HOUSE OF ASSEMBLY

Tuesday 20 September 2005

The SPEAKER (Hon. R.B. Such) took the chair at 2 p.m. and read prayers.

SITTINGS AND BUSINESS

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

That the sitting of the house be continued during the conference with the Legislative Council on the Statutes Amendment and Repeal (Aggravated Offences) Bill.

Motion carried.

MODBURY ROUNDABOUT

A petition signed by 136 residents of South Australia, requesting the house to investigate all reasonable means of urgently improving the safety of the roundabout located adjacent to the Tea Tree Plaza and Modbury Public Hospital, particularly, the installation of traffic lights, was presented by Ms Bedford.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Premier (Hon. M.D. Rann)—

Disciplinary Appeals Tribunal—Report 2004-2005

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

Animal Plant Control Commission—South Australia—Report 2004

By the Minister for Employment, Training and Further Education (Hon. S.W. Key)—

The University of Adelaide—Report 2004—
Part One Annual Review
Part Two Financial Statements

By the Minister for Administrative Services (Hon. M.J. Wright)—

Regulations under the following Act—
State Procurement—Exclusions

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

Regulations under the following Act—
Veterinary Practice—General.

EYRE PENINSULA BUSHFIRES

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

Leave granted.

The Hon. M.D. RANN: The Lower Eyre Peninsula bushfires on 11 January 2005 were the worst in South Australia since the 1983 Ash Wednesday fires. In addition to the horrific loss of nine lives, the bushfire caused extensive property damage and the loss of livestock. Seventy-nine dwellings were completely destroyed; 26 dwellings were extensively damaged; about 46 500 livestock were lost; 1 576 kilometres of fencing was destroyed; and a large number of farm and business equipment, tools and buildings were destroyed. The bushfires left a huge wake of damaged lives and livelihoods.

The government of South Australia was determined from the very beginning that the recovery effort on the Peninsula would be swift and targeted to meet the needs of victims. I did not want red tape to impede our efforts to do the right thing for the people of Lower Eyre Peninsula. On 12 January 2005, the day after the fires, I immediately approved an assistance package of $2 million, which was trebled to $6 million on the following day. A duty cabinet minister was appointed to be present at the fire scene during the recovery phase, and that duty minister had full cabinet authority to make whatever decisions were required to meet the needs of victims and the community generally.

A hotline was established by 9 a.m. on 12 January to provide information on emergency financial assistance, rural assistance for stock assessment destruction and disposal, and other inquiries that could be fast tracked to government officers for assistance. A recovery committee was established, headed by Sue Vardon, Assistant State Coordinator (Recovery) under the Emergency Management Act, and a local recovery committee was established in Port Lincoln headed by Mr Vince Monterola.

Both committees involved all relevant government agencies and non-government agencies and provided an invaluable service in coordinating recovery operations. Two recovery centres were established on the Lower Eyre Peninsula—one in Port Lincoln and the second in Cummins—as a one stop shop for individuals and families seeking help. Since the fires, Sue Vardon has commissioned an inquiry and report into the effectiveness of the recovery effort, and I table that today. The inquiry involved, amongst other things, interviews with local community leaders and found, in summary:

1. The recovery operations were well managed and covered the range of individual and community concerns from immediate emergency assistance and housing to farm services and environmental impacts to mental health services and small business support.

2. The recovery process was under way very quickly, and the level of cooperation between agencies was excellent.

3. Government agency staff in both Adelaide and Port Lincoln worked tirelessly to ensure that assistance reached those in need, services were restored and the community helped to get back on its feet.

4. The South Australian government was seen to be clearly leading from the front, dealing with the issues and demonstrating a willingness to provide all possible assistance to the local communities.

A tangible demonstration of the support was the appointment of the duty ministers and the regular personal contact with affected people in the towns and on farms. The decision to deploy a duty minister based at Port Lincoln was effective and well received. It reinforced the government's commitment to the recovery operation, provided first-hand experience of the impact of the disaster on the community, facilitated appropriate targeting of assistance and meant that workers on the ground had access to the decision makers. The report notes that this meant that 'solutions were developed quickly and implemented immediately'.

The positive findings in the inquiry are reinforced by the findings of Dr Bob Smith, whose independent inquiry into the fires was released yesterday. Dr Smith concluded that the approach provides a 'best practice model for the management of the recovery process'. In particular, he found:

The early intervention of the whole of government approach in managing the recovery process, with the leadership provided by an

on ground minister of the South Australian government, acting with the authority of cabinet, greatly assisted in delivering timely and positive recovery results for individuals, the community, businesses and the environment.

He went on to say:

The whole of government approach, strongly supported by a wide variety of community-based welfare and service organisations, and sustained over the longer term, provides a best practice model for the management of the recovery process.

The inquiry and report commissioned by Sue Vardon is not about self-congratulation. Its purpose is to identify what worked and what could be done better. We must as a community learn from our experiences so that we can improve on our delivery of assistance in times of emergency.

The recent disaster in the United States demonstrates that we have to be prepared to deal with natural disasters. To fail to do so has tragic consequences for families and communities. Governments and government agencies must be ready to meet basic human needs in times of disaster and to help those affected re-establish their lives. An important lesson identified in the report is the need for the accurate collection and recording of information from victims when the first approach is made for assistance and that this information is available to those agencies providing ongoing assistance—subject, of course, to privacy considerations.

The timely recording of personal information means that victims have to tell their story only once. This is fundamentally important. Victims should not be subjected to re-telling the trauma over and over again in order to secure assistance. They should not be made to feel that they need to plead their case repeatedly.

We can also do better in our management of volunteers—who, I should say, who did a brilliant job in dealing with the aftermath of the bushfires. Many hundreds of people from across the state volunteered their services to aid the rebuilding of the local community. Our experience has demonstrated the need for a management system to accurately log tasks, to assign the tasks to individuals and track progress to completion. This will minimise the risk of duplication or, worse, overlooking tasks. In conclusion, today I want to record my appreciation of all those who contributed to the success of the recovery effort: the volunteers, the public servants, the non-government agencies, the minister and the local member. I table the report and commend it to the house. Copies are available for all members.

QUESTION TIME

EYRE PENINSULA BUSHFIRES

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport, representing the Minister for Emergency Services. When did the minister first become aware that the Wanilla brigade captain had requested aerial support to control the Eyre Peninsula bushfire on the Monday night? A couple of days after the fire, members of the opposition were briefed in Port Lincoln by the CFS and told there had been no request from CFS volunteers for aerial support on the Monday. Page 32 of the independent report on the Eyre Peninsula bushfire states:

Around 6 p.m. the Wanilla brigade captain requested via the incident controller access to the CFS contracted aircraft to perform water bombing.

The Hon. P.F. CONLON (Minister for Transport): I am not the minister representing the Minister for Emergency Services, but, given that I was the minister at the time, I will take the answer.

Members interjecting:

The Hon. P.F. CONLON: Listen to them. They are getting into the CFS here. They cannot hide from it. Let me tell members this—

Mr WILLIAMS: I rise on a point of order, sir.

The Hon. P.F. CONLON: Don't ask your curly questions if you don't want an answer!

Mr WILLIAMS: The minister is clearly trying to debate the question. The question was directly to him: when did he first know? When did he first know?

The SPEAKER: Order! The member for MacKillop does not have to repeat the question. The minister should address the question.

The Hon. P.F. CONLON: Well, I will answer it—if they will stop interjecting. It is a very serious question and it affects lives—so why don't members opposite just shut up for a second, just for once. This question affects people's lives. This goes to the confidence in the service. It goes to such a range of issues and they play cheap politics—

The Hon. DEAN BROWN: I rise on a point of order, sir. We have standing orders—

The Hon. P.F. Conlon: Well, stop interjecting!

The Hon. DEAN BROWN: —and the minister needs to comply with those standing orders, as well as everyone else. I ask you, sir, to make sure the minister does not debate the question.

The SPEAKER: Order! The deputy leader does not have to give a lecture. The Minister for Transport should answer the question, not debate it.

The Hon. P.F. CONLON: I am more than happy to answer the question, if they would stop interjecting for just a second.

An honourable member interjecting:

The Hon. P.F. CONLON: He reckons it is funny—go on and laugh. Let me tell members that I was there, too. The briefing I got from Euan Ferguson, a man whom I trust completely and who has done a great job for this state, was that aerial firefighting capacity had not been requested. In fact, as I recall, he went on to say that it had been offered and refused. Now I will check that for members.

However, I point out that Bob Smith's report indicates that that request was not passed on to headquarters. That report was not passed on to headquarters, so, as far as I am concerned, the briefing I received was absolutely correct, and I stand by the people who run the service. Unfortunately, question marks have been raised about why that had not been passed on to headquarters, and that is something that is of concern. However, my great concern is—and we will go through—

An honourable member interjecting:

The Hon. P.F. CONLON: Look, they do not want to talk about this. Every time they raise this issue, it goes to the CFS in this state. What has happened is that a volunteer organisation appears to have a breakdown—and those people are entitled to some natural justice—somewhere along that line of communication and it did not get to Adelaide.

I will say a couple of things. First, there is no indication that it would have made any difference—and people should not parade that story out, because it will hurt people on the peninsula. Secondly, there is a greater risk to this community than a breakdown in lines of communication in a volunteer organisation, and that greater risk is that those 16 000 volunteers do not turn out in future. Before we start going through

this place, let us ensure that what we do politically does not damage what is an organisation that has given tremendous service to this state for years. I will tell—

Mr Brokenshire interjecting:

The Hon. P.F. CONLON: You have heard what I was told—and no doubt you will be doing this in the upper house, too—but I plead with members that we do not have a witch-hunt into the CFS. Those 16 000 volunteers have to keep turning out for the safety of this state.

MENTAL HEALTH

Ms BEDFORD (Florey): My question is to the Minister for Health. How is the government improving mental health services for South Australians?

The Hon. L. STEVENS (Minister for Health): I am delighted to answer this question because we have a very proud record starting from a very low base. Where did we start in 2002? We started with a dysfunctional system which was left in a mess, with a damning review into mental health services (a report commissioned by the deputy leader in the former government) putting it all on the record. The report card commissioned by the deputy leader of the performance of the mental health system under the previous government, after seven years in office, found that the system was completely dysfunctional. There was no vision and leadership. It was ambiguous and confusing, with unproductive structures. A system that was failing, a capital works program that had stalled, with no real progress—

Mr BRINDAL: Mr Speaker, I rise on a point of order. According to standing orders, in answering a question, ministers are required to address the substance of the question. The substance of the question was: what is this government doing, not what did the last government do or not do.

The SPEAKER: Order! The minister has some latitude, but she is not to get into general debate.

The Hon. L. STEVENS: We had a capital works program that stalled, with no real progress on community services. We had a system that had failed not only clients but also the talent, commitment and skill of the men and women who work in the mental health services. This is from where it all started. I am sure all of us can remember the Margaret Tobin Centre—the Flinders Medical Centre redevelopment—announced year after year, supposedly to be finished in the year 2000, not even started. Today this project is under way. The Margaret Tobin Centre is being built, as is a new mental health facility at the repat., with plans well advanced for Lyell McEwin and Noarlunga; and then, after those, other mental health facilities all around the metropolitan area. We have in place a $110 million capital works program. Today, we are employing 1 630 mental health nurses, compared with about 1 589 in 2002. So, more mental health nurses.

We have had to make up a lot of ground and we are doing just that. The Rann government has significantly increased funding for mental health services. Before this year's budget we were already spending $20 million a year more in funding for services, and we had already announced about $57 million for supported residential facilities, largely catering for people with a mental illness. In this year's budget we really put the big boost in and committed an extra $45 million over the next four years to provide better emergency response services and to increase the capacity of general practitioners and community organisations, who were dealing with mental illnesses on a day to day basis. That means partnerships with local doctors and agencies such as UnitingCare Wesley, Centacare, the Helping Hand Centre and the Mental Illness Fellowship of SA.

We will be spending about an extra $37 million each year for the next two years on providing mental health services compared with what was spent by the previous government in its last year in office. As well as that, in this year's budget a further $18.25 million was set aside for accommodation and support in disability services. All the money to be spent in this area will be predominantly allocated to people with a psychiatric disability.

This is the biggest funding boost for mental health that this state has ever seen. When we try to compare the current government with the previous government in terms of mental health services, we find that there really is no comparison. The capital works program that was stalled is now continuing—

The SPEAKER: Order! The minister is now debating the question.

The Hon. L. STEVENS: —and there is more money for crisis intervention, more money for hospital in the home and more money for post hospital intensive community treatment.

The SPEAKER: Order! The minister is debating the question.

Mr BRINDAL: I rise on a point of order, and that was the point that you, sir, made from the chair to the minister.

The SPEAKER: The minister was clearly debating the question.

EYRE PENINSULA BUSHFIRES

Mr BROKENSHIRE (Mawson): My question is again to the Minister for Transport. Given that at least two requests were made for fire bombing, and given that the report says that information was not passed on, what action has been taken to identify why that information was not passed on to the State Emergency Operations Centre?

Members interjecting:

The SPEAKER: Order! The member for Colton is offending; it is hard to hear the question. The member for Mawson has the call and no-one else.

Mr BROKENSHIRE: Page 32 of the Smith report details how the Wanilla brigade captain requested water bombing aircraft at about 6 p.m. on Monday 10 January. On page 62 of the Smith report it details how the sector commander for the north-western sector also requested the incident commander to seek the provision of aerial water bombers at about 5.30 p.m. on Monday 10 January.

The Hon. P.F. CONLON (Minister for Transport): If the honourable member wants me to say it out loud in the parliament I will; the Smith report indicates that someone (who, I think, they have termed a regional officer over there) failed to pass on the request. If the member for Mawson wants me to say that I will (I am sure the bloke is living in agony as we speak, anyway), but I am not going to name him for you; you would enjoy that. That appears to be what it is.

In terms of what has been done about it, I would like to point out that I have not been emergency services minister since March. The first I learnt about this was in the past few days, because I am not the Minister for Emergency Services. Bob Smith was not actually appointed until after I finished as Minister for Emergency Services, but he clearly finds that—

An honourable member interjecting:

The Hon. P.F. CONLON: Well, the person is entitled to give that answer and he is going back there. Bob Smith clearly finds that there was an officer on the Eyre Peninsula who did not pass on the request. And no-one told me.

An honourable member interjecting:

The Hon. P.F. CONLON: Okay, you got him. Why don't you get out and ruin his life? I mean, get a life, you people.

Mr BROKENSHIRE: I have a supplementary question. Will the minister bring to the house, before the close of parliament this week, a response as to why that information was not passed on to the State Emergency Operation Centre?

The Hon. P.F. CONLON: Again, I assume that they are asking the same sort of rubbish questions in the upper house—

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order, member for Bright!

The Hon. P.F. CONLON: We will get a report from the emergency services minister. I must say that these people are entitled to give their response in natural justice to the findings of the inquiry. When you were here slurring the Auditor-General, you were employing lawyers for your ministers, but that is not good enough for the CFS. They do not get to give their response. Really, you need to have a hard look at yourselves.

Mr BROKENSHIRE: I rise on a point of order as to relevance, sir.

The SPEAKER: I think the minister has finished. The member for Chaffey.

LOXTON POLICE STATION

The Hon. K.A. MAYWALD (Chaffey): As the member for Chaffey, my question is to the Deputy Premier and Minister for Police. Can the minister please advise the house what is happening in relation to opening hours at the new Loxton Police Station? With your leave, and that of the house, I will explain my question.

The Hon. I.P. LEWIS: On a point of order, Mr Speaker—

Members interjecting:

The SPEAKER: Order! The member for Hammond has the call.

The Hon. I.P. LEWIS: It has been my understanding of the convention of cabinet solidarity in the Westminster system that ministers do not ask colleagues questions during question time, as all ministers have collective responsibility for their individual and collective decisions, and all information is available to all ministers. Such questions are regarded as being not only improper but also specious.

The SPEAKER: There does not appear to be any rule that would stop a member. She is asking in her capacity as the local member.

The Hon. K.A. MAYWALD: I seek leave to explain my question.

Members interjecting:

The SPEAKER: Order! The house will come to order first. The member for Chaffey wishes to explain her question.

The Hon. K.A. MAYWALD: Thank you, Mr Speaker. I am asking the question because a leaflet was distributed within the Murray—

An honourable member interjecting:

The Hon. K.A. MAYWALD: My question is to the Deputy Premier and Minister for Police, and I am asking it as the member for Chaffey. Minister, can you please advise what is happening in relation to opening hours at the Loxton Police Station—

The SPEAKER: Order! There is a point of order from the member for Newland.

The Hon. D.C. KOTZ: Mr Speaker, I seek further clarification. I do not believe that, in any of my years in this parliament, I have ever seen a precedent being so breached as this particular one that is being attempted today. On the basis that all our cabinet ministers have responsibility to each other for information, it would deem it highly inappropriate that a cabinet minister seeks information from another cabinet minister in this house.

Members interjecting:

The SPEAKER: Order! It is an uncommon occurrence. However, my advice is that there is nothing to prevent a member asking a question in their capacity as the local member. Otherwise, in effect, you are denying a local member the right to ask a question in the house.

Members interjecting:

The SPEAKER: Order! The member for MacKillop.

Members interjecting:

The SPEAKER: Order! The house will come to order. There are two people on their feet.

Mr WILLIAMS: I seek a further point of clarification—

Members interjecting:

Mr WILLIAMS: We are trying to work out what the hell you lot are up to. As a further point of clarification, I have sat here many, many times when the chair has ruled that any minister can ask a question that has been put to a particular minister. Any minister can answer a question put to any minister. Sir, does that mean that the member for Chaffey should be answering her own question or that she could technically answer her own question? It is making an absurdity of the house.

Members interjecting:

The SPEAKER: Order! My advice is that, whilst it is unusual, there does not seem to be any—

Members interjecting:

The SPEAKER: Order!

Ms Chapman: It's unprecedented.

The SPEAKER: Order! Any member speaking when I call order will be named on the spot, member for Bragg; just watch your behaviour or you will be out of here in two seconds if you are not careful. I am not going to tolerate that absolute rudeness. You would not do it in a court and you are not going to do it in parliament. The clerks are checking the authoritative handbooks, and there does not seem to be any preclusion for a member asking a question and, until such time as I get contrary advice or we find where it has been disallowed in the past, I intend to allow the member for Chaffey to explain her question. She has already asked it.

The Hon. I.P. LEWIS: On a point of order: may I, therefore, ask you to cite the authority upon which you rely for the establishment of this precedent in this place—where it has never happened, to my certain knowledge, in this place before—as well as give your reasons for so doing this day?

The SPEAKER: The reason is that there is no indication where it has ever been precluded, or anyone has ruled that it is out of order. So, in the absence of that, I am making a determination that, unless we get evidence to the contrary, it is appropriate for the minister, who is asking the question as the local member, to ask the question. Does the member wish to explain the question?

Mr BRINDAL: On a point of order: just in this matter, questions seeking information detailed in Chapter 12 of the

Standing Orders contemplate that 'question time is for members of the house to ask the government questions concerning matters of government business.' The government in this place has always been understood to be the executive government sworn in by the Governor. Therefore, sir, the whole notion of asking questions is predicated on us as private members being able to question the executive government, not members of the executive government being able to have a tea party and question each other.

The SPEAKER: Order! The point to be noted is that all members are just that: ministers are still members. They hold office under the Crown, but they are still members representing an electorate, and there is no indication from any of the authoritative works to suggest that a minister cannot ask a question in his or her capacity as the local member, and it would seem strange to deny someone the opportunity to ask a question.

Mr SCALZI: I seek clarification. Is it a question without notice or is it a question to be noticed?

The SPEAKER: Member for Chaffey, do you wish to explain your question?

