

Time expired.

Mr RAU (Enfield): I begin by saying how humbled I am by the compliments that have been paid to me by the member for Mawson. I am genuinely moved and touched by his kind thoughts and remarks. I will carry them with me. I thank him very much for those very kind words. I in fact was so impressed with what he had to say that I am going to start off with talking about the meeting of which he spoke, which was part of the government's community consultation process which is going on.

We had a meeting which over 100 members of the public attended. They gave up some time on a Saturday morning and the meeting was organised in response to community requests. I am happy to say that the police superintendent for the area, Superintendent Lewis, was present. Superintendent Lewis, before the honourable member leaves the chamber, had some marvellous news—and that is contrary to the member for Mawson's view—that crime has actually been decreasing in the area over the last couple of years as a result of the efforts of the South Australian police. I think that is a marvellous bit of news. Of course, things can always get better. As a result of the community getting out and speaking in the way it has I feel confident that Superintendent Lewis and his very able team will be out there doing an even better job than they had been doing. Congratulations to them.

Also, minister Weatherill, who is new in the job as housing minister, was there to listen to people, and he gave the people the good news that he already, in the short time that he has been minister, embraced some of the recommendations of the select committee report on disruptive tenants. That was very warmly received, I can tell you, by the people who were there. They were very pleased to hear that and, indeed, he got several rounds of applause.

All in all, it was a great meeting, and it is part of the government's program of community consultation. We are out there at the grassroots. We are inviting members of the public to come and speak to ministers. I am going to have the Attorney-General out again. He has already been out in my electorate once and he is going to come out again, I hope. He is a great favourite. The Attorney is a great favourite with my constituents, because he is happy to get out there and have a talk to them and listen, more importantly, to what they have to say, and that is what we have been doing. So I am very happy with that meeting, and I am very pleased that the member for Mawson was happy with it too. The only sad thing about it, of course, is that policies of previous governments have created some of the problems that we are now having to fix up. But, anyway, I was forced into a slight diversion by the very warm remarks made by the member for Mawson, and I will now return to the point I was going to make before he got up.

When we are considering the issue of supply and the budget in South Australia we have to bear in mind that only a relatively small proportion of the monies that the state is called upon to spend in any given year are actually generated

within the state. That is a result of the federal system in which we live and the fact that under the constitution the federal government has preserved to it the bulk of the revenue-raising powers and, if my memory serves me correctly, approximately two thirds of our funds are raised from commonwealth sources, as opposed to domestic revenue raising measures.

This underlines the fact that relations between the commonwealth and the states are extremely important and commonwealth/state relations in my opinion are really the important relationships that this state needs to focus on in the next decade or so, if we are to ensure that we have a decent future as part of the federation and, more particularly, that people who choose to live and have families in South Australia have opportunities sufficient for them to warrant staying in South Australia in the long term. Prosperity really is the keystone of what we need in the future of South Australia, and that means growth and it means jobs. It means opportunities for our children, so that they do not have to leave South Australia in order to get employment that is meaningful for them.

I congratulate the state government for its initiatives in relation to developing strategies to increase the population in South Australia. I agree with the member for Fisher's observations that we need to make better use of the people who are already here. I agree that the people who are in the 50-plus age group are often ignored in policy and they need to be brought into the process, because they have a contribution to make. That said, we do need to have a population growth strategy and we also need to look at the possibility of reducing the median age of the population in South Australia. We are already, I believe, the oldest state in Australia, and we cannot allow that trend to continue indefinitely.

This can be addressed in two ways, the first of which is immigration, and that can come from either other parts of Australia or overseas. To the extent that it might be derived from other parts of Australia, having jobs and a vibrant economy in South Australia is the key. In a sense, this is a reversal of the strategy that we have seen employed over the past few years where people have actually left South Australia to go to Queensland or Western Australia or wherever.

The second aspect involves overseas migrants who might wish to come to this country. Unfortunately, these people have tended to swell the outer suburbs of Melbourne and Sydney in such a way that we have heard Bob Carr speak on many occasions about the fact that Sydney is full and does not need to get any bigger. South Australia has all the infrastructure of a major city, and it is a shame to see that not being properly utilised when the people of New South Wales are seeing their capital city expand willy-nilly with the added expense of building more infrastructure, even though they can afford it.