The Hon. K.A. MAYWALD: I do indeed, Mr Speaker. This morning in *The Murray Pioneer* newspaper, a leaflet was distributed by the SA Police which quotes an opening date for the new Loxton Police Station, and also some opening hours that seem to be in conflict with commitments that were given by the Minister for Police and the Deputy Commissioner to the people of Loxton.

The Hon. K.O. FOLEY (Minister for Police): Members opposite wonder why they are looked upon as such a shabby opposition—all the tactical skill of Basil Fawlty.

The SPEAKER: Order! The Deputy Premier as Police Minister will answer the question, not debate it.

Mr Meier interjecting:

The Hon. K.O. FOLEY: Well, over here I think we are pretty effective.

An honourable member interjecting:

The Hon. K.O. FOLEY: Never mind. Thank you for giving this question such prominence. On Thursday 19 May, at the instigation of the member for Chaffey, who asked the question, I attended a public meeting at Loxton about the relocation of the existing police station to a new facility in Drabsch Street—a hard one to pronounce.

An honourable member interjecting:

The Hon. K.O. FOLEY: I did get booed.

The Hon. I.P. Lewis: You wrote your answer and you cannot pronounce local names.

The Hon. K.O. FOLEY: That reference to Basil Fawlty was not to you, member for Hammond, I can assure you. Both senior police and I gave a commitment that the opening hours of the new Loxton police station would be greater than those of the current station. I am advised that, due to an administrative error—

Members interjecting:

The Hon. K.O. FOLEY: The Liberals should not be critical of the member for Chaffey for her support of Teletrack; that would be unfair. An insert was placed in *The Murray Pioneer* which contained misleading information.

The Hon. R.G. Kerin interjecting:

The Hon. K.O. FOLEY: It was the police, but if you want to be critical of the police like you are of the CFS, have the courage to do so. This insert which mentioned administration hours could lead to confusion regarding the opening hours of the new police station. I have been advised by the Acting Commissioner of Police that the correct information regarding Loxton police station is that, while the current station is staffed for three afternoons per week and all day on Thursdays, from next week the new station will be staffed from 9 a.m. to 5 p.m. Monday to Friday. The previous government reduced the number of staff—

The Hon. W.A. MATTHEW: On a point of order, Mr Speaker: in view of the fact that you have ruled this question in order, is it also in order that the Deputy Premier reads an answer to a question without notice, which demonstrates that it is clearly not without notice?

The SPEAKER: Order! There are many things in here which appear to be one thing on the surface but which are not necessarily the reality.

The Hon. K.O. FOLEY: The previous government reduced the number of staff at Loxton station from seven to six in 1997 and from six to five in 1999. It ceased using the Loxton Court House in 2000. Unlike the former government, this government is putting extra resources into Loxton.

Members interjecting:

The Hon. K.O. FOLEY: No; the government. Two extra police have been assigned to the Riverland as part of the government's plan to increase police numbers by 200 above attrition, but the important new information is this. Extra administrative support is also being put into Loxton station to ensure that the opening hours are increased from being a part-time station, as it was under the former government and ours until this point, opening only 18 ¾hours per week, to a full-time station, opening 40 hours per week. That is almost double the number of hours under this government as we move to support the people of Loxton for their policing like never before.

Mr BROKENSHIRE (Mawson): I have a supplementary question. Will the minister inform the house whether the minister, or any of the minister's staff, rang the Acting Commissioner, Mr John White, or any other executive of police instructing and/or requesting that those hours be Monday to Friday full office hours? If that is the case, how does the minister explain that for three years he has refused to answer question after question from the opposition based on the fact that it was operational?

The Hon. K.O. FOLEY: I am highly offended by that question, because the shadow minister for police has all but—

Members interjecting:

The Hon. K.O. FOLEY: Embarrassed? How would I ever be embarrassed by you lot? Give me a break. The shadow minister has all but alleged that my staff or I committed a criminal act. Under legislation I cannot interfere in operational matters and, if I am to do so, I can direct the Police Commissioner only through the power—

Mr Brokenshire: What did you say to him, mate?

The Hon. K.O. FOLEY: What did I say to my mate? You just asked what I said to my mate.

Mr Brokenshire: I said, 'What did you say to him, mate?'

The Hon. K.O. FOLEY: What did I say to him, mate? The allegation is that I, or one of my staff, picked up the phone and said to the Acting Commissioner, 'Double the number of administrative support staff in that station.'

The Hon. I.P. LEWIS: On a point of order: interjections are out of order but, as I understand it, it is out of order for ministers to respond to them, and least of all should he be encouraging them.

The SPEAKER: I uphold the point of order. The minister needs to finish the answer quickly.

The Hon. K.O. FOLEY: As I said, I am offended. I will ask my office to have for me before the end of question time the sequence of events that occurred, but for a suggestion to remain unanswered in this house that I or my staff coerced the acting Commissioner of Police to do something—

Members interjecting:

The Hon. K.O. FOLEY: You said exactly that.

The Hon. I.P. LEWIS: On a point of order, it is open to the minister, as to all other members, to make a personal explanation after question time if he feels so aggrieved.

Members interjecting:

The SPEAKER: Order! I think the Minister should wind up his answer. The member for Mawson has the call.

EYRE PENINSULA BUSHFIRES

Mr BROKENSHIRE (Mawson): My question is again to the Minister for Transport. Given that the weather forecast for the following day, Tuesday 11 January, indicated a fire danger index of 114 for Port Lincoln, did the state controller of 10 January (Mr Euan Ferguson, I am advised) make any inquiries as to whether water bombers should be brought into action on Eyre Peninsula? Page 70 of the independent review of the Eyre Peninsula bushfires states:

> An extreme fire danger forecast at 4 p.m. on Monday 10 January by the CFS state coordinator from the Bureau of Meteorology triggered established protocols for responding to extreme fire danger forecasts. The weather expected for Tuesday was forecast to generate higher fire conditions than experienced for a number of years in South Australia.

The Hon. P.F. CONLON (Minister for Transport): Apparently, it is not just the locals, it is the head of the CFS who is in the firing line from the Liberals. If the member for Mawson was a little—

Mr Williams: He just wants an answer. Just an answer, mate.

The Hon. P.F. CONLON: You'll get answers all right. If, instead of jabbering, the member for MacKillop had listened; if, instead of being the ignorant oaf he is, he had actually listened to an earlier answer—

The Hon. R.G. KERIN: On a point of order, sir, I just ask that you get control of the house.

The SPEAKER: Order! Yes. I do not think it is helpful to use that sort of language.

The Hon. P.F. CONLON: I think there is a time for argy-bargy in this chamber and I do not think this is the issue. Members opposite really should treat this with the seriousness it deserves. I point out that if the honourable member had listened earlier he would have heard me say that, as far as I recollect, in the early days at Port Lincoln when I was the minister, I was told by Euan Ferguson that they had offered aerial bombers and that it had been refused. He was told it was not necessary. The honourable member really should be addressing this to the appropriate minister, but I am happy to answer his questions all day. I am happy to get up and defend Euan Ferguson and the CFS in this place all day and all night. He is an outstanding South Australian—Victorian originally: we will adopt him. He has done a fantastic job, and for him to be second-guessed by cheap politicians is a disgrace.

MURRAY MOUTH, DREDGING

The Hon. I.P. LEWIS (Hammond): My question is to the Minister for the River Murray. What has been the total cost so far of dredging the Murray Mouth? How many tonnes per year or cubic metres, if that is the unit, are now being dredged on a recurrent basis at the Murray Mouth? What was the cost during last financial year and what do we expect the cost to be in the current financial year?

The Hon. K.A. MAYWALD (Minister for the River Murray): I appreciate that the member for Hammond attended the meeting of the Murray-Darling Association Region 6 this morning, where I addressed a group of people involved in supporting environmental outcomes for the region and working to save the River Murray. During that meeting a number of questions were asked relating to the sand dredging project, and I advised that meeting that $15.2 million had been expended to date, according to my advice. At this stage, 3.3 million cubic metres have been removed from the Murray Mouth.

The Hon. I.P. LEWIS: Sir, I have a supplementary question. Given that the amount of money being spent annually well exceeds the $4 million threshold each year, why was dredging the Murray Mouth as an operation not referred to the Public Works Committee? I understand that the minister was not the minister at the time the operation began but, certainly, when it became known that it would exceed $4 million the government still did not refer the matter to the Public Works Committee, in breach of the Parliamentary Committees Act.

The Hon. K.A. MAYWALD: As the member quite rightly pointed out, I was not the minister at the time that the contract was let. However, this project is funded by the Murray-Darling Basin Commission, to which South Australia is a contributor. I will seek the details of what was undertaken at the time and bring back the information to the house.

Mr WILLIAMS: Sir, I rise on a point of order. A few minutes ago the Minister for Transport called me an ignorant oaf, a comment to which I take offence, particularly under the circumstances. Whenever the minister is under pressure he drops into personal invective. The Leader of the Opposition—

The SPEAKER: Order! Just make your point of order.

Mr WILLIAMS: The Leader of the Opposition took the call, and I thought he was raising the same matter, and things moved on. This is the third time I have got to my feet since and I ask you, sir, to direct the minister to withdraw and apologise unreservedly.

The Hon. P.F. CONLON: I withdraw and apologise for the word 'oaf'.

Mr WILLIAMS: Sir, the minister clearly called me an ignorant oaf. For the minister's information, on matters such as this I am not ignorant. I have strong personal feelings about what happened on the Eyre Peninsula, and I ask you to direct the minister to withdraw the whole of the comment unreservedly.

The Hon. P.F. CONLON: Sir, if it helps them ask another question, I withdraw and apologise.

EYRE PENINSULA BUSHFIRES

Mr BROKENSHIRE (Mawson): My question is to the Attorney-General. Why has the coronial inquiry into the Eyre Peninsula bushfires been delayed until November 2005, which means that its findings will not be released before the next bushfire season?

The Hon. M.J. ATKINSON (Attorney-General): People on the Eyre Peninsula accept, as would all fair-minded people, that much preparatory work needs to be done before a coronial inquest can be held. Moreover, the office of

Coroner is a judicial office: it is not directed by me or by the government. The third thing is that, unlike the previous Liberal government, we have now appointed a permanent Deputy Coroner. So, we have a permanent Coroner and a Deputy Coroner—two—where the previous Liberal government had one. This inquest will be conducted more swiftly under this government than it would have under theirs.

The Hon. R.G. KERIN (Leader of the Opposition): Will the Minister for Transport explain why at least two people who played significant high level roles at the Lincoln control centre for the Eyre Peninsula bushfires on Monday 10 and Tuesday 11 January were not interviewed as part of the bushfire report that was tabled in the house yesterday?

The Hon. P.F. CONLON (Minister for Transport): I am not even the minister representing the Minister for Emergency Services. The man who conducted the inquiry was appointed after I had left the portfolio. However, I am more than happy to find out from Bob Smith, the entirely independent investigator, why he chose to conduct the investigation in that way, and we will bring the member back a report.

Mr BROKENSHIRE: I have a supplementary question. Will the minister bring back and table all the names of the people who were interviewed in the inquiry?

The Hon. P.F. CONLON: What I invite members opposite to do is to go and ask Bob Smith.

Members interjecting:

The SPEAKER: Order! The deputy leader has the call. The Treasurer and the Minister for Transport are out of order.

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens is out of order.

MENTAL HEALTH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): Will the Minister for Health advise whether the policy of repatriation of mental health patients was developed with or without consultation with other hospitals and senior clinicians; and will the minister immediately issue an instruction to withdraw the policy of repatriation or mental health by postcode? A letter from the Director of Emergency Medicine at the Queen Elizabeth Hospital states that on the night of 9 September three mental health patients from the Royal Adelaide Hospital were transferred to the emergency department of the Queen Elizabeth Hospital. There were no mental health staff at the emergency department of the Queen Elizabeth Hospital; there were no available mental health beds; and there were already 38 other patients in the emergency department of that hospital when the first transfer took place. The Director of Emergency Medicine has written a very detailed letter which is very critical of this policy. I ask the minister to withdraw the policy.

The Hon. L. STEVENS (Minister for Health): I have already told the house of the enormous advances in funding and the commitment to improve mental health services in this state since we took over from the debacle we were left with. This policy has been put together with consultation with clinicians. The reason we are doing this is simply to improve the continuity of care for people with a mental illness. Essentially, most patients who are presenting to the Royal Adelaide Hospital with a mental illness are known to the system. They have actually been treated either at the Royal Adelaide Hospital or at another hospital in the metropolitan area, and they have been treated in those hospitals. This new system means that, after a proper assessment of these people occurs in the Royal Adelaide Hospital emergency department, they are transferred to a hospital that has treated them before. This new policy has only just been brought in. It is only very young in its application. It was brought in less than a couple of weeks ago. There was consultation with clinicians. Obviously, there are some issues in relation to what happened that Friday which are being addressed and which will be fixed.

Let us remember who has the runs on the board in relation to mental health. It is certainly not the previous government which had no capital works program and which did not do anything about increasing services: it is the Rann government, which has spent $110 million on capital works and allocated $37 million each year for the next two years to be spent on mental health services, compared with the last year of the previous government. We are getting on with the job. There will be lots of issues to deal with, but we will deal with them and make sure that this system is fixed—something that the previous government was never able to do.

Members interjecting:

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

The Hon. DEAN BROWN: I have a supplementary question. If, as the minister has just claimed, there had been a mental health assessment of the three patients, why were two of the three transferred to the Queen Elizabeth Hospital with no transfer letter at all and no mental health assessment at all? It tends to highlight the fact that perhaps there had been no mental health assessment of these patients.

The Hon. L. STEVENS: I am delighted to answer the question, because the information I have received from the Central Northern Adelaide Health Service is as follows: information has been provided by the Queen Elizabeth Hospital which confirms that all three consumers were properly escorted and had a full medical assessment, with documentation in place prior to transfer.

The Hon. I.P. LEWIS: Mr Speaker, I rise on a point of order. The minister is obviously quoting from a memo from that health service, and I ask that it be tabled.

The SPEAKER: Is it part of an official docket?

The Hon. L. STEVENS: Yes, it is, sir.

The SPEAKER: Is it an official docket, or is it a briefing note?

The Hon. L. STEVENS: It is a briefing note, sir.

The Hon. DEAN BROWN: Mr Speaker, as the so-called briefing note appears completely to contradict the actual letter written by the director of emergency services at that hospital (because it was that doctor who said that there were no briefing notes whatsoever for two of the three patients, and no mental health assessment), I ask the minister to table the relevant documents.

The SPEAKER: Order! I think I was talking about a briefing note prepared for the minister by her own staff, not a briefing note by a clinician, so there might be some confusion.

The Hon. L. STEVENS: Sir, I have no problem with tabling it at all. The most important thing is that we are getting on with the job, and we will continue to get on with the job in terms of improving mental health services in this state.

Members interjecting:

The SPEAKER: The deputy leader has the call.

HOSPITALS, GLENSIDE

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is again to the Minister for Health. I just want to ensure that we have her attention.

Members interjecting:

The SPEAKER: Order!

The Hon. DEAN BROWN: Mr Speaker, I rise on a point of order. I saw from here that the minister tore some documents from the material—

Members interjecting:

The SPEAKER: The house will come to order!

The Hon. DEAN BROWN: Well, table that, too.

Members interjecting:

The SPEAKER: Order! The chair will have a look—

The Hon. DEAN BROWN: No, she was told to table it—

The SPEAKER: Order! The house will come to order! Anyone who speaks after I have called order will wear the consequences. The chair will have a look to ensure that the appropriate document was tabled.

The Hon. DEAN BROWN: My question again is to the Minister for Health. Will the minister confirm that a potentially dangerous patient has escaped from Glenside Hospital; and will the minister explain why this patient was being kept in a non-secured area of Glenside Hospital which allowed the patient simply to walk free, as described by the department? I understand that the patient who has escaped from Glenside has previously been involved in very serious incidents and is a threat to public safety. The police have alerted people to the fact that there is a risk to public safety, and I understand that the STAR Force has been involved with this particular patient on a previous occasion.

The Hon. L. STEVENS (Minister for Health): I am happy to answer the question. I understand that a patient has left Glenside Hospital, and I will get a brief in relation to that matter. I have not received that detail yet. I put some more information on the record for the house. Last year, the government employed Mr John Murray, director of safety and security at Glenside Hospital, to look at the security arrangements and to make recommendations that we could implement to ensure that those security arrangements were as good as they could be. He did a whole range of things, including carrying out a personal inspection of every ward on the campus, the provision of advice and the introduction of changes to protocols. We have had the development of a sophisticated personal duress alarm system for staff, better relationships and better protocols with the police, and the establishment of a prompt response to patients who are absent without leave.

They are just a few of the things that have been done. Most importantly, this particular incident aside, it is my advice that there have been no absconders from closed wards at Glenside campus since August 2004, which actually demonstrates a dramatic improvement.

The Hon. DEAN BROWN: I have a supplementary question. Will the minister confirm that this particular patient from Glenside is the same patient who on 16 November last year caused a rampage at Glenside Hospital, which caused a nearby school and day care centre to be locked down while STAR Force officers attended?

The Hon. L. STEVENS: I have already said that I will be getting a briefing in relation to this particular matter. When I do, I will have that information.

GLENELG TRAMS

Mr BROKENSHIRE (Mawson): My question is to the Minister for Transport, if he wants to stop reading the paper.

The Hon. P.F. Conlon: I can hear you.

Mr BROKENSHIRE: Will the minister initiate an urgent, broad and independent inquiry into the adequacy of the Glenelg tram tracks following three separate derailments in the past five weeks? The opposition has been advised that the government spent $13 million more than initially budgeted for in the upgrade of the Glenelg tram service, but it did not provide for an upgrade of the entire track through to the depots and other areas. On Monday 16 August, tram services were interrupted when a tram bound for Glenelg derailed at Morphett Road. Again, on Sunday 18 September two more separate derailments occurred at Glengowrie.

The Hon. P.F. CONLON (Minister for Transport): I will not be having a royal commission or whatever it was the honourable member asked for.

Mr Brokenshire: Why?

The Hon. P.F. CONLON: The honourable member asks why and I will explain. The context of it is that the old trams are being replaced very soon and the other bits of rail are also being replaced very soon.

Mr Brokenshire interjecting:

The Hon. P.F. CONLON: Oddly enough, our priority was to fix the main line first where the trams run with people on them—the ones that provide a service to people. The honourable member would not ask such silly questions if he listened occasionally. The two derailments were caused on the same piece of track that leads to a depot. I am advised that those tracks will be upgraded when the steel arrives to upgrade them; that is going to happen. The opposition wants to sell all the doom and gloom about the rail service, but those derailments occurred with no-one aboard, and they occurred because the tram went too quickly around that piece of track.

Mr Brokenshire interjecting:

The Hon. P.F. CONLON: If you would just listen for a moment. I am advised that one of the reasons they go too quickly is that the old trams—which have seen good service but which are superannuated—are very hard to control at speed, and measures have been taken not to use that section of track because they believe that the first instance occurred—

An honourable member interjecting:

The Hon. P.F. CONLON: They have no idea, sir.

Mr Brokenshire interjecting:

The SPEAKER: Order! The member for Mawson will be on the tram soon.

The Hon. P.F. CONLON: Somebody add that to the money—another couple of hundred million dollars!

Mr Koutsantonis interjecting:

The SPEAKER: The member for West Torrens will be on it, too.

The Hon. P.F. CONLON: So they will not use that section any more. It will be fixed, in its entirety, once the steel arrives. We are also going to have new trams—ones that we have spent a lot of money on—that will be much easier to control in speed as well. The third derailment was pure human error and, while we would prefer our people not to make human errors, they are human.

I am not going to revive Mr Warren from the United States and run the inquiry into the shooting of John F.

Kennedy, because we have a fair idea what happened and a fair idea how to make sure it does not happen again!

The old trams and the old track gave sterling service for many years, and our priority was, quite sensibly, that the first upgrade would be that piece of rail on which the trams carry passengers, and we are also replacing the trams. We have done more in 3½ years than the Liberal government did in 8½ years, but we cannot do it all instantaneously—as much as the member for Mawson might like us to. I would like to remind him that he was the one who suggested that we should not upgrade that section all at one go but that we should just upgrade a piece at a time and let them run a partial service. If we were doing that, 26 weeks in we still would not have got to that section of railway; we still would not have upgraded the rail if we had done it that way.

I would have preferred that it did not happen because the first phone call I received about it was the Premier saying, 'I have just watched one of your trams come off the rails.' And that was not good phone call to get as transport minister on a Sunday morning! I would prefer that it did not happen. However, measures are in place to prevent it happening again, and I am very confident that it will not happen again. That piece of rail is being fixed. The trams are being replaced. They have done a great job for so many years. Just give them a bit of leeway; they are older than Graham Gunn, after all!

HEALTH SERVICE, GAWLER

The Hon. DEAN BROWN (Deputy Leader of the Opposition): We all shared the minister's embarrassment on Sunday morning with the incident that occurred, and we share the embarrassment of the minister on this question as well. It is to the Minister for Health. Is it correct that the cabinet meeting planned for Gawler in October has now been shifted to Port Augusta because of the obstetric crisis at the Gawler Hospital?

The Hon. K.O. FOLEY (Deputy Premier): We have already had a cabinet meeting—

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order! The house will come to order. The member for Bright is getting somewhat agitated; I am not sure why. The Treasurer has the call.

The Hon. K.O. FOLEY: We have already had cabinet meetings in Gawler, from memory. The program of regional country and suburban cabinet meetings is done on a rolling basis. I am not aware of the accusation at all. We are campaigning to win the seat of Light, but we take nothing for granted. Light will be a very difficult seat for the government to win, as will every seat.

The Hon. P.F. Conlon: But the Mayor is an outstanding candidate.

The Hon. K.O. FOLEY: The Mayor of Gawler is an outstanding candidate, I agree, and he is campaigning as hard as he can. But we do not take the seat of Light for granted; and, we do not take the seat of Stuart for granted. With all due respect to my good friend and the member for Stuart, we are campaigning—surprise, surprise—to win the seat of Stuart. Our cabinet—

The Hon. M.J. Atkinson: A bit like Barry Featherstone.

The SPEAKER: The Attorney is out of order.

The Hon. K.O. FOLEY: Our decisions on where to meet in regional South Australia are not based on elections; they are not based on electoral popularity. I say that with a straight face, sir: they are not.

The Hon. DEAN BROWN: I rise on a point of order. I can see the difficulty that the Deputy Premier is having an answering this question, but I do point out standing order 98, which does not allow—

The SPEAKER: I think the Treasurer needs to conclude the answer if he has not done so already. The member for MacKillop.

COUNTRY TAXIS

Mr WILLIAMS (MacKillop): My question—surprise, surprise—is for the Minister for Transport. He is having a bad day, sir. Will the minister advise the house if it is the government's intention to amend the Passenger Transport Act to cover country taxi services? In November 2002, the Premier's Taxi Council was told that country taxis were not covered under the Passenger Transport Act. At that meeting, it was agreed that this was a problem that needed to be addressed urgently. Almost three years later, no amendments have been forthcoming.

The Hon. P.F. CONLON (Minister for Transport): I am often the victim of my own good nature and my need to be inclusive. As I understand it, the suggested approach of the Taxi Council is currently going for negotiation or discussion and consultation with the great minister for local government's forum, and I support that consultation.

MINING INDUSTRY

Ms BREUER (Giles): My question is to the Minister for Employment, Training and Further Education. What is being done to address skills and training needs—

Members interjecting:

The SPEAKER: Order! The house will come to order! The member for Giles has the call.

Ms BREUER: Thank you, sir. What is being done to address skills and training needs of the rapidly expanding mining and resource sector in the Upper Spencer Gulf Outback regions?

The Hon. S.W. KEY (Minister for Employment, Training and Further Education): I thank the member for Giles for her question, and I would like to say to the member for Davenport that, if he is looking for a job after the next election, I would be very happy to put him into the SA Works or Regions at Work program. It is a program for disadvantaged workers, so he may be happy to know of that program.

I saw the member for Bragg's media release about the very important meeting that we held last week, looking at the state's resource processing sector, and working out ways, with all the players, of how we can deal with the regional development areas, and also the authorities and resource leaders in Whyalla. That was a very important meeting, and we are aiming to make sure that we are planning for the employment and training needs of the work force that will be needed to deal with the growth that we have in that area.

Brian Cunningham, Chief Executive of DFEEST, convened the meeting, which brought together senior personnel from BHP Billiton, OneSteel, Oxiana, Zinifex, and other industry partners, and three Upper Spencer Gulf regional development boards. I have to say that all the players at this meeting saw it as an important meeting, so, despite the opposition saying that this was a talkfest, this was seen as being something that was very much needed in the area, and I know that the member for Giles, through her advocacy in

the area, has made sure that jobs and training are on the top of the list for her region.

One of the areas that we are particularly concerned with coordinating is the training needs of the Upper Spencer Gulf, and also the Outback and remote areas. In particular, there are three projects which will dramatically expand mining and processing, bringing thousands of jobs to the Upper Spencer Gulf and Outback regions. They are:

- BHP Billiton's $5 billion Olympic Dam expansion;
- Oxiana's Prominent Hill gold and copper site; and
- Project Magnet, which will expand the Whyalla Steelworks and extend its life to at least 2027.

We want to make sure there is sound planning to meet the skill requirements of these huge projects, and that we maximise training and job prospects for the local communities. We also want to develop the approach highlighted in the state government's recently released Workforce Development Strategy, which encourages government and industry to work side by side to plan for and address future recruitment, retention and work force needs.

Last Thursday's meeting was highly successful and participants discussed a range of activities that will help to meet the work force planning challenges. These include:

- the establishment of a high level Olympic Dam expansion task force focussing on work force planning;
- an Upper Spencer Gulf industry training alliance, which will provide pre-employment training and work placement to give young people work ready skills for the jobs on offer;
- the higher education needs of our work force will be examined to ensure that they meet industry needs in the area;
- a minerals and resources work force planning study looking at work force needs of 10 expanding companies will be undertaken by the South Australian Centre for Economic Studies; and
- a 30-week multi-trade, pre-vocational course to be run at Port Augusta in February 2006 through the state government's Indigenous Employment Program.

All these activities were considered by the players to be important and, I think, indicate the growing confidence we have in our resource sector, and the ability to coordinate and work closely together to match the work force needs with future industry development.

MINISTER'S QUESTION

The SPEAKER: Before calling on the grievance debate, I would like to refer to the matter that was raised concerning the appropriateness of the question asked by the member for Chaffey. Thus far the only reference that has been found is in the House of Representatives Practice Manual, and that says that ministers do not ask questions, but it does not say that they cannot.

Members interjecting:

The SPEAKER: Order! Members need to understand that there is a significant difference. It says that they do not ask them, but it does not say that they cannot. The chair will have a look at the matter but, if members want to change the standing orders in this place, it is their prerogative to take action along those lines. I invite members to have a look at the House of Representatives practice. We cannot find any reference in any manual relating to parliamentary practice which prohibits a member who is a minister from asking a question. The fact that the federal parliament does not have it as a practice does not mean that it is prohibited; it just says that they do not as a matter of practice.

The Hon. DEAN BROWN: On a point of order, Mr Speaker, my understanding is that it is the practice of the Westminster system that that does not apply, simply on the basis that it is always assumed that cabinet ministers sit around the same cabinet table and, therefore, they are able to talk to each other. If that is not occurring under this government, I think that we should have an admission. Certainly, then we could look at it in the Standing Orders Committee. One would assume that ministers sit around the cabinet table and are able to ask questions of each other and get those honestly answered by those respective ministers around the cabinet table.

The SPEAKER: The chair has indicated that we will have a look at the matter but, if any member wishes to have the matter dealt with through standing orders, which are currently being put into legal language so all members can look at what is proposed, then members should feel free to raise the issue in that way.

Mr BRINDAL: On a point of order, sir: I was always given to understand by a number of previous speakers that there was a hierarchy of reference in this place and that one of the references always adopted by this and every other chamber in the Westminster system is precedent. I ask if your ruling today that we should change the standing orders, given that there is no precedent, means that you, sir, as Speaker, for the first time are now ruling that precedent does not apply in this house, because clearly it always has in the past.

The SPEAKER: Order! I am not ruling that. I said that there was no evidence to suggest that a member who is a minister could not ask a question; so, it is one of those grey areas, and there are many others that are not covered in our standing orders. If members want to raise a point of order, they can, but it is not appropriate to debate this matter at length now.

Ms CHAPMAN: I rise on a point order, sir. In particular, it is a point of clarification, given that you have indicated that you will investigate this matter further. Could you advise us, sir, if you continue on the basis that ministers are allowed to ask other ministers questions, whether or not the Premier is allowed to ask other ministers questions and whether you would consent to it.

The SPEAKER: I think that the member is jumping the gun.

MEMBER'S QUESTIONS

The Hon. K.O. FOLEY (Deputy Premier): I seek leave to make a personal explanation.

Leave granted.

The Hon. K.O. FOLEY: Earlier in question time today, the member for Mawson, to paraphrase him, asked whether or not I had requested the Commissioner of Police to double the opening hours of the Loxton police station. In explanation, I advise the house that the police have advised me as follows:

South Australia Police (SAPOL) have committed in writing the undertaking that the 'proposed new police station will operate from 9.00 am to 5.00 pm which will align with general business hours in

the adjacent main commercial street providing easy access to the police station.'

The briefing note continues:

SAPOL committed to this course of action, in writing. . . to the Chief Executive Officer [of the]. . . Loxton Waikerie [council] signed by Commissioner Hyde dated 20 June 2005.

They also advised this in a letter to Ms Karlene Maywald, signed by Deputy Commissioner White dated 20 June 2005. They also wrote—

Members interjecting:

The Hon. K.O. FOLEY: No.

Mr Scalzi interjecting:

The SPEAKER: Order, the member for Hartley!

The Hon. K.O. FOLEY: They also wrote a letter to Mr Robert Brokenshire, signed by Acting Commissioner White on 5 July. For the member for Mawson to allege that I had intervened when he had already been written to by the Commissioner shows the depths to which the member for Mawson will go to score cheap political points.

The Hon. I.P. LEWIS (Hammond): During the course of your contemplation of the matter upon which you ruled, about ministers being able to ask questions in this place, may I also ask you to come back to the chamber with an opinion as to whether or not in their own right Independent members, given that that is the basis on which you allowed the question, may ask themselves questions in their capacity as the member representing the electorate so that as the minister they can answer it, if the cabinet's opinion imposed on them differs from that which they hold as Independent members, or even in circumstances where it complies but enables them to appear to be asking questions of themselves as ministers in their respective portfolios as they affect their constituencies?

The SPEAKER: Order! The ruling which I made, and which is in effect interim until we can clarify the matter further, was not on the basis of the minister being an Independent or anything else in that category. It was on the basis that she is a local member, and there is nothing in our standing orders or any other guide that would suggest that she could not answer the question so, on that basis, I allowed it.

Mr VENNING: On a point of order, does that therefore mean that under your ruling I can ask the shadow minister a question?

The SPEAKER: Questions are asked of ministers in the chamber. The shadow minister is a courtesy title, not a formal status in this house.

GRIEVANCE DEBATE

EYRE PENINSULA BUSHFIRES

Mr BROKENSHIRE (Mawson): Today, the opposition asked a series of very important questions as a result of Dr Smith's report into matters around the tragic bushfires on Eyre Peninsula in January this year. At the outset, I want to say that the opposition members are offended by part of the allegations across the chamber by the Minister for Transport (the previous Minister for Emergency Services) that we were making a cheap political point at the volunteers. That is disgusting, for the minister to try to deflect matters that are very important to be asked in this house. Unlike a couple of members on the other side who are auxiliary members of the CFS, many of us on this side have been volunteers and have also had the privilege of being Minister for Emergency Services, like myself, for several years and have an absolute passion to protect the volunteers in the Country Fire Service.

That gets to the key point of why the opposition is asking these questions and why we will continue to ask questions on this and other reports, such as the Phoenix report, with respect to the Eyre Peninsula bushfires. At the end of the day, in a tragedy like that, outside of a select committee, which this government refused to have in the parliament where we could have brought in independent witnesses and questioned them through the democratic processes of the parliament, the only other way that we can find out whether mistakes were made and whether there were any inept practices when it came to paid senior staff members of the CFS—not volunteers, paid senior staff members—or, indeed, even the government, in decisions that they may or may not have made on the Monday, is actually to ask those questions in the house.

Clearly, questions have to be asked about the Monday. When you delve into this report, it probably raises more questions than it actually answers about what happened on Eyre Peninsula on that Monday. On the Tuesday, probably everyone acknowledges that, as events unfolded on that day, it was going to be virtually impossible to stop the tragedy. Notwithstanding that, clearly on the Monday, knowing the weather conditions that were going to be coming through the next day (Tuesday the 11th), knowing that there were fires on Eyre Peninsula, in the South-East and in the Adelaide Hills, and knowing that there was a state duty controlling officer in place, I assume that that officer would have been briefing the Minister for Emergency Services on that day. The report highlights that discussions and teleconferencing were being set up, but the concerns of the Monday were probably not addressed adequately. As a result of the fact that not all efforts were put into extinguishing that fire on that day, it got of control. Lessons were not learnt by senior management and government when it came to Tulka. The report clearly said that things had to be addressed differently in the future.

I make no apology whatsoever for supporting and protecting the volunteers and for asking questions of the then minister through to senior paid staff on their behalf (they cannot ask these questions because they are prohibited from asking them) and also on behalf of the broader community of Eyre Peninsula. A lot more needs to be done to assess the events of that Monday. The bottom line is that, when we have volunteers who requested aerial support (as we are advised) who could have knocked that fire out and graders that were not used that night, and when there are reports that water was not being provided to all the fire trucks on that night—and the list goes on—questions must be asked, and honest answers need to be given to this parliament through the due democratic process—not spin from the minister and not a rhetoric attack on the opposition that we are not supporting the volunteers, because that is untrue.

The opposition will support those CFS volunteers all the way, not only those on Eyre Peninsula but also those across the state, because in my own and other electorates they are asking their local members whether or not this government and senior paid staff did enough on the Monday, and we will find the answers.

Time expired.

LOCAL GOVERNMENT, FINANCIAL SUSTAINABILITY

Mr O'BRIEN (Napier): The Local Government Association recently commissioned an independent inquiry into the financial sustainability of local government. The LGA is to

be congratulated for taking the initiative to examine the operations of its members. It is never easy to turn the blowtorch of examination onto oneself. The headline story from the report is that 26 of South Australia's 68 councils are considered to be financially unsustainable unless they change their policy settings. A further 17 are considered to be marginally sustainable. Behind the headline, the report uncovered some inadequacies in the accounting practices of many councils. In particular, the report found as follows:

> A general consensus does not currently exist within the South Australian local government sector about the meaning to be attached to persistent operating deficits or to persistent shortfalls in capital expenditure on the renewal or replacement of existing assets against annual depreciation expense.

Allowing for depreciation of assets on an annual basis is standard accounting practice. In the simplest terms, a well run organisation or business will have an asset replacement program running through its budgets to enable it to replace assets or infrastructure as the asset approaches the end of its useful life, rather than being burdened with unplanned borrowings to deal with aged, decrepit and, ultimately, failed infrastructure.

In local government, the absence of budgeting for depreciation on assets and infrastructure involves, as the report found, 'shifting current ratepayers' share of funding of infrastructure renewal onto future ratepayers'. In the 2003-04 financial year, 'only 28 (or about 40 per cent) of South Australia's councils recorded positive net outlays on the renewal or replacement of existing assets'. The remaining 40 councils (about 60 per cent) have accumulated a combined infrastructure replacement or renewal backlog in excess of $300 million. Whilst 40 councils are accumulating an infrastructure backlog, the fact that 40 per cent of councils have bucked this trend shows that it is eminently possible to do so. Not surprisingly, the report recommends as follows:

> . . . that the local government sector adopts a standard set of key financial indicators. . . [including] the net outlays on the renewal or replacement of existing assets measure of a council's annual capital financial performance, as a key indicator of the intergenerational equity of the funding of the council's infrastructure renewal or replacement activities.

Further, the review recommends:

> That the LGA work with auditors, with input from officers such as the South Australian Auditor-General, to establish what might be described as a 'model' specification for a council audit aimed at—in a manner consistent with Australian accounting standards—improving the consistency and comparability of accounting policies impacting upon the measurement of the key financial sustainability indicators, especially depreciation and other asset accounting policies.

The Local Government (Financial Management and Rating) Amendment Bill, of which I spoke in favour last Monday, introduces reforms consistent with the report. It promotes accountability and transparency of council governance. Councils will be required to prepare long-term financial plans on a full accrual accounting basis and provide annual business plans and budgets for public consultation—as many councils already do. The report, hopefully, will lead to uniform financial reporting across councils and the attainment of ongoing financial sustainability by them all. The report states that this, in turn, will give councils 'the financial capacity to deliver on those key outcomes in South Australia's strategic plan that are reliant on an efficient and effective local government sector'.

WIND FARM, SELLICKS HILL-MYPONGA

The Hon. DEAN BROWN (Deputy Leader of the Opposition): I wish to grieve about the planning process for the Sellicks Hill-Myponga wind farm. This project went through major project planning, which effectively means that cabinet becomes the planning authority. Therefore, the cabinet signed off on this project. In the lead-up to the cabinet signing of on the project in 2003, on 8 April 2003, during a public consultation for the planning process at Noarlunga, chaired by Phil Smith of Planning SA, Mr Smith said that any changes would result in a new or amended public environment report (PER) with public consultation; and, when questioned further on how far the turbines could be varied, he said, 'Moving the turbines more than 30 metres would result in an amended PER.'

On 4 August 2005, a *Government Gazette* showed that the DAC (Development Assessment Commission) had varied TrustPower's public environment report, but there was no mention in its agenda; so the public had no prior knowledge of that occurrence. On 19 August this year, Simon Howes of Planning SA posted details of the foregoing variation application by TrustPower to selected members of the public. TrustPower's PER and the Minister for Urban Development and Planning's assessment report of November 2003 concluded that there was 'adequate separation from residences and public roads' and 'separation distances from dwellings of one kilometre or more'. The statement that turbines are one kilometre or more from nearby residents was stated seven times in the PER, four times in the PER response, and eight times in the minister's assessment report—and I could detail where.

At the parliamentary inquiry into wind farms, Mr Ahern of TrustPower said:

> . . . if there is a home up to one kilometre away [that is, less than one kilometre away from a turbine] you would have to be cautious and model carefully the effects the noise might have.

We now find that as a result of the new planning approval, given by cabinet for this project on 4 August, seven turbines have moved more than 30 metres and seven turbines are now within one kilometre of neighbouring houses. I wonder whether cabinet knew that.

In relation to resident five, on their plan turbine No. 9 is only 700 metres from the home; turbine eight, 800 metres; turbine 10, 750 metres; turbine 11, 950 metres; and the wind monitoring mask 550 metres from the home. In relation to resident two, turbine No. 14 is 750 metres from the home; turbine 15 is 800 metres from the home; and turbine 16 is 950 metres from the home. This is a very significant and serious variation to the original planning approval, no consultation at all having occurred with the residents prior to the approval.