It would be far better if we had a scheme where people who want to come to this country (skilled migrants in particular) were ushered towards the regions of South Australia. I am strongly in favour of a policy to attract talented and particularly younger people from within the commonwealth to come to South Australia, to get people who have left South Australia to come home, and to focus migration from overseas (particularly skilled and business migrants who want to come here and set up a business and make a contribution towards the vitality of our state) in South Australia. I applaud the policies which the state government is pursuing in that regard.

Another matter that needs improvement in respect of our population—in particular, to reduce the median age of the population—is the birthrate in South Australia. Our birthrate problem is not unique to South Australia, it is a national problem. It relates to the very important fact that federal tax policy discriminates against families with children, and it does this in a very pernicious way. A young man who has a high-paying job and his only commitments are to a sports car and his lifestyle pays exactly the same tax as a young man with a family of perhaps a number of children and all the expenses associated with that.

Mr Hamilton-Smith interjecting:

Mr RAU: Something needs to be done to put more money into the pockets of those families. I am not so interested in seeing tricked up policies dealing with childcare or any of these other things because a lot of the time they miss their target. I would much rather see families being given an opportunity of getting more money in their pockets so that they can make their own decisions and look after themselves. The commonwealth should look seriously at lifting the income-tax burden from families with children. Many people in my electorate who are employed find it hard to care for one child let alone two or three because on a modest income they cannot afford today's cost of living.

Something else that I think we should consider is the fact that there should be a coordinated national development policy which contemplates the regions having a special role to play. I have already discussed the importance of immigration policy and targeting regional Australia—I accept that South Australia is part of regional Australia these days. I think we need to look at the better use of the infrastructure that we have, but we should also look at national infrastructure development programs, some of which might involve the defence industry. South Australia is already a hub for the defence industry. It would be of great benefit to the whole of Australia (not just to our economy) if federal government initiatives in relation to defence infrastructure started to focus on places such as South Australia to add increments to the hub that we already have here. It would bring skilled jobs to South Australia and improve the profile of the state in many of the industries which will shape developments over the next 20 or 30 years, for example, technology-based industries such as science and electronics, etc. That is another area where the commonwealth could do a great deal to assist us.

Something else that I think the commonwealth could do to assist South Australia's development would be to recognise that the national interest in a viable South Australia—a growing, productive, healthy South Australia—is a far bigger and more important issue than the blind application of economic theory. By this, of course, I return to my favourite topic: national competition policy. South Australia, like the other regions of Australia, is always the poor relation when it comes to national competition policy. The professors put on their hats and come out with all these theories and produce all these reports. What happens as a result of that? I will illustrate what is going on with one very current example.

We recently entered into free trade negotiations with the United States; whether that ever becomes law in either of the two countries concerned remains to be seen. However, let us assume that it does, and let us also assume that Mr Vaile's trumpeted benefits of this thing turn out to be broadly on track. We still have a situation where the federal government, in negotiations with the American government, effectively destroyed the sugar industry in Australia. At the same time, the big benefit of that free trade deal that was sold to farmers

around Australia—aside from the sugarcane farmers, who are difficult to satisfy, but I will come to that in a minute—was that the government has protected the single desk for wheat and barley. The sugar farmers missed out, but the wheat and barley chaps did very well, because the government saved the single desk marketing arrangements.

Everyone knows that Australian primary producers, many of whom live in South Australia—the member for Giles, for example, has many primary producers in her electorate, and those opposite have even more—do not rely on subsidies from government, unlike their counterparts in the United States, Japan and the European Union. These people rely on the fact that they are efficient, intelligent and they organise. They organise through the marketing arrangements, which are known as single desks. Quite reasonably, the government has protected those in the free trade arrangements with the United States, and I applaud that to the extent that that is, in fact, the case. However, the bizarre twist to all of this is that the same federal government, in what can only be described as an exercise in schizophrenia, is using federal national competition payments to try to destroy the barley single desk. The federal Treasurer is penalising South Australia $3 million a year for every year we have the impertinence to retain the single desk, which is assisting primary producers in South Australia, many of whom are continuing to vote for those opposite, although I hope they wake up to themselves and realise what the consequence of that is.