On 8 March this year, I wrote to the then Minister for Urban Development and Planning specifically pointing out that the government had granted major project status for this, and I highlighted that planning variations were being considered. The planning approval, as I understand, granted a number of significant changes. The generating capacity had increased from 35 megawatts to 40 megawatts for the entire wind farm. I understand that the location of the substation has changed from the property hosting the turbines to an existing substation some distance away, and I also understand that the position of the turbines may change. I asked that the minister go out to consultation on any such changes.

I wrote that letter on 8 March this year, and I have had no reply whatsoever more than six months later. I think there is a serious abrogation of planning responsibility and planning process when you can change the location of wind turbines from being more than a kilometre away to within a kilometre, and then find that it is approved without any further consultation.

Time expired.

SOLE PARENTS

Ms THOMPSON (Reynell): The electorate of Reynell has over 1 000 one parent families with dependent children, so this made me take notice of the recent debate about welfare changes that the Howard government is proposing in relation to single parents. I was particularly concerned by the research commissioned by the National Council of Single Mothers and Their Children, which demonstrated how these people, mainly women, face incredible cuts in their income. For instance, in an example given, if a sole parent undertakes 15 hours per week paid employment and is paid $15 per hour, her earnings will be $450 per fortnight before tax. The following table demonstrates how the change to Newstart will significantly cut her income support, because the proposal is that, once the youngest child turns six, parenting payments are no longer appropriate—it goes to Newstart.

In that example, a sole parent with one child would currently be earning $810.74 per fortnight between their earnings and their parenting payments. Under the new regime, this will be reduced by $136.94 to $673.80 per fortnight. This is a huge reduction for people to have to face in their fortnightly income, but this is not even the worst end of the story. The obligation on parents to find 15 hours work per week is a very extreme one indeed in many circumstances. In an article by Adele Horin in the *Sydney Morning Herald* on 7 May 2005, she points out that, according to Bob Gregory, Professor of Economics at the Australian National University, about 70 per cent of sole parents on welfare work at some stage over a three or four year period; thus they are maintaining a connection with the work force, which is one of the stated objectives of the Howard government.

However, she also points out research from the Australian National University Centre for Mental Health Research which indicates just some of the difficulties that many of these parents will face in trying to manage their family life as well as find work. This research shows that about 60 per cent of sole parents who do not have a job left school before year 10. Ex-husbands harass or beat them, and many have children with learning difficulties. Almost one-third of the sole parents on benefits suffer depression, anxiety or other mental health problems; 19 per cent have been raped; 26 per cent have suffered serious physical attack; and 21 per cent have been threatened with a weapon or tortured, according to this research from the Australian National University.

People who have been through those experiences need support, and they need assistance in retraining and in dealing with the trauma they have experienced in their lives. They also need parenting support and the ability to blend parenting and work force experience. Those who have less than a year 10 education, in particular, need extensive support to re-educate themselves and equip themselves for a job in which they can, in fact, earn as much as $15 per hour—because if you have less than a year 10 education $15 per hour is a high income. I think of the young women I have seen in my office who left school early because of the impending birth of a child. The battle that these young women have to manage their parenting responsibilities and equip themselves to provide a good life for their children is considerable.

Again, I am concerned about the impact of this on future domestic violence situations. If a woman who is living in a violent relationship discovers that she will now no longer be entitled to a parenting payment if the youngest child is over six but rather has to go straight onto Newstart at a considerably lower rate, it will make it even more difficult for her to escape a violent situation. We already know that there are many barriers to women fleeing domestic violence; they are already worried about the impact on their children, and we have recently learnt that they are worried about the impact on their pets. However, they are absolutely worried about the income level that will be available to them and their children. The prospect of this income level being even further reduced from what it is now is an unnecessary onus on these people (mainly women), who have to consider things such as a reduction of $62 per fortnight, at the very least, in their income.

Time expired.

GLOBAL CITIZENS MEDAL

The Hon. D.C. KOTZ (Newland): I take this opportunity to inform the house about the Global Citizens Medal, which is an innovative program providing an immense benefit to students at Banksia Park International High School. The medal forms part of an alternative to the International Baccalaureate through a three-year senior school curriculum package designed to have a uniquely Australian focus. The Global Citizens Medal is a unique initiative which acknowledges that the student recipients have the skills, capacity and disposition to operate as a culturally inclusive, technologically proficient, optimistic, ethical, open-minded and flexible citizen with a contemporary world view.

The school is now planning to spread the word about its Global Citizens Medal to other South Australian schools following Banksia Park's success at the recent National Quality Schools Awards. This year three schools—Salisbury High, Gladstone High and John Pirie High—will nominate up to five students to participate in the Global Citizens Medal program, with Banksia Park High using its $10 000 Quality Schools Award prize money to allow its assistant principal, Ms Rae Bywaters, to work with these schools and their students. I compliment Ms Bywaters, who took this program from concept to implementation and who deserves recognition for this valuable achievement.

The Global Citizens Medal program started at Banksia International High School in 2003. This was a way to reward students for their life learning as global citizens. The medal recognises and celebrates the non-academic capacities and dispositions of students and has a strong emphasis on values and ethics. Students who graduate from year 12 with both their South Australian Certificate of Education and the internally awarded complementary Global Citizens Medal will be considered to have a well rounded education. Importantly, in an ever-increasing multicultural society, recipients of the Global Citizens Medal will develop as global citizens able to operate successfully across and within different cultures, celebrating our differences as an opportunity to learn rather than an excuse for isolation. In an era when youth crime is on the rise and traditional family values seem to be breaking down in many areas, Banksia Park Inter-

national High School should be applauded for the extraordinary dedication to mentoring our leaders of the future in a global community.

The Global Citizens Program is an initiative which blends well with the school's renowned international students program. The school has hosted students from many countries, including China, Japan, Germany, the United States, Brazil, Taiwan, Hong Kong, Thailand, Russia and Korea since the program began in 1998. I have had the pleasure of meeting with many of these international students and have hosted tours of students throughout the South Australian parliament. Students have the choice between a two-year study program or short-term visits throughout a year. Banksia Park is the only government school which runs its own Homestay program, with facilities in the community to place students with about 200 Homestay families. This is an immense achievement, which shows that the school's international program has received much widespread support from the school community of parents and students.

Banksia Park International High School also has sister school relationships with four schools in Japan, China and Vietnam. All nations, religions and cultures share this wonderful planet we call home. An important initiative such as the Global Citizens Medal is but the first vital step along the pathway to bring all global citizens together as one. I commend the Global Citizens Medal to this house, and I am sure all members will join to offer their congratulations to the high school for promoting such an innovative and important global program. I offer my congratulations to the principal, Judi Quinn for her guidance and support when these programs were in their infancy and required determination and foresight to bring together the successful programs we see today.

I also extend my sincere good wishes to Judi on her coming retirement. I regard Judi Quinn, the principal, as a true professional educationalist, and I sure that the staff, students, parents and governing council members would agree with those sentiments. I also offer my congratulations to deputy principal Pamela Karran, who has managed and directed the international program since its inception. Pamela's commitment to this program is exceptional. Her unique people skills and management techniques have earned the respect of educationalists around the world, ensuring the success of the international program. It is with great pleasure that I have worked with all the staff and members of the governing council of such an innovative place of learning.

RETIREMENT VILLAGES

Mr SNELLING (Playford): It is always a pleasure to follow upon the member for Newland. It is good to see her, even though she is approaching her retirement, still making an active contribution to the chamber, and actively representing her electorate. I am sure that Tom Kenyon will follow her and fill those very big shoes.

I wish to grieve about retirement villages. They have obviously been growing, and particularly with an ageing population they are a big issue. I have The Elms Retirement Village in my electorate in Walkley Heights. As I talk to people who live in The Elms, the feedback I get from them is overwhelmingly positive. My constituents say that they are very happy to live in The Elms. I must admit to the house that I am a bit unsure about some of the financial arrangements that residents of retirement villages enter into in order to secure a place in a retirement village. I am also a bit unsure about the interaction between the management of retirement villages and residents.

Mrs REDMOND: On a point of order, Mr Speaker: I am loath to interrupt the member for Playford, but the minister introduced an amendment to the Retirement Villages Act last week, and I seek your guidance as to whether the member is able to traverse the areas he is addressing in his speech because these are matters that are under consideration by the house in the current bill.

The SPEAKER: The member should not pre-empt the matters covered in the bill. I am not sure exactly of the detail in the bill, but the member needs to be mindful of that.

Mr SNELLING: Thank you, sir, for your guidance. It was certainly not my intention in any way to pre-empt debate on Notice of Motion No. 19. Rather, I wanted simply to talk about some of the issues concerning retirement villages and how my constituents are affected by those issues. Without getting into the bill and pre-empting debate on the bill, I have been very happy with the government's preparedness to be consultative with residents of retirement villages.

The Minister for Families and Communities received a delegation from the Elms Retirement Village, in my electorate, about the issues that they faced in their retirement village and about some of their concerns regarding the operation thereof. Again, without pre-empting the debate on the bill, I must say that my constituents certainly welcome the effort that the government has made in trying to regulate the operation of retirement villages. It is certainly a very welcome step.

I reiterate what I said earlier about the growth of retirement villages, and some of my concerns about how they operate, and I think that it is an area in which regulation would be very welcome.

CARERS RECOGNITION BILL

Adjourned debate on second reading.

(Continued from 14 September. Page 3368.)

Mrs REDMOND (Heysen): I indicate that I am the lead, and indeed probably the only, speaker for the opposition in relation to this bill. The bill was presented to the house only last week, so, technically, it has not actually laid on the table for a week. But, in view of the government's wish to progress this bill as quickly as possible, the Liberal Party has no objection to assisting it in that endeavour, particularly given that it is a bill which is, as I understand it, supported both by the Carers Association of SA and the ministerial advisory group. So, I indicate up front that we will be supporting the bill.

The issue of carers should concern the whole community because so many people are placed in the role of carer. From memory, I think the minister's second reading explanation talked about something like 250 000 carers in South Australia on estimate. Of course, within that group of carers—and I suspect it may well be more than that—people have not only the usual difficulties that carers face but also added burdens because they may be from culturally or linguistically diverse backgrounds, or they may live in remote communities, or, indeed, they may be children.

I recognise that this is an issue that we need to address and, in doing so, I mention to the house that I travelled to the US, looking at ageing issues in particular, in 2003 and, on my way home, I stopped in Hawaii and lectured at the university medical school. Whilst I was there, I also took the opportunity to go to a carers' conference. I wish we could go to a carers' conference in Waikiki for $20 but, unfortunately, it is a bit far from Adelaide to do that. It was a very interesting conference, which brought speakers from all over the US predominantly and a lot of people who were in the role of carers. Of course, the whole point of the conference was to enable people who were in the role of carers not only to tell their stories but also to have some communication with government and other organisations on how best to manage that role.

One of the interesting facts that emerged was from one of the keynote speakers who came from the US government administration, normally based in Washington. She mentioned in the course of her speech that, in fact, the caring role that middle-aged people faced in the care of their elderly parents is the biggest single issue on all their statistics, and this meant that, according to her evidence (and she had done quite a bit of research into the topic), for people who were above the age of 45 or 50 the single biggest issue in their lives was not financial problems, work stress, marital relationships, looking after the children or any of a range of other things: it was the issue of how to care for the elderly parent or parents that they had. That became a significant issue and problem for them.

As the minister said in his second reading explanation, the issue means that people have higher stress and anxiety levels, less opportunity and less interaction as their social and recreational activities are often curtailed, and there is no doubt that those who take on the role of carers do so at a considerable cost to themselves and, at the same time, with a considerable benefit to the wider community. In fact, on the minister's figures, it is estimated that carers save the community in excess of $18 billion a year on a nationwide basis. I have no doubt that that would be correct. As I understand the structure of the bill (and I thank the minister's advisers for agreeing to provide a briefing on the bill), it is relatively straightforward, and I do not expect it will need to go into committee. However, I will ask the minister to address a couple of points in his response at the end of the second reading to save us the bother of going into committee.

Essentially, the bill defines a couple of things, notably a carer, who must be a natural person—so, it is not an organisational concept: it is a natural person—who provides ongoing care or assistance to either a person who has a disability, a person who has a chronic illness, including a mental illness, a person who because of frailty requires assistance with carrying out everyday tasks, or a person of a class prescribed by regulation. A couple of instances occur in this bill where the additional words 'a person or an organisation prescribed by regulation' are used. Although, on the issue of the carer definition, it is not an issue for me, I suspect that I would want some clarification as to how far it is extending under regulation in relation to some of the other definitions.

The bill provides specifically that a person is not a carer if they are providing the care services under a contract for service, or a contract of service, or in the course of doing community work organised by a community organisation. The aim is to capture under the definition the individual who provides care but not the organisation. Meals on Wheels, for instance, according to my understanding of the legislation, is not caught because it is not a carer. However, it will be caught as an organisation that is bound by the Carers Charter, which I will come to in a minute. I was a little puzzled and I would seek clarification from the minister about the meaning of carer in clause 5(3), and I apologise to him that it is not something I thought to ask his advisers when I had the briefing. I would like to know whether he can confirm that my understanding is correct.

My understanding is that, when subclause (3) says that a person is not a carer only because the person is a spouse, de facto partner, parent or guardian of the person to whom the care or assistance is being provided, it is not the intention of the bill to cut people out of any benefits that this bill may seek to give carers by virtue of the fact that someone as a spouse, for instance, falls into a care role, which may happen gradually over many years. In my family, my mother suffered from Alzheimer's and my father was never her guardian in any formal sense but, over the years, gradually had to take on more and more of her care. I want some clarity about the use of that phrase 'only because the person is a spouse, de facto partner' etc.

The other thing I would like to clarify is whether, if my understanding is correct and people are not being excluded from the definition of carer by virtue of subclause (3), the term 'de facto partner' includes people in a same-sex relationship. I am happy with subclause (1) that says it is a natural person and happy with subclause (2) that says it is not a person providing services under a contract nor someone working as a volunteer with an organisation, but I want a bit of clarity about subclause (3)(a) of clause 5. The bill establishes that definition and a couple of other important definitions, in particular that of a reporting organisation (which is basically a public service administrative unit or something else declared by regulation), an applicable organisation (which is basically a reporting organisation elsewhere defined) or a person who provides services to one of those organisations or, again, any other person or body declared by regulation to be an applicable organisation.

I would ask the minister to clarify and put on the record just what is intended by the addition of both subclause (b) in the definition of reporting organisation and subclause (c) in the definition of applicable organisation. I do that for this reason: I understand that it is in many ways simply ordinary drafting practice of parliamentary draftsmen to enable the minister, in case anything has been forgotten, to include such a provision as simply a standard drafting technique so that, if anything has been forgotten, that organisation can be captured. There could be a semi-government organisation that is intended to be caught by the provisions of the legislation but is not because it is not actually a public service administrative unit, or anything else that comes within the definition there.

I guess my question is: is the intention that it be confined to either organisations that are public service units or in some way quasi-public service units, or not-for-profit organisations that have been specifically set up for the purpose of providing the sorts of services that are talked about in this legislation? I will come in a minute to why I want an answer to that. Having set up those definitions, what this act then does—

Mr Hanna: Does it do anything?

Mrs REDMOND: Its main object is to support carers and their role in the community. What this act then does is oblige the organisations caught by the definitions to take all practicable measures to ensure that the organisation and its officers, employees or agents have an awareness and

understanding of the charter and take action to reflect the principles of the charter in the provision of the relevant services of that organisation. In terms of the charter, the member for Mitchell just called out, 'Does it do anything?'

I would have to say that, whilst we are supporting the bill, I have some questions about whether we are creating simply a toothless tiger and giving lip service without actually giving any real impetus to changes for carers. Putting in place this charter, which appears as schedule 1 to the bill, requires these organisations to take notice of and implement the terms of the charter, but some of the things in the charter are so generic that one wonders whether they can actually be ever enforced. For instance, the very first item in the charter, under the heading 'Carers have choices within their caring role', states:

> Carers should have the same rights, choices and opportunities as other South Australians.

That seems to me self evident. I have no objection to it being embodied in legislation but it certainly does not seem to take the actual role of a carer, on a day-to-day basis, any further. However, in saying that, I note that in the course of the discussions with the advisers in the briefing last night they pointed out some of the other things that really become issues for carers and that might perhaps be addressed by this legislation.

The second item under that 'carers have choices within their caring role' provision is one about which I have a concern, and I again ask the minister to address this issue when he responds. Clause 1(2) of the charter provides:

> Carers should be supported by individuals, families, business and community organisations, public institutions and all levels of government in the choices they make in their caring role.

Whilst I have no personal objection to the thrust of that provision, my concern relates to the term 'business'. I ask the minister why that has been included and whether he intends to extend any obligations that might be imposed by this legislation to private enterprise. It seems to me that its effect would be as good if we left out the word 'business' (I will not move such an amendment but I ask him to comment on this) and simply said that carers should be supported by individuals, families, community organisations, public institutions and all levels of government. That would seem to me to be just as effective.

I come back to the matter that I raised a couple of minutes ago about those definitions wherein there is a capacity of the minister to declare organisations as reporting organisations or applicable organisations by means of a regulation. Certainly, whilst I have no difficulty with the idea that everyone as a carer deserves to be recognised and supported, I would be most concerned if there was any potential for obligations to be imposed on small business, in particular, to add yet another dimension to their compliance regimes. I would like some clarity with respect to that issue.

The charter goes on to say that carers' health and wellbeing is critical to the community and, therefore, that carers are entitled to enjoy optimum health, social, spiritual and economic wellbeing and to participate in family, social and community life, employment and education. I would say that is as true of carers as it is of anyone else in the community.

I approach this bill simply on the basis that the government recognises that, on many occasions, because of their role, carers are deprived of some of the access to benefits and to wellbeing and participation that other members of the community find it easier to access and to enjoy. Again, carers should be supported to balance their caring role with their own needs. It is a bit of a motherhood statement, I guess, that mothers should be supported to balance their caring role with their own needs as well. It is the nature of it, and I do not think that it really takes us much further to simply put it into legislation. I would be saddened if our approach to carers was simply to be putting this legislation in place and not putting in place the real support that the carers in our community need and deserve.

Clause 3 in the charter states that carers play a critical role in maintaining the fabric of society. Nearly everyone with whom I come in contact across a range of areas in the community, and particularly those who undertake volunteer work, would be just as entitled to such a statement. I do not think that it really takes the situation of the carers much further to simply embody that in legislation. Clause 3(2) provides that carers should be recognised for their unique experience and knowledge in the caring role. That ties in with the fourth of the items in the carers' charter, that of the service providers having to work in partnership with the carers. If this bill has any teeth at all, it is to be found in this provision in the charter. Clause 4(4) provides that the role of carers must be recognised by including carers in the assessment, planning, delivery and review of services that impact on them and the role of carers. Clause 4(5) provides that the views and needs of carers must be taken into account along with the views of the people being cared for.

As I understand it, our discussions last night centred around a couple of possibilities, one of which was, for instance, the case of someone who is being cared for being in a situation where they may be asking for a peanut butter sandwich and, if the carer knows that they are allergic to peanuts, it is only reasonable for the carer to have some input as to whether or not they should be allowed to be given the peanut butter sandwich. Just as importantly, when someone is being discharged from hospital back to a carer, for instance, thanks to our wonderful privacy legislation, which seems to be put up as a barrier to so much commonsense these days, the carer often finds that they are not given the information in relation to what will be the regime, what should be looked out for, what is the medication, and so on. They need to be involved in that process. Commonsense would dictate that that should happen, but I gather that privacy principles are being raised as a barrier to stop the carers from being told what they need to know in those circumstances.