These individuals are being penalised by the government's domestic policy in circumstances where the government has just trumpeted that saving their single desk is one of the great benefits of the free trade deal. I just cannot work this out. Either I am completely missing the point—and I have asked a few people, but no-one has been able to point out where that is—or the government is playing two completely contradictory agendas with our farmers: one that says, 'We're looking after you,' and the other which says, 'However, we're going to take away the very thing we promised to preserve.' What an outrage! The cost to the federal government of leaving the barley single desk alone, according to national competition policy guidelines, is $3 million per annum. For the federal government, $3 million is a drop in the bucket. However, for the South Australian government, it is a much more substantial impost. I assume the federal government is going to continue penalising us until we buckle under and give it what it wants, which is ruining the single desk.

Of course, the farmers do not want this; I can tell you that for sure. The bizarre thing is that the federal government is taking $3 million per year away from us in order to lever us into a position where we destroy the single desk, yet they are prepared to give $450 million to sugar growers in Queensland because they have destroyed their livelihood through a free trade deal. Why is it that sugar growers are worth $450 million a year and barley growers in South Australia are not even worth $3 million a year?

The only answer I can come up with is this: there are seven or eight marginal coalition seats sitting up the east coast of Australia that the federal government is petrified it will lose at the forthcoming election if it does not do something to buy off the legitimate anger of the sugar farmers. They have decided that they have to fork out money to save the sugar farmers, but what is the federal government doing for our barley farmers? They have obviously decided that they have not got the wit to work out that the people who represent them in Canberra are actually dudding them. And they are going to continue to dud them until the farmers stand up and make their voices heard and make it clear that they are not going to accept being dudded, having their single desk taken from them, in situations where the government can afford $450 million for a group of sugar farmers in Queensland. It comes down to this: how many marginal seats in South Australia are going to be affected by barley? The answer is probably one. And will it make enough difference? Probably not.

The Hon. M.J. Atkinson: Which one—Wakefield?

Mr RAU: Wakefield. This is the point. I encourage all of those opposite who represent these people to ring up their federal colleagues and tell them to back off. The thing I am looking forward to seeing is this: that all of the victims of national competition policy, past, future and present, get themselves together and instead of being picked off one by one and squawking one by one and being ignored one by one, they put themselves together.

I can presently conjure up a coalition of people who have a common interest in seeing a serious review of national competition policy. The barley growers of South Australia; the Australian Hotels Association who are having their liquor licensing laws reviewed at the present time by the National Competition Authority; the Pharmacies Guild, who are having their position reviewed by national competition policy; newsagents, who are sitting on the list of people who might be picked off, although they have got a very large protective hand held over them presently; professional associations—perhaps surgeons should be thrown up so that anybody can be a surgeon if they feel like it; and, of course, let us not forget the milk vendors. The deregulation of the dairy industry—what a great success that has been for milk vendors, an outstanding success. Coles Myer and Woolies are doing very well out of that. What has happened to the farmers and the vendors? Well, ask them. They will tell you.

In this context I was absolutely surprised, I have to say, to read in *The Weekend Australian* of April 24-25 the article on page 8, which starts with 'Costello orders more competition reform'. I thought, 'You're joking, surely not, surely we've had enough of this.' But, no. It states:

> The Howard Government has renewed its commitment to economic reform. . . [in a] far-reaching review of national competition policy. . . Peter Costello has ordered the Productivity Commission to chart new directions and bring new life to economic reform.

Well, goodness me, when have we had enough? How much do we have to have before we have had enough? Even a good thing you can have too much of. This is not a good thing; it is an appalling thing. But we are still going to get more of it, according to Mr Costello. And Mr Costello apparently describes those who have the temerity to disagree with him as being 'populists' and 'regional constituencies'. Well, goodness me. I am happy to plead guilty on both if that is what I have to be called, because what is wrong is wrong is wrong; I do not care what you call me. Now, God only knows what is going to come out of this further inquiry. Haven't they done enough? I suspect not. They will keep going.

So, anyway, back to the main topic. We have real issues here about the future of this state. The state does not have a revenue base sufficient to solve all those issues itself and we are going to require a cooperative arrangement with the federal government. I agree with the comments made by the honourable member for Fisher that there needs to be some greater integration between the needs and responsibilities of the state and the revenue base provided to the state in order to achieve those needs. We also need to have a federal government which appreciates the need to look after the

regions and, more importantly, to look after the important economic interests of the regions, and what greater example can we have than what they are doing to our barley farmers? Compare that to what the sugar industry is getting away with in Queensland.