I see that the minister is nodding his head, and I gather that the impetus behind the legislation—in part, at least—is to clarify that that is the case and that carers not only need to know but also have a right to know. Therefore, I would expect that if, for instance, a government department, such as a hospital, raised that barrier, the appropriate mechanisms would be there for a carer to make a valid complaint because of the breach of this legislation if the organisation failed to involve the carer in decisions relating to the care of the person. Certainly, it is true that Aboriginal and Torres Strait Islander communities need specific consideration, as do, as I said earlier, other groups such as those from culturally and linguistically diverse backgrounds and, in particular, children.

There are a surprising number of young people in our community who, through no fault of their own and without any training or adequate help, suddenly or gradually find themselves placed into the role of carer, often for a parent, sometimes for a sibling. That can have a dramatic impact upon their ability to continue their education and just to be children. We need to remember that, even if arrangements are

made for these youngsters to continue with their studies, it is nevertheless depriving them of their childhood if they have to spend their childhood being carers. It certainly makes them grow up at a young age. They have special needs, and we need to recognise that young people should not be expected to do it. Often they are hidden. Often it comes out in the course of other events that a child has been the carer, because they do not know to report to anyone that they are becoming carers. Often it happens as a gradual taking on of responsibilities.

I agree with the statements in the charter that the special needs of children and young people who are carers, and the unique barriers to their access to service provision, should be recognised and acted on. I would hope that a government of whatever persuasion would instruct its departments to act appropriately to provide young people with all the support they need if they are in that situation. I do not know whether we will ever get to the point where they have the same opportunities as other children and young people who do not have those responsibilities but, nevertheless, it is what we should be aiming for.

The final item in the charter provides that resources are available to provide timely, appropriate and adequate assistance to carers. The wording of it puzzles me. It is a charter, but the statement that 'resources are available' seems to be a wish rather than a reality. I would call on the government to provide more resources than it currently does so that statement will be true; that is, resources are available to provide timely, appropriate and adequate assistance to carers. They do need a lot of support. I know from dealing with people in the disability sector and the fostering sector—and I am not trying to imply that foster carers are included in this legislation, because, clearly, they are excluded from it—that people who take on the role of caring for other people in any circumstance do so at a great cost to themselves. To that end we need to be grateful for the benefit they give us all. I know that when I talk to these people I often count my lucky stars that my life has been as blessed as it has been, in not having to take on onerous roles at a young age and not having to deal with issues that can be very complicated in terms of the best interests of the person being cared for and the best interests of the carer. In any event, with those few comments, and with my thanks to the officers from the minister's department who provided a briefing on the legislation, I commend the bill and thank the minister.

Mr HANNA (Mitchell): I speak in support of this bill. The minister has brought a unique piece of legislation into the parliament. It is a piece of legislation which acknowledges carers and which no member of parliament could possibly criticise in its sentiments. The real test, of course, for the government and for the people who actually have the experience of caring for people in the community is whether there will be adequate funding to support tangible, positive outcomes for carers. That means things such as opportunities for respite care; it might mean more prompt medical assistance in some cases; or it might mean equipment for people with disabilities being provided in other instances.

I return to the bill itself, which simply sets in place a charter. It provides that organisations, including government departments, must have regard to it. There is nothing in the charter with which anyone could possibly argue. It talks about carers having choices; it talks about carers being entitled to enjoy health and wellbeing; it talks about carers playing a critical role in maintaining the fabric of society; and it talks about organisations being willing to work in partnership with carers. All that is good. I do acknowledge the advocacy work of the Carers Association, under the leadership of Rosemary Warmington, the Chief Executive Officer. Obviously, it has worked closely with the government in preparing the bill or at least in formulating the concepts behind it. That is a credit to them. Clearly, they do not see it as tokenistic. In fact, I have had communication from them describing it as a 'priceless gift for all family carers'.

I want to refer to a couple of examples in my own electorate—situations which have brought home to me the extraordinary sacrifices made by carers in our community. It is all very well to talk about the statistics. The fact is that about one in six Australians (on one reckoning) are carers in one form or another. It is all very well to point out that family carers save our governments $30 billion a year. It is all very well to look at it from that big picture national budget level, but the people whom I see in my community are in a different world from those sorts of figures. For example, I remember speaking in detail to a young woman named Kylie, one of the main carers for her sister, who has disabilities, who lives at home and who virtually requires around the clock care. Consequently, Kylie does not have much of a social life, and it is difficult to maintain the sorts of friendships that we take for granted when you are at home 24-hours a day caring for a member of your family whom you love but who has such disabilities that they require that level of care. I know a number of people in their 40s and 50s, even in a couple of cases in their 60s, who are carers for their elderly parents who have frailties and who sometimes have language difficulties compounding the frailties and disabilities of old age.

Sometimes the distressing issues of mental incapacity come into it, people with Alzheimer's and so on, who must be cared for by their children because essentially there is no-one else to do it. Another case brought to my attention just yesterday concerned a woman married to a fellow in my electorate who has severe medical problems, but because of cultural issues and issues of modesty she requires a woman to care for her; and so her sister lives with the married couple to take care of the most personal and hygienic requirements of the woman with the medical issues. Just to give an idea of the practical problems arising from that, obviously the married couple still want their privacy and their intimate relations; and obviously the sister of the married woman wants a right to her own life and privacy as well.

One of the projects I have is to try to find Housing Trust accommodation nearby for the sister so that she can carry out the caring role, yet have her own accommodation. It should not be too much to ask, but we will see how we go with the ever diminishing public housing stock and the restriction on new entrants to public housing to those with the gravest disabilities and the worst personal situations. I have just mentioned a few examples of people whom I have come across in my electorate because, notwithstanding the heartfelt endorsement of the statements made in the charter, what will make a real difference to these people and their lives will be more respite care and more facilities for people with disabilities, whether they be places to go an occasional basis or whether they be specific opportunities for schooling, activities, recreation and so on. That is what will make a real difference to the carers whom I have come across.

That is what will make a real difference to the tremendous sacrifices that they make. As I have indicated, it can be virtually the sacrifice of a life, and I mean that in terms of the emotional, physical and financial sacrifices which people

make. Of course, even when there is a desire to give up—because people do reach the end of their rope—there is often a sense that there is no alternative, and there are feelings of guilt should they reach the point where they have to find alternative accommodation for that member of their family with the frailty, disability, or some medical condition. That is a terrible human dilemma which is played out every day in my local community. Yes, we all agree with the fine sentiments expressed in the charter. I sincerely hope that the sentiments expressed will lead to appropriate funding out of the minister's budget so that the sorts of tangible outcomes to which I have referred are realised.

Ms CHAPMAN (Bragg): I will not be opposing this bill, but let me say that I consider it irresponsible for any government to introduce legislation on any subject, unless it is prepared to back it with the resources required to go with it. This is an example of where that could occur and to which I wish to alert the house. It is similar to the legislation the government introduced to help problem gambling with the reduction of poker machines by 3 000 in South Australia. And what do we have? We had the promises to help our problem gamblers. However, the legislation which has come into effect includes the reduction program, transferability, capping of the value of poker machines and exemptions under the club arrangements, but it does not address the government's objective of helping problem gamblers. Yet again, it introduced legislation with all the promises in the world but no delivery.

What I fear about this legislation is that that is exactly what will happen. The government has introduced a bill with ideal objectives, including the recognition and support of carers. The respect and support of carers is a given, and I do not think that anyone in this house would say that that in any way ought to be watered down or impeded. Great idea, government, but there must be delivery with it. There is no point in implementing a charter which imposes on a whole lot of people in the community—businesses, individuals, community members, families, organisations and so on—an obligation to provide carers with choice, a healthy lifestyle and a critical role in society, unless the resources are made available. All of these are high ideals, but none can be delivered unless the resources are there.

The previous speaker has outlined the importance of respite and the provision of equipment for those in that area, and I bring that issue to the attention of the house. I asked myself how this legislation would assist people in my electorate who are struggling with the responsibility of caring for someone (usually a family member), whom they love and want to help and whom they are willing to support, when their capacity—either individually or with other family members—is such that they struggle every day. I can give one example, not where the carers have given up everything in their life to provide care but where they have actually maintained some employment opportunities themselves and have given that up for their daughter. I will not name the woman, but she is in care in my electorate. She says:

> I am 38 years old and have had my own architectural and design business for the last nine years. I have multiple sclerosis (secondary stage), which means my condition will continue to worsen, with not much chance of improvement or remission. I was diagnosed in January 2003. It was noted that I would have been suffering from this condition for the previous 18 years, although it had been undiagnosed, or misdiagnosed. I have returned from Melbourne in July 2004, in order to move in with my parents in Adelaide, as my MS was progressing rapidly and I had been living on my own since my divorce and no longer had the ability to attend to my daily care requirements, or work to support myself to pay for my care. At the moment I am living in a renovated garage at the back of my parents' unit that they modified at their expense when I arrived.

To set the scene here, we have a situation where parents who are in semi-retirement are, through no fault of their own, called upon to assist their 38 year old daughter who has recently been diagnosed with a condition that will progressively take her into stages in which she will need more and more assistance. She is already at a stage where she is unable to use cutlery to eat and has to eat with her hands; she uses a scooter or wheelchair; and she needs full-time assistance with showering, toileting and the like. You can appreciate the level of care that is required.

Her estimates of personal care needs are now at 36½ hours to 38 hours per week which, if paid for privately, would be at a total cost of $1 060 per week. In addition, she needs to find $320 a week for health expenses, medication, physiotherapy, psychiatry, etc. Obviously, that does not include services that are provided by other members of the family who are not her direct carers. So, there is a direct financial contribution coming from this family. The resources of the person being cared for are being used up and there is the extraordinary financial contribution being made by her parents, whose financial position is ever diminishing and, I expect, will be utterly exhausted within a fairly short time. Once the resources are extinguished, the family may already be facing a situation where their daughter needs more care so that she can live independently. It is probably a neck and neck option as to what will happen in that regard.

The tragedy here is that we have a young, talented business woman who has been struck down with a disease and, within the parameters of today's discussion, is being supported by her parents who have retired (one continues some part-time employment) and who are now using up all their resources to provide for her. So, when the minister considers all the good attributes of this proposed legislation (to have this schedule and to establish the South Australian Carers Charter), and when he says that carers should have the same rights, choices and opportunities as other South Australians, can he tell me how the family I have described have any serious choices or opportunities, given the responsibility with which they have been left?

It is important to highlight the fact that six hours per week is given by way of the government (which is really the whole community's way, through the tax system) to provide support. How can the minister possibly say that his government is undertaking the responsibility that he is about to impose on us all in assisting this family? Clearly, six hours a week for the care of this woman is grossly inadequate if we are to give her carers the outcomes expressed by these objectives. The objectives are very important, but it is important that there is the funding, support and resources to implement them. That is the true measure of whether this proposed legislation can achieve the objectives contained within the preamble—in particular, in clause 3. I doubt that is the case, unless there is a significant complement by the government in relation to what they will allocate in funding.

In conclusion, I must say that it is important to put in writing some kind of charter in order to give carers respectability and recognition. The charter says that 'Carers are entitled to enjoy optimum health, social, spiritual and economic wellbeing and to participate in family, social and community life, employment and education,' and it is very sad that when they ask for some recognition or enforcement,

when they say, 'Here is the section, minister; I need some assistance to be able to do this because I would like to be able to finish my degree, or pursue my employment, but I have the responsibility of a family member for whom I am willing to make a significant personal sacrifice,' and ask for implementation of that charter, you say that it is there and that, within budget, we will give them some minor contribution. That is not good enough.

Ms BREUER (Giles): I think that I could probably repeat 20 or 30 times the story that the member opposite told. It is unfortunate in our life that these things do happen, and I wish that we had enough money in this state to cover all those things, but, unfortunately, we do not. I think it is very easy for us to get up here and talk about the wonderful jobs that carers do and come out with platitudes, but I am pleased that we are recognising them in this legislation, because no matter whatever we say, unless we are in the role ourselves, we can never understand fully the role that they play. So, at least we are acknowledging the importance of carers in our society.

The dedication and care provided by those carers in our society, really, I do not think that we can put an amount of money on the work that they do or how much they are worth to our community in South Australia and, indeed, throughout Australia. They are invaluable. I think the stress for families when they have to care for someone is not just the time and the energy involved, but also the emotional contribution that families have to put in. Certainly, one of the issues for baby boomers, for my generation, is the fact that we have elderly parents who live much longer than they used to, and we are responsible for their care. Of course, unfortunately, we have children who never want to leave home either.

The happiest day of my life was earlier this year when my son bought a house and finally moved out. I think it is for good this time, but it has taken him 30 years to do so. But we are now caring for our parents for much longer than perhaps our parents generation and previous generations did, and this causes particular problems for families who are used to double incomes, and who are used to having that double income. A parent needs care and support, and it provides all sorts of extra stresses in their lives in having to do this. Mind you, I am not saying that they do not want to do it, but it is just the stress that is involved with it.

What I particularly wanted to pay tribute to today is the Carers Association in South Australia and the work that it does and, in particular, Rosemary Warmington, who heads up that group. I have had a great deal to do with that organisation over the years. Indeed, I had a lovely meeting last week with Rosemary and a woman from Whyalla called Val Sawyer, who has played an important role in the Carers Association in Whyalla in the Spencer Gulf area. She has supported that group for a long, long time, and has been at the forefront of setting up the organisation and keeping it moving along over the years. The Carers Association provides an incredible role to people. It is very much a support network, as much as the practical side of it.

With the people that I have met over the years who are carers I know that that support role is extremely important. It gives them emotional and practical support in lots of cases. Just knowing that there are other people in the same situation as yourself can make such a difference for people. The role of a carer is often a very, very lonely role, and you need to know that there are other people out there who are having similar issues as you, and be able to turn to them for a bit of support, someone to talk to, somebody who understands.

I know that one woman involved in the Whyalla carers group, in particular, had to care for her husband in a wheelchair for a long time, and she also had a severely disabled son who, I believe, has a mental and physical disability, and she was caring for both of them at the same time. Little wonder this woman had no time for friends or outings. She really was pretty much housebound, caring for both of those people. Yet, I would see her struggling. She would push her husband along in the wheelchair, put him in to the car, and her son would be in the back seat because he was not able to get out; she was not able to push two wheelchairs at the same time. Her husband died some little time ago, and now I see her still struggling with a son and pushing him around. As I said, she does not have time for friends, she does not have time for outings, but I know that she is involved with the Carers Association, and I believe that does give her some emotional outlet and certainly a lot of support in being able to talk to the people involved in that.

In another case, I know of a young man (relatively young; at my age they are all fairly young) who has a daughter of about 10 or 12 years old who is disabled. He is a single father, and he spends most of his time caring for his daughter because there is no-one else who is able to take care of her. He has also spoken to me about the fact that it is a lonely life, and he has no chance to look for a partner, or go out very much, and it is an issue for him. While he does not begrudge his daughter—he loves his daughter dearly, and, of course, is caring for her—it is a very, very difficult life.

Once again, I want to pay a tribute to the Carers Association. I think that it does a wonderful job. It does a lot of practical work. It gets out a newsletter, which I regularly receive. I am sure that for the carers at home who receive that newsletter, they must get a great deal of support from reading it and knowing what is happening. As a society we owe a great debt to our carers. We cannot pay what they deserve, but I think that this bill does recognise their role very much. I am very grateful for the work that they are doing, and I hope that we can one day afford to pay them. I doubt it; I am living in a dream world. But I do think it would be wonderful if we could support them in more ways. This at least gives them recognition and some practical support.

Ms CICCARELLO (Norwood): I would also like to support this bill. I think that many of us have been carers, and, if we have not been carers ourselves, we certainly know other people who are in the situation, whether they be elderly people, whether they be young people, and sometimes even people with disabilities themselves are caring for elderly family members, friends or neighbours. The member for Giles referred to the Carers Association, and, just for the record—and I think most members of parliament have received this from the Carers Association—a media release was put out entitled: SA's peak caring body applauds Carers Recognition Bill. It states:

> South Australia's peak family carer organisation says the State Government Carers Recognition Bill, announced yesterday by the Minister for Families and Communities, Jay Weatherill, turns family carers from being invisible to visible. Chief Executive Officer of the Carers Association of SA, Ms Rosemary Warmington, says the Bill represents a huge step forward for the State's 250 000 family carers.
>
> 'Our family carers play such a critical role in the health and disability system, saving the state government more than $2 billion each year by keeping their loved ones out of formal care facilities, so it's fantastic to see that their needs are finally being recognised,' Ms Warmington said.
>
> The Carers Recognition Bill will include the new Carers Charter, used by service providers to ensure the Carers are included as an

integral component of their work in supporting the cared-for persons health and well-being.

'One of the seven principles of the charter is to recognise that all children and young people have the right to enjoy life and reach their potential,' Mrs Warmington said.

'This is something that young Carers have traditionally found difficult to do because of a lack of recognition of their caring role by their schools. Access to affordable services, particularly ongoing quality respite, remains a pressing need for family Carers of all ages.'

The Carers Association of SA is calling on all parties and independents to support the Bill in Parliament.

'This is a day for carers to celebrate the fact that the talk has finally turned to action,' Rosemary said. 'Our challenge now is to see that the Bill is passed in time for National Carers Awareness Week which starts on 16 October, making it a priceless gift for all family Carers.'

This is not just all talk and no action, and I think it is offensive to suggest that it is. The minister needs to be congratulated for doing this. He has consulted widely with the community and the carers organisations, and they are appreciative of this.

In the minister's second reading speech he recognised that carers across Australia at all levels are saving governments more than $18 billion. Again, as the member for Giles said, it would be wonderful if we could support all these people financially but that is just not within our means. However, as time goes on, we are improving conditions for the many carers in our community, and they need to be acknowledged and applauded for the wonderful work that they do in caring for loved ones.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I begin by thanking all honourable members for their contributions and support of the bill. Some members have expressed reservations about the importance of the legislation and, perhaps, in it having some utopian aspirations. Therefore, I offer this to the house: do not accept my word as to the importance of the bill, listen to the voices of the carers because it is the carers who have driven this process to get to the stage we are now at. In fact, this bill is a celebration and an acknowledgment of the work of a number of carers who—despite the enormous resources that they expend in their caring role—have chosen to take a further step by moving into this important advocacy role on behalf of carers generally.

For many members of this house who have access to power and privilege, it may seem somewhat unimportant for there to be a simple recognition of our status. We all have a certain status that is conferred upon us by virtue of being a member of parliament, and even before that many of us were professionals and lived lives where status and recognition was something that we took for granted. But here we are talking about a group of people who in many relevant senses—to use their own words—are invisible. It is a misunderstanding of the importance of the bill to not understand the role that a legislature plays when it expresses a community value. When a legislature decides to recognise someone and recognise that they have a status and, albeit in aspirational terms, seeks to lay down a set of arrangements to which we should aspire, it is a very important statement on behalf on the elected members of the community.

Do not take my word for it—ask the carers. They believe that this is critical to arm them with not only the recognition and the role that they need to carry out their caring task but also to support and sustain them in that task. I was told an extraordinarily sad story just the other day by one of the representatives of the Carers Association: that is, that when she speaks to carers and asks them about how they see their caring role or how they identify themselves they inevitably talk about a time before they were carers. They do not see being a carer as something that is worthy of talking about or as something to be valued. That is a very sad state of affairs. What we want to do in part by this legislation is to recognise the value of the caring role, to hold it up as something that people should be proud of, so that when people in the community hear that somebody is a carer they respect that and say, 'This person is a carer. We should take special care to do what we can to assist them, or stop doing something that might make life more difficult for them.' That goes for medical professionals and other people who come into contact with the lives of carers in so many ways.

I want to mention a number of people who deserve to be singled out for special attention because of their advocacy role and getting us to this stage: the members of the Carers Ministerial Advisory Committee including the Chair, Brian Butler; Jan Cecchi; Miriam Cocking; Jan Ellard; Judy Hardy; Elizabeth Kearn; John McKellar; Paola Mason; Helen Rayner; Dr Alice Rigney; Elizabeth Robinson; Margaret Russell; Michael Worrell-Davies; Ros Sumner; Rev. Dr Jeffrey Scott; and Cathy Palfreyman. I want to repeat two other names from the Carers Association, Helen Rayner and Rosemary Warmington, who have been magnificent advocates and have provided extraordinary assistance in getting the bill to this stage.

I address a point that was raised by the member for Bragg about the question of services to assist people with disabilities or health problems and their carers. About that we say, 'Of course that is an important issue to be addressed, but it is not the topic that is being addressed in this bill.' I think it is inappropriate to suggest that this bill is any less valuable because it does not deal with that topic. We never suggested that it dealt with this topic. It deals with another important topic in its own right, namely, the recognition of carers.

I must say that the criticisms of this government about the level of disability services funding coming from that side of the house is a little difficult to take. We know that in 2001, shortly before the last election, the former minister for disabilities had in his hand a federal report, which documented all of the unmet need across Australia in relation to disability services. I think that our share of that was something like $27 million per annum. It was actually an analysis undertaken in 1997 and published in 2001. He must have known that the situation could only have been worsening through those years. What was the response by the previous government? Was there an emergency package to increase the level of disability services funding? Was there a cabinet—

Members interjecting:

The DEPUTY SPEAKER: Order!

Mrs REDMOND: On a point of order, sir, I ask that the minister's comments stay relevant to the topic, which is that of carers and the bill that is before the house, not the failings of the previous government in relation to the disability sector.

The Hon. M.J. Atkinson: In relation to carers.

Mrs REDMOND: No; he was talking about the disability sector.

The DEPUTY SPEAKER: Order!

Ms Chapman interjecting:

The DEPUTY SPEAKER: Order! The member for Bragg will come to order. I uphold the point of order. I think that the minister is straying somewhat from the topic of the bill.

The Hon. J.W. WEATHERILL: I will return to the point, sir. It sits ill in the mouth of the opposition to be pointing the finger at us in relation to disability services.

A number of questions were raised by the member for Heysen in her contribution, and I seek to deal with those. The first point that she raised concerns the exclusions from the operation of the act, and her questions were directed at clause 5(3) and, in particular, that a person is not a carer only because the person is a spouse, de facto, parent or guardian of the person to whom the care or assistance is being provided or that the person also provides care to a child who has been placed under their care under the Child Protection Act. The question was to clarify the scope of the phrase that it is only because the person has played that role. The example I give, which might clarify the situation, is to take me, for example, who is a pretty hopeless husband. If, in the ordinary course of events, a wife was looking after a rather hopeless husband, that is not covered by the definition of carer; in other words, simply because of the relationship between a husband and wife, it is not sufficient. The caring has to be of another dimension, so it seeks to distinguish the ordinary care and attention that occurs within a family from the additional caring.

Ms Chapman: You don't take the rubbish bins out.

The Hon. J.W. WEATHERILL: That is right. Rubbish bins, stacking the dishwasher, that sort of—

The Hon. M.J. Atkinson: Hanging out clothes, doing nappies, getting up in the middle of the night.

The Hon. J.W. WEATHERILL: I do the nappies, though. It seeks to distinguish the ordinary care that occurs within the household from that heightened level of care which is attributed to a situation where there is a disability, chronic illness or a degree of frailty.

The next question that was raised was whether a de facto partner in that context could include a same-sex partner. I think that the definition is broad enough to include that, but it needs to be borne in mind that the definition is for the purposes of saying that a person is not a carer merely because they are a same-sex partner. There needs to be an additional matter that turns them into a carer, so it would have to be this other disability factor. The caring role is not defined in relation to the relationship: rather, it is defined in relation to the caring role. The issue of same-sex partners really does not have any operative effect in relation to this bill. As to the clause which extends the definitions of applicable organisations and reporting organisations by regulation, the question was posed whether we had any intention to expand the scope of the organisations covered beyond not-for-profit or other service provider organisations.

One example would be to allow us to introduce regulations that may be required, for example, where an agency is a public sector agency but not a public service administrative unit and that it should be a reporting agency. It gives us some flexibility. I do not think it is our present intention to expand it beyond the scope of not-for-profit or other organisations, although the regulation-making power is broad enough to do that, but it is not our intention to extend it to cover businesses at this time.

In relation to the broader question raised about the applicability of the charter to businesses, the only point at which businesses are attached by the charter is in this aspirational sense where we are saying that they should be supported by businesses. The reporting arrangements or the applicable organisations for the purposes of the legislation do not cover businesses as things are presently established. I think that addresses all the questions that were raised by the member for Heysen in her contribution. I thank all honourable members, and I commend the bill to the house.

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

STATUTES AMENDMENT (CRIMINAL PROCEDURE) BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935; the Criminal Law (Forensic Procedures) Act 1998; the Director of Public Prosecutions Act 1991; the Magistrates Court Act 1991; and the Summary Procedure Act 1921. Read a first time.

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

That this bill be now read a second time.

Criminal trial reform is not usually either newsworthy or controversial. It excites only the aficionado. But this bill is controversial and it is exciting. It proposes major reforms to the way in which the criminal justice system can deal with the trial of serious offences tried on information. These are the most important changes proposed to the criminal justice system since the major changes to the courts structure passed by parliament in 1992. But If the bill is controversial for some, I cannot emphasise too much that it has had a long genesis. The member for Bragg would know why it had a long genesis, and that had to do with inactivity by the Hon. K.T. Griffin.

The changes have powerful authority behind them. The bill proposes the enactment of reforms recommended by the Standing Committee of Attorneys-General, its Deliberative Forum, the Martin committee, the Duggan committee and the Kapunda Road royal commissioner as well as, in a wider spread, the New South Wales Law Reform Commission and the Rosskill and Auld inquiries in the United Kingdom. These proposals have a healthy and sound pedigree indeed. This is not only about efficiency and effectiveness in the criminal justice system, it is also about fairness in the criminal justice system. As the McGee prosecution demonstrated and the Kapunda Road royal commissioner found, there can be exploitation of loopholes in the trial process with expert evidence.

Some members of the opposition did not want to have a royal commission. In addition, as we shall see, the decision of the full court in Dorizzi requires attention, and the Kapunda Road royal commissioner wanted a small amendment to the Criminal Law (Forensic Procedures) Act 1998 to make its scope distinct from the Road Traffic Act 1961. The government is committed to the same principles that motivated the Auld inquiry. They are:

To ensure just processes and just and effective outcomes; to deal with cases throughout the criminal justice process with appropriate speed; to meet the needs of victims, witnesses and jurors within the system; to respect the rights of defendants and to treat them fairly; to promote confidence in the criminal justice system.

On the other hand, the government is opposed to trial by ambush. It is of the opinion that the time has come for the system to move on to some new rules that have been explored and recommended by the highest of authorities with increasing vehemence for the past 20 years.

Ms Chapman interjecting:

The Hon. M.J. ATKINSON: In response to the plaintive cries by the member for Bragg, I seek leave to have the

balance of my second reading explanation incorporated in *Hansard* without my reading it.

Leave granted.

General Background

The genesis of significant law reform in the area of criminal-trial procedure for serious offences was the alleged inability of the English court system to deal with the complicated fraud trials of the 1980s, the consequent Roskill Inquiry and the establishment of the U.K. Serious Fraud Office under its own specially-designed legislation (*Criminal Justice Act, 1987* (UK)). There is also an Australian beginning to this story in the 1980s. Like many stories of criminal law reform, it began with scandals. One well known example became known as the "Greek Social Security Conspiracy" case. The committal proceedings for the recent bodies-in-the-barrels case may have seemed drawn out, but the social-security fraud preliminary hearing (not the trial) referred to ran for two and a half years, with 354 sitting days, more than 350 witnesses called by the prosecution alone, 13 000 exhibits and 30 000 pages of transcript. The result was no trial. The other commonly cited example is the *Grimwade* trial in Victoria, which prompted the Victorian Court of Criminal Appeal to say:

> "Let it be understood henceforth, without qualification, that part of the responsibility of all counsel, in any trial, criminal or civil, is to co-operate with the court and each other so far as is necessary to ensure that the system of justice is not betrayed; if the present adversary system of litigation is to survive, it demands no less. … Counsel in future faced with a long and complex trial, criminal or civil, will co-operate with their utmost exertion to avoid a mockery of the system of justice. If not, they must expect to receive, with the sanction of this court, appropriate regimentation by the judge—perhaps of a kind not hitherto experienced—designed to avoid the unhappy result that befell this trial." *Wilson and Grimwade* [1995] 1 VR 163 at 180, 185.

This sort of thing led to a strong campaign for criminal-justice process reform. It was originally confined to complicated fraud trials, but quickly spread to serious criminal trials generally. This process was special in that it attracted a heavy contribution from the judiciary, who have not been noted as an institution for becoming involved in public-policy debates, and for very good reason.

Australian Movements

There was strong pressure from prosecuting authorities and some judges for Attorneys General to act. Accordingly, there was a special meeting of the Standing Committee of Attorneys General (SCAG) in 1992 on the subject, at which policy positions were adopted, but the only wholesale outcome from this push was the enactment of the Victorian *Crimes (Criminal Trials) Act, 1993*. This was modelled on the U.K. serious complex fraud legislation and, like its U.K. ancestor, was soon declared to have failed in its aims. It was replaced by the *Crimes (Criminal Trials) Act, 1999.* Reports suggest that this effort may have been more successful, at least from some points of view.

Matters did not rest there. The Directors of Legal Aid and the Directors of Public Prosecutions came together in 1998 and produced a "Best Practice Model for the Determination of Indictable Charges" and, when that was referred to SCAG, the Attorneys-General established a committee, chaired by Brian Martin Q.C., subsequently Martin J. of the South Australian Supreme Court, to examine the matter again and make recommendations. They did so in what may be called the Martin Report.

This project was taken up with enthusiasm by the Commonwealth, with the result that the Australian Institute for Judicial Administration, with the support of SCAG, staged a two-day conference on the subject in 2000 followed, on the third day, by a meeting of judges, lawyers and policy people nominated by Attorneys General. This last meeting was called the "Deliberative Forum". The Forum then went through the Martin recommendations and the results of the conference and produced a report with many recommendations, some of which did not reflect the Martin recommendations. This report was circulated by the Commonwealth to all Deliberative Forum members, revised in light of comments, and sent out again. It contains 68 recommendations.

SCAG then endorsed the Report and the recommendations. The latter run the gamut from requiring legislative change, to administrative change, to changes in the culture of legal practice. The recommendations are addressed to all players in the system, from judges, to administrators, to lawyers (prosecution and defence) and legal aid.

In late 2001, the then Attorney-General received a letter from the Chief Justice indicating that a committee chaired by Martin J. had reported to him and that he was proposing to carry out some of the changes recommended by that committee that were within his power to do. In late 2003, the Attorney-General appointed a working group to advise him on a selection of recommendations for criminal-trial reform that arose from the Deliberative Forum on Criminal Trial Reform.

The members of the working group (The Duggan Committee) were:

Justice Kevin Duggan

Justice John Sulan

Judge Paul Rice

Wendy Abraham Q.C., Acting Director of Public Prosecutions (later replaced by Peter Brebner Q.C.)

Gordon Barrett Q.C. (now Judge Gordon Barrett)

Matthew Goode, Managing Solicitor, Policy and Legislation, Attorney-General's Department.

The Committee met regularly. It resolved in 2004 to deal with all issues except the controversial one of defence disclosure (upon which it was divided, and which it expected to create further division in the profession and abroad) and, upon that, to await the findings of a large empirical study on defence disclosure being carried out in Canada. That study was promised for a long time but was not forthcoming. (It is now available as Ives, *Defence Disclosure in the Commonwealth: Still More Theoretical Than Real? A Review of the Research*.) With the advent of the Kapunda Road Royal Commission, with its tight deadline, it was clear that the Committee no longer had the luxury of waiting for it. The Committee therefore finalised its report and sent it to the Attorney General on 6 June, 2005.

The Duggan Committee limited its recommendations to those matters raised in the SCAG papers that had not been carried out and which required legislative change. The Report makes two kinds of recommendations that fall within that description. The first group are recommendations that the Committee regards as obvious and uncontroversial. The second group are recommendations about defence disclosure for indictable trials. The Committee regarded these recommendations as having the potential for being most controversial and productive of much opposition. It therefore devoted more space and argument to these recommendations than the former. I will let the Duggan Report speak for itself, interpolating only where required.

The Recommendations

The Minor Recommendations

Only one set of these requires legislation. The Duggan Report says:

> Recommendation 41: Immediately after the prosecution opening, in a prescribed form of words the trial judge should invite the defence to respond to the Crown opening and to identify the issues in dispute.
>
> Recommendation 42: No explanation or remarks should be addressed by the judge or the prosecutor to the jury concerning a failure by the defence to respond to the Crown opening.
>
> We support these recommendations. In recent times the practice of inviting the defence to give a short opening address immediately after the prosecution opening has been followed by some judges in this State and elsewhere. The benefit lies in identifying for the jury or the judge in a trial by judge alone the issues which will be of most relevance in the trial. The earlier the judge and jury are apprised of this knowledge the better. However, as in the case of a prosecution opening, the occasion should not be used to put forward arguments in support of a case. The defence address should be restricted to identifying the issues in the case and the matters to be raised by the defence.
>
> We agree with the proposal in Recommendation 42 that no comment should be made by the judge concerning the failure of the defence to respond to the prosecution opening. We consider it appropriate that the invitation to the defence should be made in the absence of the jury. We are not in favour of requiring the judge to use a prescribed form of words when inviting the defence to respond.
>
> We recommend that these proposals be made the subject of legislation.
>
> Recommendation 43: Where the defence has provided a response as envisaged in Recommendation 41, the trial judge, immediately following this response should be required to address the jury for the purpose of summarising the primary issues in the trial that are likely to arise for its consideration.
>
> We disagree with the proposal that the trial judge should be required to comment at this stage of the trial. It may be

appropriate for the judge to comment further on the issues in dispute in the trial, but that should be left to the discretion of the trial judge. Assistance to the jury in matters such as this is clearly within the province of the trial judge's function and legislation to authorise the practice is unnecessary.

The Bill therefore proposes to fulfil recommendations 41 and 42 and not to fulfil recommendation 43.

Mandated Police Disclosure

The D.P.P. has a duty, by statute, common law and its own guidelines, to make comprehensive disclosure to the accused. This is in the interests of fast, effective and efficient prosecution. For example, it is well known that full disclosure encourages early guilty pleas. Prosecutions can be derailed, delayed or lost if there is not full disclosure or prosecution disclosure is delayed. R v *Ulman-Naruniec* (2003) 143 A. Crim. R. 531 provides a recent South Australian example of how things can go wrong. The Court of Criminal Appeal, in trying to deal with a very complicated case, found that there was an inexcusable failure by the A.F.P. and the Commonwealth D.P.P. to disclose significant and relevant information to the defence. Section 104(2) of the *Summary Procedure Act 1921* and the common law require continuing prosecution disclosure to the defence of material available to the prosecution that is material to the case for the prosecution and that of the defence. There is no legislative provision in South Australia that imposes a duty on police officers to disclose information to the D.P.P. The Duggan Committee recommended that this be remedied.

> We recommend the enactment of a provision along the lines of s 15A of the *Director of Public Prosecutions Act 1986* (NSW) which states:
>
> (1) Police officers investigating alleged indictable offences have a duty to disclose to the Director [D.P.P.] all relevant information, documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution or the case for the accused person.
>
> (2) The duty of disclosure continues until one of the following happens:
>
> (a) the Director decides that the accused person will not be prosecuted for the alleged offence,
>
> (b) the prosecution is terminated,
>
> (c) the accused person is convicted or acquitted.
>
> (3) Police officers investigating alleged indictable offences also have a duty to retain any such documents or other things for so long as the duty to disclose them continues under this section. This subsection does not affect any other legal obligation with respect to the possession of the documents or other things.
>
> (4) The regulations may make provision for or with respect to the duties of police officers under this section, including for or with respect to:
>
> (a) the recording of any such information, documents or other things, and
>
> (b) verification of compliance with any such duty.
>
> (5) The duty imposed by this section is in addition to any other duties of police officers in connection with the investigation and prosecution of offences.

The Committee also draw attention to recommendations made in a memorandum prepared by Mr Kourakis Q.C., Solicitor-General, dated 1 May, 2003. The Solicitor-General proposed that all documents collected and created in the course of a police investigation be verified by a certificate produced at committal by the prosecution. The certificate would have to be cleared by the prosecution to ensure that any form of claimed privilege is not breached. Put another way, claims for privilege, public interest immunity or other exemption from disclosure should be decided by the D.P.P. and not the police. The certificate would include an undertaking to advise the prosecuting authority of any documents subsequently collected as soon as is reasonably practicable. The Committee took the view that it was not within its terms of reference to comment on this proposal but thought it might well be considered if pre-trial disclosure legislation is contemplated. Existing legislation authorises courts to make rules generally about this certificate or list. Most of the detail should be left to rules to enable appropriate flexibility.

The Bill proposes the enactment of Mr Kourakis's recommendations.

Prosecution Disclosure

Although currently extensive, prosecution disclosure could be improved by enactment of formal obligations. In the Committee's words:

> In addition to fulfilling the requirements of the *Summary Procedure Act 1921* s 104, we understand that it is customary for the prosecution to provide the defence with certain other documents such as a copy of the information and details of the accused's previous convictions. We think it is appropriate to provide for such matters by way of statutory requirements similar to those which are contained in the New South Wales and Western Australian legislation. To this end we recommend that the prosecution be required to provide the defence with the following:
>
> (a) a copy of the information,
>
> (b) an outline of the prosecution case,
>
> (c) a copy of any information in the possession of the prosecutor that is relevant to the reliability or credibility of a prosecution witness,
>
> (d) a copy of any information, document or other thing provided by police officers to the prosecutor, or otherwise in the possession of the prosecutor, that may be relevant to the case of the prosecutor or the accused person, and that has not otherwise been disclosed to the accused person,
>
> (e) a copy of the criminal history of the accused,
>
> (f) any other document prescribed by rules of court.
>
> The outline of the prosecution case would set out the acts, facts, matters and circumstances relied upon by the prosecution but would not be treated as formal particulars of the charge or charges.
>
> The copy of the information should be provided prior to the first arraignment. The other information should be provided no later than the first directions hearing.

In addition:

> We also recommend that the court be given power to direct the prosecution to serve a notice to admit facts on the defence requesting the defence to respond to that notice prior to the commencement of trial. In some cases there are informal discussions between the prosecution and the defence as to matters which are not in dispute. We consider there is an advantage in formalising this procedure in order to provide an impetus for the parties to direct their attention to these matters before trial. We recommend that the order to serve the notice be made at the first directions hearing and that no order be made unless the accused is represented at the time.

The Bill proposes the enactment of these proposals. It has been necessary to add a little detail, fleshing out the rights and obligations of the defendant in the circumstances referred to.