I do not mind the fact that they are looking after the sugar industry. After all, they have gutted it in the free trade agreement. It is fair enough that they do something for them, although $450 million sounds pretty generous to me. I understand why they are doing something because they have got eight marginal seats, but what I want to know is: why can't they afford $3 million a year for our barley farmers? What is wrong with our state? Why can't they look after us? We have to raise the profile as far as the relations between the commonwealth and the states are concerned. I look forward to a change in government later this year in Canberra where we will see a far more cooperative approach.

Mr HAMILTON-SMITH (Waite): The context of this Supply Bill must be one of great joy for the government. It did so after two years of national economic growth, having taken over a state budget in fantastic shape, having taken over a state economy that had seen a remission in debt from nearly $10 billion to $3 billion and with Standard and Poors giving us a AA+ rating and saying, 'The reason you are doing so well is that you sold ETSA and you got rid of that debt. Well done.' The government must sit back at party room meetings and say, 'Could it get any better than this?' As well as that, John Howard has delivered them the lowest interest rates in 30 years and the lowest levels of unemployment in about 40 years. This government has inherited an economic dream. That is the context of this Supply Bill before us.

What has the government done? It has said, 'Let us rape the taxpayer. Let us get in there; let us ratchet up the taxes. I know we promised not to increase taxes and charges, but let us milk the cow,' and that is exactly what it has done, because the mid year budget review last month showed that total state taxes for 2003-04 had soared to an estimated $2.653 billion. In just two years, the Labor government had stolen from South Australian taxpayers an additional $459 million of tax, an increase of 21 per cent. Members only need to look at the tax base from 1998 through to 2003-04 to see the extent of the damage. It has come in many forms.

Let us forget about the promises that were made by the Treasurer and the Premier prior to the election. The simple one in writing to the hotel industry was, 'We will not increase your poker machine taxes,' and that was followed by a complete about face. Frankly, that promise turned out to be untrue. We will see for some time to come the results of the signal which that sends to business.

I refer to property taxes. In the last two years, property owners have been slugged a massive $200 million in increased property taxes such as land tax, stamp duty and the emergency services levy, for which the Labor Party gleefully voted. No new taxes, no increased taxes—that was the promise. Now we have a situation where property owners in Bowden, the poor people about whom my colleague and friend was speaking earlier, and low income families in suburbs such as Bowden, Newton, Munno Para West and Edwardstown, where the value of a home might be between $200 000 and $300 000—they are not wealthy people—are being slugged. These are the people who are paying more of these property taxes.

In addition, Labor said, 'Let us have a tax on water.' Why do we not have a tax on sunshine in this coming budget? That would be nice: it would probably raise some extra revenue. We have increased the gaming taxes, the mining royalties and a range of charges—water rates, bus fares and housing trust rents—so why not have a sunshine tax? There is also the $230 million GST bonus that the Labor government in this state has received from the federal government's GST—the one about which none of the Labor state governments are complaining and the one from which Kim Beazley wanted to back-pedal. This Labor cabinet must sit there and count the sheckles coming in—that one being $230 million.

On top of all this extra taxation, we have the big bonus from Canberra. We can talk about competition payments. Remember that it was the Keating Labor government that had the great idea—and I commend them for it—of setting the nation on the road towards being more competitive. On top of all that taxation, we have this GST bonus. What a story it is—$2.653 billion worth of additional revenues.

But, of course, there are risks going out into the future and there are challenges, and we are starting to see some of those challenges take shape. We are getting reports that the average wages of state employees—the poor people, the poor workers mentioned earlier—have fallen by 5.2 per cent in the past 12 months as part-time work increased relative to full-time jobs. The economic briefing report of the South Australian Centre for Economic Studies pointed to a further slowing in household spending during 2004 due in part to record high debt levels. So, we have inherited economic sunshine; we have inherited a state economy in fabulous shape; and we have been helped enormously by the fantastic efforts of an economically sound federal government, but what have we got? Workers' wages are going down and household debt is going up.