Defence Disclosure

There has been a significant growth in statutory provisions requiring defence disclosure in Australian jurisdictions in recent years, as well as in England and, to a lesser extent, Canada. In Australia, there are major statutory defence disclosure regimes in place in New South Wales, Victoria and Western Australia. The English defence disclosure scheme is comprehensive. The merits or otherwise of requirements of defence disclosure have been rehearsed time and again over the past decade. The matter is put as succinctly as possible by the Duggan Report:

Some of the arguments for and against such disclosure are summarised in the Second Report of the New South Wales Parliamentary Standing Committee on Law and Justice in respect of the Criminal Procedure Amendment Act (Pre-Trial Disclosure) Act 2001 (NSW) ("the New South Wales Report") at [2.11] and [2.12] as follows:

> Arguments in support
>
> the reforms would draw together, formalise and clarify the combination of laws, rules, regulations and guidelines that previously regulated pre-trial disclosure.
>
> pre-trial disclosure allows improved preparation of the prosecution case and improved fairness in the trial process as the prosecution will have the opportunity to consider and test all the evidence.
>
> the defendant would be in a better position to make an informed decision about whether to plead guilty based on the strength of the disclosed prosecution case.
>
> defence pre-trial disclosure addresses the problem of defendants 'ambushing' the prosecution at trial with

defences the prosecution could not anticipate.
adjournments in response to unexpected developments in the course of a trial would be minimised.
parties would be able to focus on issues that are in contention, rather than having to prepare evidence in relation to issues that are not in dispute.
a better and fairer outcome can be reached as pre-trial disclosure by both parties ensures the court would be aware of all the relevant information.
pre-trial disclosure in general increases efficiency in the criminal justice system leading to a reduction in court delays and the costs associated with such trials and also reducing the impact on victims and witnesses.
Arguments against
the reforms would have a negative impact on defendants in complex criminal trials because they undermine the right to silence, the presumption of innocence and the burden of proof.
the prosecution would be able to tailor its case in light of the disclosed defence case.
compulsory pre-trial disclosure would place a resource burden on legal services to defendants.
there may be acceptable reasons for the defence to depart from the disclosed defence at trial and the ability to do this under a pre-trial disclosure order is limited.
orders for compulsory pre-trial disclosure may not have the effect of reducing court delays as asserted.
the use of sanctions for breaches of disclosure orders is inappropriate.
the use of sentencing discounts for compliance with pre-trial disclosure requirements is inappropriate.

The arguments are dealt with in considerable detail in Griffith, Pre-Trial Defence Disclosure Background to the Criminal Procedure Amendment (Pre-Trial Disclosure Bill 2000 (NSW)), December 2000.

This is not an issue—or group of issues—on which it can be said that one point of view is conclusively right or conclusively wrong. It is a matter of considering the matter on balance. The Duggan Committee has advised the Government that:

> We are of the view that the developments in the criminal justice system referred to above favour the case for the introduction of defined disclosure requirements by the defence in certain circumstances and that the arguments in favour of such reform outweigh the arguments against it. … we accept the argument that the right to silence which is based on the rule against self-incrimination is not diminished by a requirement to indicate certain specific defences which might be raised, what challenges are to be made to the prosecution evidence or what expert evidence might be adduced in support of the defence case. We do not agree that requirements to disclose such information could in any sense affect the burden of proof. The presumption of innocence which provides the rationale for the burden of proof would be similarly unaffected.

The Bill proposes the enactment of provisions giving effect to that advice.

The result is a series of recommendations based in part on the existing New South Wales statutory scheme. That is in large part owing to the scheme's reflecting the SCAG recommendations. The first general set of recommendations is:

> Accordingly, we would favour a procedure whereby the court was given power to make orders requiring pre-trial disclosure by the defence in those cases in which the court considered that such an order was appropriate. The prosecution could make application to the court for an order or the court could act on its own motion. We think it unnecessary to confine the exercise of the discretion to a statutory formula as is required by the New South Wales legislation.
> We recommend that the order for disclosure may provide for any one or more of the following:
>
> (a) Notice as to whether the accused person proposes to adduce evidence at the trial of any of the following contentions:
>
> (i) mental incompetence,
> (ii) self-defence,
> (iii) provocation,
> (iv) accident,
> (v) duress,
> (vi) claim of right,
> (vii) automatism,
> (viii) intoxication;
>
> (cf. *Criminal Procedure Act 1986* (NSW) s 139(1)).
>
> (b) Notice by the defence as to whether it is necessary for the prosecution to call all witnesses in respect of surveillance evidence and records of interview and, if not, which witnesses are required.
>
> (c) Notice by the defence as to whether any issue is taken with respect to the continuity of custody of exhibits to be tendered by the prosecutor.
>
> (d) Notice by the defence as to whether there is any dispute in relation to the accuracy or admissibility of documentary evidence, charts, diagrams or schedules to be tendered by the prosecution.

The Committee continued to make a recommendation about a more specific area of defence disclosure. It is well known that the defence must disclose the intention to rely on the defence of alibi and the reasons for that are equally well known. In South Australia, that requirement is to be found in s 285C of the *Criminal Law Consolidation Act*. The provision is very detailed:

> 285C—Notice of certain evidence to be given
>
> (1) Subject to subsection (2), if a defendant proposes to introduce evidence of alibi at the trial of an indictable offence in the Supreme Court or the District Court, prior notice of the proposed evidence must be given.
>
> (2) Notice of proposed evidence of alibi is not required under subsection (1) if the same evidence, or evidence to substantially the same effect, was received at the preliminary examination at which the defendant was committed for trial.
>
> (3) The notice—
>
> (a) must be in writing;
>
> (b) must contain—
>
> (i) a summary setting out with reasonable particularity the facts sought to be established by the evidence; and
>
> (ii) the name and address of the witness by whom the evidence is to be given; and
>
> (iii) any other particulars that may be required by the rules;
>
> (c) must be given within seven days after the defendant is committed for trial;
>
> (d) must be given by lodging the notice at the office of the Director of Public Prosecutions or by serving the notice by post on the Director of Public Prosecutions.
>
> (4) Non-compliance with this section does not render evidence inadmissible but the non-compliance may be made the subject of comment to the jury.
>
> (5) Except by leave of the court, evidence in rebuttal of an alibi shall not be adduced after the close of the case for the prosecution.
>
> (6) Leave shall be granted under subsection (5) where the defendant gives or adduces evidence of alibi in respect of which—
>
> (a) no notice was given under this section; or
>
> (b) notice was given but not with sufficient particularity, (but this section does not limit the discretion of the court to grant such leave in any other case).
>
> (7) In any legal proceedings, a certificate apparently signed by the Director of Public Prosecutions certifying receipt or non-receipt of a notice under this section, or any matters relevant to the question of the sufficiency of a notice given by a defendant under this section, shall be accepted, in the absence of proof to the contrary, as proof of the matters so certified.
>
> (8) In this section—
>
> ***evidence of alibi*** means evidence given or adduced, or to be given or adduced, by a defendant tending to show that he was in a particular place or within a particular area at a particular time and thus tending to rebut an allegation made against him either in the charge on which he is to be tried or in evidence adduced in support of the charge at the preliminary examination at which he was committed for trial.
>
> (Note also s 107(5) of the *Summary Procedure Act 1921*.)

The Committee has recommended that a similar regime apply in relation to the intention to call any expert evidence, at trial or on the voir dire. Unlike the previous general recommendation for disclosure, the requirement would not be discretionary—it would apply in all cases. However, the court should be given the authority to dispense with the requirement if, on an application by the defence,

the court was satisfied that there was good reason for dispensing with compliance and no miscarriage of justice would result if the dispensation were granted (cf *Crimes Act* (WA) s 611C(3)). The precise terms of the recommendation are:

> We recommend legislation to require the defence to file and serve a statement in relation to any expert evidence it proposes to call. The statement should be filed and served at least fourteen days before trial and contain the name and address of the witness, the qualifications of the witness to give evidence as an expert and the substance of the evidence it is proposed to adduce from the witness as an expert, including the opinion of the witness and the acts, facts, matters and circumstances on which the opinion is formed. This requirement follows along the lines of s 9 of the *Crimes (Criminal Trials) Act 1999* (Vic). … The time for disclosure should be specified in the legislation.

There is an alternative position, however, that was considered by the Committee. Section 139 of the *Criminal Procedure Act 1986* (NSW) and s 611C of the *Crimes Act* (WA) require disclosure of the actual copies of any reports prepared by expert witnesses proposed to be called by the accused. Some members of the working group expressed concern about the application of the New South Wales and Western Australian provisions to reports from psychiatrists and psychologists which might contain reference to the accused's instructions about his or her case. The Committee therefore did not take this position. The Kapunda Road Royal Commissioner has recommended that the report of the Committee be adopted. Therefore, the Bill is drafted on the basis of the Committee's recommendation.

The Kapunda Road Royal Commissioner had an additional recommendation in this area. He said:

> That in cases where expert psychiatric evidence about an accused is proposed the court should have power to require the accused to submit to an examination by an independent expert retained by the other side".

The Royal Commissioner did not propose any sanction for failure to fully comply. The sanction should be inability to lead the evidence.

Sanctions

Sanctions that are available to the court to deal with prosecution failure to comply with its obligations are well established and litigated. That is not so for the defence. The Committee agreed with these recommendations in the Report of the SCAG working group:

> 32 If the prosecution fails to comply with its obligations or seeks leave to adduce the additional evidence:
>
> (i) The Court should be empowered to award adjournment and incidental costs;
>
> (ii) The Court should more readily be prepared to grant a voir dire examination in connection with the additional evidence.
>
> (iii) The prosecution should only be entitled to lead the evidence if a reasonable explanation for its late production is provided or the interests of justice otherwise require that the prosecution be permitted to lead the evidence.
>
> 33 If a defendant fully cooperates and is convicted, the defendant should be entitled to a discount of sentence to be determined within the discretion of the trial judge, but to be specifically identified by the trial judge.
>
> 34 If a defendant fails to cooperate by declining to identify a specific defence relied upon at trial, the defendant should only be permitted to lead the evidence if a reasonable explanation for the failure to identify the defence during the pre-trial process is given or the interests of justice otherwise require that the defendant be permitted to lead the evidence.
>
> 35 If a defence has failed to co-operate by failing to identify a specific defence, subject to the overriding consideration of the interests of justice, the trial judge should be empowered to impose restrictions upon cross-examination of Crown witnesses.
>
> 36 If a defendant fails to co-operate in a meaningful way or only partially co-operates and is convicted, the sentencing judge should be entitled to adjust the discount.
>
> 37 A defendant committed for trial must be fully informed by counsel and the committing magistrate that a failure to co operate may result in the loss of any sentencing discount that would otherwise be applicable.
>
> 38 Counsel should be obliged to inform the judge at the first directions hearing that the advice referred to in recommendation 37 has been given.
>
> 39 39 The obligation to give the advice mentioned in recommendation 37 should be included in the rules of professional conduct.

The Committee commented that it might also be considered appropriate to include in the rules of professional conduct an obligation on legal practitioners to assist in ensuring that orders for pre-trial disclosure are carried out.

These recommendations have been altered in the Bill. Some alterations are significant and some are minor.

- It has been decided not to deal with routine adjournments and orders for costs in the Bill. These are well handled by current law in relation to both prosecution and defence and there is no evidence that the rules are unsatisfactory. The current rules remain applicable. The exception is a failure to comply with a requirement to give notice of an intention to call expert evidence. The Bill deals with this situation to make it clear that the prosecutor will be the judge of what is the time necessary to consider the effect of that evidence and whether to get alternative evidence to rebut it.
- The current law about giving a sentence discount of sentence for co-operation by the defence is assumed to continue without being further spelled out.
- The recommended sanctions for any defence failure to comply with a requirement to identify a defence were thought to be too complex and open-ended. Instead, it is proposed that the flexible sanction of adverse comment by judge or prosecution is preferable.
- The obligation to inform the defendant of key obligations under the new rules proposed here is incorporated into the notices and will be the subject of prescribed wording rather than being left at large to the oral advice of practitioners or the court. It is thought that this is a surer and more fair way to convey the required information.

Other Amendments

Criminal Law (Forensic Procedures) Act 1998

The Kapunda Road Royal Commissioner found that there was ambiguity in the relationship between the *Criminal Law (Forensic Procedures) Act 1998* and the *Road Traffic Act 1961*. The Commissioner recommended that the relationship be clarified. This Bill amends s 5 of the *Criminal Law (Forensic Procedures) Act 1998* to remove the ambiguity. The Act, as amended, will say that the Act does not apply to alcohol or drug testing procedures under the *Road Traffic Act 1961*. In other words, there are two codes at work. They are mutually exclusive. If police are investigating a summary offence under the *Road Traffic Act 1961* (such as driving while impaired, or driving with a blood alcohol over the limit), they must use that Act. If police are investigating a serious offence against another Act (albeit committed in connection with driving a motor vehicle) such as causing death or serious injury by dangerous driving or reckless endangerment, they can use the *Criminal Law (Forensic Procedures) Act 1998*. That is the way it was always intended to be.

Magistrates Court Act 1991

The appeal provisions of the Magistrates Court are set out in section 42 of the *Magistrates Court Act 1991*.

The decision of the Full Court in *Police v Dorizzi* (2002) 84 SASR 416 illustrates a problem with section 42. In *Dorizzi*, the Full Court held that section 42 does not enable a party to a criminal proceeding (in this case the prosecution) to appeal a ruling on the admissibility of evidence by a magistrate. *Dorizzi* was the prosecution night club security guards for assault. The key prosecution evidence was tapes from various video-surveillance cameras purporting to show the offence taking place. The magistrate hearing the matter ruled the video tapes inadmissible. As a result, the prosecution case collapsed. The magistrate ruled there was no case to answer and ordered the case be dismissed.

The prosecution appealed the magistrate's decision to a single judge of the Supreme Court under section 42. On appeal, the Judge ruled the video tape was incorrectly ruled inadmissible, set aside the magistrate's orders, and ordered a retrial. On further appeal, however, the Full Court held that the prosecution could not have succeeded in its appeal as section 42 did not authorise an appeal against the magistrate's ruling on the admissibility of the video tapes.

The Bill amends sections 42 to provide, in effect, a right of appeal against a decision by the Magistrates Court on an interlocutory judgment. That will be permitted when:

· a question as to whether proceedings on a complaint or information or a charge contained in a complaint or information should be stayed; or

· the judgment in effect destroys the case for the prosecution; or

· the Court or the appellate court is satisfied that there are special reasons for allowing the interlocutory appeal to proceed (given the often enunciated judicial expressions of the public interest against splitting the course of criminal proceedings).

· This proposal broadly conforms to the recommendations of the Model Criminal Code Officers Committee in its Discussion Paper and Report on Double Jeopardy and is broadly in accord with similar provisions in New South Wales.

Conclusion

This Bill is a major step forward in criminal trial reform. It has been preceded by decades of debate and consultation among judges, prosecutors, directors of legal aid and defence counsel across Australia. Although some will cling to outdated procedures and formalities, there has been widespread agreement in many reports at the highest and most expert level across Australia and the United Kingdom that change in the old ways is necessary. Now we, too, move forward.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Insertion of sections 285BA, 285BB and 285BC

This clause inserts new sections in Part 9 of the *Criminal Law Consolidation Act 1935* as follows:

285BA—Power to serve notice to admit facts

This provision allows the DPP to apply to the court (where it is dealing with an offence that is to be tried on information) for authorisation to serve on the defence a notice to admit specified facts. Such a notice may specify a time (fixed by the court) within which it is required to be complied with and must contain a warning advising the defendant of the possible consequences of an unreasonable failure to make an admission in response to the notice.

Such an order may only be made at a directions hearing at which the defendant is represented by a legal practitioner unless the court is satisfied that the defendant has voluntarily chosen to be unrepresented or is unrepresented for reasons attributable to the defendant's own fault.

The provision does not abrogate the privilege against self-incrimination but if a defendant unreasonably fails to make an admission in response to a notice and is convicted, the failure should be taken into account in fixing sentence.

285BB—Power to require notice of intention to adduce certain kinds of evidence

This provision would allow a court before which a defendant is to be tried on information to require the defence to give the DPP written notice of an intention to introduce certain types of evidence listed in the provision (such as evidence tending to establish that the defendant was mentally incompetent to commit the alleged offence or is mentally unfit to stand trial, evidence of self defence and evidence of provocation amongst other things). The court may only allow the prosecution to make such a requirement if satisfied that the prosecution has fulfilled its obligations of disclosure to the defence. Non-compliance with a requirement under the provision does not make the evidence inadmissible but the prosecutor and judge may comment on the non-compliance to the jury.

In addition, a court before which a defendant is to be tried on information may require the defence to notify the DPP in writing whether it consents to dispensing with the calling of prosecution witnesses proposed to be called to establish the admissibility of specified intended evidence of a kind listed in the provision (such as evidence of surveillance or interview and exhibits). If the defence fails to comply with this type of notice, the defendant's consent to the tender of the relevant evidence for purposes specified in the notice will be conclusively presumed.

285BC—Expert evidence

This provision provides that, if expert evidence is to be introduced for a defendant being tried on information, written notice of the intention to introduce the evidence (setting out the name and qualifications of the expert, a description of the general nature of the evidence and what it tends to establish) must be given to the DPP on or before the date of the first directions hearing or as soon as practicable after it becomes available to the defence, unless an exemption is granted by the court.

In addition, if the defence proposes to introduce expert psychiatric or medical evidence, the court may, on application by the prosecutor, require the defendant to submit to an examination by an independent expert approved by the court.

If a defendant fails to comply with a requirement of the provision, the evidence will not be admitted without the court's permission (but the court cannot allow the admission of evidence if the defendant fails to submit to an examination by an independent expert) and the prosecutor and the judge may comment on the defendant's non-compliance to the jury.

If the DPP receives notice of an intention to introduce expert evidence less than 28 days before the trial commences, the court must, on application by the prosecutor, adjourn the case to allow the prosecution a period determined by the prosecutor to be necessary to obtain expert advice on the proposed evidence.

In addition, if it appears to the judge that a non-compliance has occurred on the advice or with the agreement of a legal practitioner, the giving of the advice or agreement is deemed to constitute unprofessional conduct and the judge must report the legal practitioner to the appropriate authority to be dealt with for that conduct.

5—Substitution of section 288A

This clause substitutes new provisions as follows:

288A—Defence to be invited to outline issues in dispute at conclusion of opening address for the prosecution

This provision requires the judge in a trial of an offence on information, to invite the defendant, at the conclusion of the prosecutor's opening address, to address the court to outline the issues in contention between the prosecution and the defence.

288AB—Right to call or give evidence

This provision replicates the current section 288A but with a minor change (new subsection (4)) that is consequential to new section 288A.

Part 3—Amendment of *Criminal Law (Forensic Procedures) Act 1998*

6—Amendment of section 3—Interpretation

This clause inserts a definition of ***alcohol or drug testing procedure*** for the purposes of the measure.

7—Substitution of section 5

This clause substitutes new provisions as follows:

5—Application of this Act to alcohol or drug testing procedures

This provision clarifies the position with respect to alcohol or drug testing procedures. The provision makes it clear that such procedures can be carried out either under the *Criminal Law (Forensic Procedures) Act 1998* or under some other law but if the procedure is carried out under some other law (such as the *Road Traffic Act 1961*), the *Criminal Law (Forensic Procedures) Act 1998* does not apply to it.

5A—Body searches

This provision provides that a search of the person is not to be regarded as a forensic procedure (currently specified in section 5 of the *Criminal Law (Forensic Procedures) Act 1998*).

8—Repeal of heading to Part 2 Division 1

This clause repeals a heading that is now unnecessary.

9—Substitution of section 6

This clause substitutes a new section 6 as follows:

6—Part to apply to all forensic procedures other than alcohol or drug testing procedures conducted under other laws

This clause provides that Part 2 of the principal Act applies to forensic procedures (including alcohol or drug

testing procedures) carried out under the *Criminal Law (Forensic Procedures) Act 1998* and to forensic procedures carried out under other laws, with the exception of alcohol or drug testing procedures.

10—Repeal of heading to Part 2 Division 3

This clause repeals a heading that is now unnecessary.

Part 4—Amendment of *Director of Public Prosecutions Act 1991*

11—Insertion of section 10A

This clause inserts new section 10A as follows:

10A—Disclosure of information to Director

This provision provides that a police officer in charge of the investigation of an indictable offence (the ***chief investigator***) has a duty to disclose to the DPP all documentary material collected or created in the course of the investigation that might reasonably be expected to assist the case for the prosecution or the case for the defence. This duty extends to material that may be exempt from production in court, and continues until—

- the Director decides that the person suspected of having committed the alleged offence not be prosecuted for the offence; or
- the prosecution is terminated; or
- the accused person is convicted or acquitted, and all rights of appeal have expired or been exhausted.