There are some risks, and the Labor caucus room ought to start thinking about those risks. I put to the house that it might take only a one or two per cent increase in interest rates to completely take the wind out of the sails of this economy. I put to the house that it might be the housing boom and the low interest rate credit-fuelled retail splurge of the past two years that is actually keeping this economy afloat. I put it to the house that on the surface things may appear to be well, but is this government using this windfall revenue that it has accrued to change the settings of this economy; to make hay while the sun shines; and to actually redesign and transform this economy for the future so that, when the good times end, when the property boom is over, when the interest rates go up, we are actually structured for growth? But we are not, are we?

We are all desperately concerned about Mitsubishi. Fauldings have left town, Southcorp has been taken over, and now we hear of Electrolux closing jobs and moving out. The tide is going out—businesses are leaving the state. And have we had any great strokes of genius from this government on unemployment? The former government was criticised for attracting to this state Motorola, EDS, and the Westpac call centre—all those great job creation initiatives. But, that is now called corporate welfare and the government is trying to turn the clock back. 'Wouldn't it be great,' says Labor, 'if EDS, Motorola and the Westpac call centre were not even here.' Under Labor's economic settings they never would have come: it would have been called corporate welfare.

If any member can name one major employment initiative from this government in the past two years I would be happy to hear the name of the company that has been attracted here by this government's brilliant economic policies and by its brilliant application of all these taxation revenues to establish

a foundation for the future. Instead, we hear the ABS confirming that South Australia is now at the bottom of the pack in small business. We are hearing that not only is it at the bottom of the pack but that it is so spectacularly at the bottom of the pack that it is an embarrassment. We have the ABS confirming that in the past two years the number of small business operators in South Australia is down by 13 per cent. The national average is 0.4 of one per cent—less than half. For female operators the number of small businesses has decreased by a quarter.

I ask the house: what has changed in the past two years under Labor that has made it so difficult for small business and has caused this dramatic contraction in the number of small businesses? Is it Labor's increased taxes and charges, of which I have spoken? Is it Labor's increased WorkCover costs? Is it Labor's proposed industrial relations changes that will set the clock back to the 1960s and 1970s? Is it Labor's downsizing of the department responsible for small business from almost 300 people under the Liberals to fewer than 100 people?

Is it the fact that we have had four ministers for small business in two years? I think that it was going to be the Premier, that was the election promise; then it became the member for Adelaide. But, no, she was no good, 'We will give it to the member for Mount Gambier', and now the minister responsible is in the upper house. Or is it the fact that this Labor government is yet to appoint a CEO for the department responsible for small business. Here we are, almost 2½ years on, and we still do not have a CEO. Is it Labor's removal of industry funding—its fabulous 'hands-off' approach?

I just ask the government to explain the reason for this dramatic decrease in the number of small businesses in this state because, guess what? Over the same period across the border in Victoria the number of small businesses actually increased by 6 per cent. That is a 20 per cent difference between us and Victoria. What is Victoria doing right and what are we doing wrong? That raises an interesting question: what are the Victorians doing right and what are we doing wrong? Interestingly, the Victorian government recently announced budget initiatives, which included a 10 per cent cut in WorkCover levy rates.

Our government has increased WorkCover levy rates. In fact, WorkCover is in total chaos. There is a massive funding blow-out there. In less than 18 months under Labor, WorkCover's unfunded liability has blown out by $500 million to $591 million as at 30 June 2003. So, WorkCover is in fantastic shape! I think that, at the moment, we have the highest WorkCover rates. That is pretty good. Victoria has decreased its rates by 10 per cent compared to the Rann government's 22 per cent increase last year.

Victorian businesses are going to pay a levy rate of 1.99 per cent compared to the South Australian rate of 3 per cent—as I mentioned, the highest in Australia. But it does not end there. The Victorians are introducing a $1 billion cut in land tax collections resulting from land tax rates being progressively cut from 5 per cent to 3 per cent compared to South Australia's top rate of 3.7 per cent. In addition to that, the tax-free threshold for small businesses has been further increased to $175 000 compared to only $50 000 in South Australia. Maybe these are the reasons why the number of small businesses in South Australia is in free fall and why we are dragging the nation down.

Of course, all these changes are in addition to the existing payroll tax advantages enjoyed by Victorian businesses, with payroll tax of 5.25 per cent compared to 5.67 per cent in South Australia. The unexpected boom in South Australia's property tax receipts and the higher than expected GST bonus (as I mentioned of $268 million) means that there is the capacity for some targeted relief for South Australian businesses in this budget, and particularly for small business. Of course, this economic brilliance that we are seeing in South Australia that has small businesses in free fall and under stress could easily become a national phenomenon if Labor were to win the next federal election. Then these brilliant Labor economic policies could be applied right across the nation.

Perhaps they, too, could have a 13 per cent decrease in the number of small businesses right across the nation. Wouldn't that be wonderful! Perhaps we could go back to the days of billions and billions of dollars of debt. We had Beazley's big black hole and then, of course, we had Labor governments in Victoria under premier Cain, Western Australia and here. Maybe they could run the budgets into chaos like they did in the 1980s and 1990s. Small businesses across Australia and South Australia need to be aware of what a federal Labor government would do if it came to office. A wide range of policies would be imposed upon business dictated to the Labor Party by the ACTU, which would include:

- Forcing small businesses to make redundancy payments for the first time in 20 years.
- Supporting the union push to extend redundancy payments to casuals.
- Encouraging trade unions to drag small businesses into costly and time consuming arbitration in the Australian Industrial Relations Commission.

We already have the Industrial Relations Commission saying that we will have a compulsory union bargaining fee imposed upon businesses, including small businesses here, so that workers will have to pay $800 for the privilege of having a union of which they are not a member represent them in negotiations. Of course, a Labor government will introduce a national payroll tax to pay for portability of employee entitlements. Mr Latham will be opposing reform of the Trade Practices Act to cut the cost of public liability insurance. He will be opposing legislation to allow the ACCC to protect small businesses from unlawful, secondary boycotts and intimidation by militant trade unions. He will be abolishing Australian workplace agreements and the flexibility they give to employers and employees. We already see that coming in the new industrial relations legislation, the Fair Work Bill coming forth from this government.

Mr Latham will allow union officials right of entry into small businesses, including home-based businesses, regardless of the wishes of the employer and employee. We may as well copy the Fair Work Bill and send it off to every other state. Federal Labor will force small businesses to give workers on maternity leave the right to return to work part time up to five years after the birth of a child. That would be great if you had a small business with one or two employees.

A federal Labor government will discriminate in government procurement contracts against small businesses that do not take a so-called 'positive approach' to the 'rights of unions'. A federal Labor government will introduce a payroll tax of 5 per cent on adult workers earning less than $21 000 per annum. A federal Labor government will allow unlimited strike action without secret ballots. It will abolish the R&D tax concession. It will force small business to provide portability of leave entitlements, such as holiday leave loading, sick pay and long service leave. It will force small

business to extend the portability of these entitlements to casual employees. It will increase from 9 per cent to 15 per cent the superannuation contribution from small business.

Federal Labor, if elected, will introduce a national insurance scheme for employees' entitlements, funded by a national payroll tax of 01 per cent—a disincentive for small business to hire more staff. Federal Labor will force small business to pay contract workers long service leave, sick pay and holiday pay. Mr Latham will support new union demands for a week's carer's leave and for small business to provide aged-care services in the workplace.

We must be dreaming. Where did Mr Latham get this drivel? It was at the same union general meeting at which this state Labor government got its industrial relations policies—the same union movement that dictates almost all that comes forth from this government.

The context of this Supply Bill is one of both optimism and caution. We have got reports coming out that small business owners are working longer hours than ever before, often for little gain. We have reports from reputable organisations indicating that 58 per cent of business owners are working more than 50 hours a week—twice as many as shown in 2001.

This government needs to think carefully about its stewardship of the economy and state economic development. In two years of bountiful economic times not much of substance has been done. We are riding a property boom and a credit-fuelled retail boom that will soon end. We face a number of challenges that may strike like a bolt of lightning. We have wasted two years in which we could have reorganised and transformed this economy for the future. We could have made our industries more competitive. That is what this money and this Supply Bill should be used for.

Ms CHAPMAN secured the adjournment of the debate.

ADJOURNMENT

At 10 p.m. the house adjourned until Tuesday 4 May at 2 p.m.