The chief investigator must—

- ensure that, when the DPP requires it, the DPP is provided with a list of the documentary material liable to disclosure under the provision and copies of material referred to in the list; and
- ensure that material liable to disclosure is retained for the required period; and
- at the request of the Director, provide him or her with copies of specified documentary material that is not otherwise liable to disclosure.

Part 5—Amendment of *Magistrates Court Act 1991*

12—Amendment of section 42—Appeals

This clause substitutes new subsection (1a) into section 42 of the *Magistrates Court Act 1991*. The new subsection provides that an appeal does not lie against an interlocutory judgment unless—

(a) the judgment stays proceedings; or

(b) the judgment destroys or substantially weakens the basis of the prosecution case and, if correct, is likely to lead to abandonment of the prosecution; or

(c) the Court or the appellate court is satisfied that there are special reasons why it would be in the interests of the administration of justice to have the appeal determined before commencement or completion of the trial and grants its permission for an appeal.

Part 6—Amendment of *Summary Procedure Act 1921*

13—Amendment of section 104—Preliminary examination of charges of indictable offences

This clause amends section 104 of the *Summary Procedure Act 1921*.

Subclause (1) substitutes a new subparagraph (iv) into section 104(1)(a), amending the list of things the prosecutor must file in the court in accordance with that subsection to include all other material relevant to the charge (whether relevant to the case for the prosecution or the case for the defence) that is available to the prosecution except material exempt from production because of privilege or for some other reason.

Subclause (2) substitutes new paragraph (b) into the same subsection, setting out the material that must be provided to the defendant or their legal representative.

Subclauses (3) and (4) make related amendments to section 104.

14—Amendment of section 107—Evaluation of evidence at preliminary examination

This clause substitutes new subsection (5) and inserts new subsection (6) into section 107 of the *Summary Procedure Act 1921*.

Subsection (5) requires the court that commits a defendant for trial to provide the defendant with a written statement setting out his or her procedural obligations in regard to the trial, and explaining that non-compliance with those obligations may have serious consequences. The proposed subsection also requires the court to give the defendant such further explanations of the trial procedure and his or her obligations as the Court considers appropriate.

Subsection (6) provides an evidentiary provision stating that if, in any legal proceedings, the question arises whether a defendant has been provided with the statement and explanations required by section 107(5), it will be presumed, in the absence of proof to the contrary, that the defendant has been provided with the statement and explanations.

Ms CHAPMAN secured the adjournment of the debate.

DOG FENCE (MISCELLANEOUS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

CRIMINAL LAW CONSOLIDATION (SERIOUS VEHICLE AND VESSEL OFFENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2510.)

The SPEAKER: I call the member for Mawson.

The Hon. M.J. Atkinson: The royal commission you did not want to have!

The DEPUTY SPEAKER: Order!

Mr BROKENSHIRE (Mawson): The Attorney-General interjects, the royal commission that we, namely the opposition, did not want to have. I will not be speaking for too long on this bill because the opposition actually supports it, but there are a few points that I want to touch on. The bottom line is just that: that it was the opposition, particularly the Leader of the Opposition, that called for an inquiry into all the proceedings around what is famously known now as the McGee case. It was the government which did not want an independent inquiry in the normal sense and which opted to move for a royal commission because the advice given to it was that, if it had a royal commission, there would clearly be less embarrassment for the government, I think my colleagues would agree with that, than having a full and independent judicial inquiry. That was what the opposition wanted and it was the government, in another slick, spinning response, petrified of a fully open, focused, independent judicial inquiry that opted for a royal commission. That has to be put on the public record, because it is a statement of absolute fact in every respect.

This bill is the government's legislative response to public outrage over the Eugene McGee case. We have now seen the government spin pretty big time on two cases, namely, Nemer and McGee, for base political point scoring only, and that is the saddest part about what we are now debating. A proactive government, which was really a reformist government and which was tough on law and order in the truest sense, would have been looking at how it could have addressed some of these things before they occurred. It is not a proactive, reformist government: it is a knee-jerk, reactive government, particularly with respect to the media. I think the community is starting to wake up to what is going on with this government and its ongoing spin. It is reacting to the problem rather than being proactive—

The Hon. M.J. Atkinson: So, the royal commission was spin?

The DEPUTY SPEAKER: Order!

Mr BROKENSHIRE: —and addressing matters, as it would do if it was a wise government. I want to touch on four significant amendments to the law. First, this bill restructures the offence in the Criminal Law Consolidation Act 1935 of causing death by dangerous driving. Secondly, it creates a new offence in the Criminal Law Consolidation Act of leaving the scene of an accident after causing death or physical harm by careless use of a vehicle (or a vessel), and it increases the existing penalty for the cognate offence in the Road Traffic Act. Thirdly, it redefines the expression 'motor vehicles' and now includes motor vessels. Fourthly, it amends the Road Traffic Act to ensure that a period of disqualification given to a person who is imprisoned commences to operate after the offender is released. We support all those measures in an absolutely bipartisan way, because it is commonsense to do so.

I believe one can do nothing more cowardly than neglect the base duties of requirement when one is at an accident scene, that is, not render assistance; it is the most appalling thing that I can imagine. Therefore, we strongly support any initiative that strengthens and reinforces to the community the fact that, if someone wants to leave the scene of an accident, particularly after causing death or physical harm by careless use of a vehicle (or for any reason), they will suffer the consequences. To that end, as I said, the opposition supports the bill.

It is interesting to see, when looking through the bill, that the Attorney was at odds with his Premier on a few of these matters. That is not unusual, because if one wanted to do a scorecard one would discover a few times when the poor old Attorney had been overruled by the Premier—although I must admit that I think even the Attorney has a better legal brain than the Premier, because the Premier is not a lawyer (to give a bit of credit to the Attorney—not that I give him much). This bill is a rushed response by the government not only to the political problem but also to public disquiet about the whole McGee case.

The Attorney-General said on ABC Radio that he would be preparing a submission for cabinet on a tougher penalty for leaving the scene of an accident. Later that morning (the same morning that the Attorney-General was telling ABC Radio he would prepare a cabinet submission), the Premier—

The Hon. M.J. Atkinson: We had a cabinet meeting.

Mr BROKENSHIRE: —came out, clearly, before any submission was put forward. The Attorney said that he had a cabinet meeting. I will quote from some of the Rehame transcript that was paraphrased here. He said that he would be preparing—

The Hon. M.J. Atkinson: I was quick.

Mr BROKENSHIRE: No-one is that quick, not even the Attorney. Later on in the morning, when the Premier thought he had better get a bit more media spin going, quick as a spinning top he spun back into the media and announced that the penalty for leaving an accident scene would be increased to 10 years. However, it must be said that the maximum penalty of one year and a $5 000 fine is low on a national scale. We acknowledge that. It is interesting that the Victorian government also announced that its penalty would be increased to 10 years.

However, there is some cynicism with respect to the government, and I think it needs to be put on the public record. The government sought to create the impression that increasing the penalty would avoid a repetition of the McGee case—in other words, that if the same facts arose again the defendant would not escape prison. A reading of the sentencing remarks of Chief Judge Worthington reveals that this probably gives a false impression because, according to the Chief Judge, imprisonment was not an option and, if the same facts arose again, the offender would not be imprisoned.

Debate on this bill will be short, because we support it. However, I ask members of the house, the community and the media to re-read the opinion piece of the Leader of the Opposition (Hon. Rob Kerin) that appeared in *The Advertiser* on 4 May if they want a firm and principled position with respect to the real issues arising out of the McGee case. At the end of the day, the parliament must send a message to the community that it will not tolerate the actions of people such as Mr McGee.

As a matter of principle, we support these amendments. We would not oppose having a higher penalty for leaving the scene of an accident, unless the penalty is the same as the primary offence for which the person is liable. Clearly, there would be incentive to flee the scene in the hope of escaping detection and in the knowledge that even if one is captured the penalty will be less. Again, we support the government here.

In relation to vessels, I do not know whether the boating association, or organisations such as that, were consulted. My point of view is that probably a few MPs in this chamber are boat owners. As far as I am concerned, when it comes to drinking and operating a boat, jet ski or any vessel that floats in water, if one carelessly, in a culpable way, kills or injures someone, frankly, I do not see why one should be treated differently from someone driving a motor vehicle.

There is a lot of spin behind this government. We have seen it again with this bill, but this legislation is fully supported by the Liberal opposition. It will not be moving any amendments and it is happy to see the bill pass. We support the bill.

The Hon. M.J. ATKINSON (Attorney-General): I thank the opposition for its bipartisanship.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

VICTIMS OF CRIME (LEGAL COSTS AND DISBURSEMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 May. Page 2507.)

Ms CHAPMAN (Bragg): This bill was introduced by the Attorney-General on 4 May this year. Clearly, it was designed to circumvent the impasse which had arisen in relation to the Victims of Crime (Statutory Compensation) Regulations. There is a long history in relation to why this matter has now come before the house. This bill amends the Victims of Crime Act 2001. I remind the house that section 6 of that act provides:

> A victim should be treated—
> (a) with courtesy, respect and sympathy;

Furthermore, it provides that due regard must be had to special needs of victims. It is an act which provides for victims to be informed about criminal investigation and prosecution. It is also an act which incorporates the provisions of the old criminal injuries compensation act 1978, which provided for a regime by which victims of crime were provided with rights in relation to statutory compensation for

injuries suffered as a result of the commission of a criminal offence. It is a very important piece of legislation. It is not one in which I have had any personal professional involvement, because it was an act which came into being post any cases in which I acted under the old criminal injuries compensation act.

I wish to place on record the significance of this legislation. It gives an opportunity for victims not only to be recognised and respected but also to have that compensation which had been covered previously under the old legislation. I recall one case in which the victim was the victim of multiple rapes. It was in the days when the victim was able to receive the maximum $2 000 compensation, so it is some years ago.

I do recall the pressure and the difficulty that was faced by that victim. She had been the victim of horrendous multiple rapes, in which she suffered significant physical and psychological injuries. The importance of the hearing, in relation to her ultimately being granted compensation by a Supreme Court judge under that legislation was that she had to give oral evidence. Most importantly, she relied upon the expert evidence that was tendered in a report and given in oral evidence at the hearing. It was critical to her being able to recover what was then the maximum $2 000 in compensation. Unless she had access to that evidence and the opportunity to tender that evidence, in my view there was no way the court was going to give her the opportunity of recovering the full entitlement—which she richly deserved. So, this is very important legislation.

Over the past two years the government has attempted to introduce regulations, and I note that the member for Mitchell has highlighted in this house his concerns in relation to it by moving disallowance of the regulations over the past two years. It restricts the legitimate pursuit of compensation by victims. This bill in its current form will be opposed by the opposition, unless it is significantly amended.

For the record, the chronology of the events leading up to this legislation is as follows. On 19 December 2002, regulation 230/2002 under the Criminal Injuries Compensation Act, which related to legal costs and specialist reports in matters under the act, was about to be repealed. Regulation No. 231/2002 under the Victims of Crime Act 2001 related to the legal costs, medical reports and the victims of crime levy in respect of new matters arising under the new act which came into operation on 1 January 2003. On 18 February 2003, both the regulations were tabled in the parliament. On 15 July, the Hon. Nick Xenophon in another place moved for the disallowance of regulation 230/2002; and on 16 July the member for Mitchell moved for the disallowance of both regulations 230 and 231/2002.

Indeed, on the same day, the chair of the Legislative Review Committee moved for the disallowance of both those sets of regulations, and those motions were carried. That ought to have sent a very clear message to the government at that point. Nevertheless, on 24 July, new regulations in the same terms as No. 231 were gazetted. No. 230 could not be remade because of the repeal of the previous legislation. Then on 17 September, the Hon. Mr Redford in another place moved the disallowance of the new regulations. On 24 September, again the Legislative Review Committee resolved by majority to disallow the new regulations. On 15 October, the member for Mitchell again moved for the disallowance of the new regulations, and that motion was defeated by one vote. On the same day, again the chair of the Legislative Review Committee, a member of the government, moved for the disallowance of the new regulations and the motion was carried.

We then come to 12 November 2003, when the Victims of Crime (Criminal Injuries Compensation Regulations) Amendment Bill was introduced by the Treasurer. On 27 November, the bill was in committee, read a third time and passed the House of Assembly with two amendments that were moved by the Attorney-General. Then we get to 1 December, when the bill was introduced to the Legislative Council. On 3 December the bill was in committee, read a third time and passed with three amendments moved by the Hon. Angus Redford. On 4 December, the House of Assembly agreed to the first amendment but disagreed to the second. On the same day, the Legislative Council noted the House of Assembly's motion regarding the amendments.

We then move to 2004. On 17 February, regulations under the Victims of Crime Act 2001 were tabled by the Attorney-General in this house and by the Leader of the Government in the Legislative Council. On 31 March, a motion was moved by the Attorney-General for the appointment of Mr Michael O'Connell as the victims of crime coordinator. On 5 May 2004, the member for Mitchell again moved to disallow the victims of crime compensation regulations, and that motion was carried. For the same purpose, the motion was dealt with in the other place and adjourned. On 25 May, regulations under the Victims of Crime Act (Criminal Injuries Compensation Regulations) were tabled in the House of Assembly by the Attorney-General and again by the Leader of the Government in the Legislative Council.

On 2 June 2004, the Hon. Angus Redford moved that the regulations be disallowed, and that motion was carried on 13 October 2004. Here we go again! On 21 October, regulations under the Victims of Crime Act were remade and tabled in each house on 26 October 2004. Off we go yet again! On 2 March this year, the chair of the Legislative Review Committee moved for the disallowance; and, similarly, the member for Mitchell moved for the disallowance in the House of Assembly. One thinks that the government would have got the message by that stage, namely, the imposition and the denial to restrict the legitimate pursuit of compensation for victims. But no; it simply says, 'We will have this and we will use our numbers; and we will put it into the house in legislative form.'

The effect of this bill is to replace those contentious provisions in the regulations by putting them into the legislation, as I have said. I do not know this, but I expect that the government intends to include all the non-contentious parts of those regulations and that they will be repromulgated at some stage. However, in any event, that will be in the hands of the government.

The provisions of this bill differ in two respects from the earlier regulations. It seems that the Attorney-General has now agreed that the cost of psychiatric reports can be recovered. At last he has got the message on that. Previously only the cost of reports from general practitioners and dentists was recoverable. Also, the current regulations make the Crown Solicitor the final arbiter as to whether a victim can recover the costs of certain expert reports.

This bill alters that provision and makes the victims of crime coordinator the final arbiter. The opposition's position has been quite clear throughout all of this; that is, that victims of crime are not second-class litigants. The government would be well minded to remember section 6 of the Victims of Crime Act, which makes it absolutely clear that this legislation insists that courtesy, respect and sympathy be

given to victims; and a whole charter is outlined in that legislation of how that should be implemented. This legislation, we suggest, does treat victims of crime as second-class litigants because they, or their advisers, should be able to consult whichever health professional they deem appropriate to support their case for compensation. If a psychologist's report is deemed appropriate, the reasonable cost of it shall be recoverable.

Other litigants are not required to go cap in hand to the Crown Solicitor (who, incidentally, represents their opponent) to obtain approval for their selection of the expert advice and the report and support for which they are looking. They ought to have the same entitlements as every other litigant in any other action in relation to compensation.

Secondly, if there is a dispute about the appropriateness of a particular expense for an expert's report, the issue should be resolved by an independent arbiter—that is, the court. In every other case, litigants in this situation have that opportunity; it is the usual rule in those contested matters, including workers' compensation issues. It is not appropriate to have such disputes resolved by the Victims of Crime Coordinator. I have already referred to him in this debate, and we take no issue with him personally—he plays a very important role, and we respect and support that—but he is an officer who reports to the Attorney-General and, in the opposition's view, it is not acceptable or appropriate that he be appointed to arbitrate in this situation.

The Attorney-General is, in his typical fashion, endeavouring to portray opposition to his latest proposal as an attack upon the current Victims of Crime Coordinator. Nothing is further from the truth. We do not consider that arbitral functions should be vested in public officials simply because the present office-holder is a capable individual. In this place we have to make laws that understand that it is a certain position or office that is being appointed, and not look at the capacity of (in this case) a very capable individual. Moreover, we suggest that there is a conflict of interest in having an official who is subject to ministerial direction resolving a dispute between the government and a citizen. We have been consistent in that position, and we remain so. For the Attorney-General to introduce this legislation, having backed down in allowing reports (as he certainly should have, because it would have been unacceptable to pursue that), and to try now to gloss it up by suggesting that there still needs to be an arbiter—and an arbiter accountable to him, where there is a clear conflict of interest—is totally unacceptable.

The Liberal Party will support legislation of this kind with two very clear amendments to this, if the government is prepared to accept them. The first is that victims of crime and their advisers should retain the right to select their own experts and be entitled to recover the reasonable costs thereof; and the second is that any dispute about the reimbursement of costs should be resolved by the court or an independent arbiter, such as the Ombudsman. That has consistently been the opposition's position, and it is one that we maintain.

In closing, with other litigation if there has been medical or specialist reports which are clearly unnecessary for the purpose of presenting the case for the claimant or plaintiff, they have to go before a Master of the Court or an officer of that court and, under the costing of their accounts, be able to justify that expense. That is the process that works in every other jurisdiction, and it is one that certainly should apply here. That is the opposition's position, and we encourage the government to consider amendments to accommodate those two conditions if it is at all concerned about having the support of the whole of the parliament on this.

Mr HANNA (Mitchell): I rise to speak on the Victims of Crime (Legal Costs and Disbursements) Amendment Bill, which represents a compromise. Likely readers of this debate are familiar with the history of the matter, which began with an obsession in the Crown Solicitor's Office to limit the amount of money spent on psychiatric reports. Those psychiatric reports were used on behalf of applicants to Victims of Crime compensation to assess whether the matter had merit in terms of the psychological damage done to victims. We all know that this was in the context of negotiations between applicants' lawyers and the Crown Solicitor's Office itself, and most of those negotiations ended up in a resolved outcome without the need for further litigation.

My starting point in looking at this legislation, and at the issue from the outset, has been that justice not only has to be done but also has to be accessible, and the issue of payment for psychiatric and other relevant reports threw up this issue of accessibility. You cannot reasonably expect people who have been injured—perhaps incapacitated to the point where they cannot go to work—to pay many hundreds of dollars into a solicitor's trust account for the purpose of obtaining necessary reports to support a claim, especially in a situation where someone has just suffered from a violent crime. We need to go back to the system where a reasonable approach was taken to people when they sought these reports and put them to the Crown Solicitor's Office. The legislation goes toward that, and I am advised that it may yet be further amended in the Legislative Council. Rather than my carrying on at length here, it would be better to fight the battle in the Legislative Council—and that is just being realistic about the numbers in the respective houses of parliament.

It is pleasing to see an element of humility glowing in the Attorney-General's heart beneath the black and white wording of the bill. He has come some way since he appeared before the Legislative Review Committee and said that he would not be budging an inch because 'we're not soft.' It is pleasing to see some concessions on behalf of the executive.

Ultimately, if this bill goes through, even in its current form, it is an improvement on the government's initial position. I suppose we can be grateful for that and, at the same time, we can always be vigilant to ensure that justice is accessible, particularly for victims of crime.

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

MENTAL HEALTH

The Hon. L. STEVENS (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. L. STEVENS: In answer to a question from the Deputy Leader today in question time, I said that the government has spent $110 million on capital works and allocated $37 million each year for the next two years to be spent on mental health services compared with the last year of the previous government. This should have been that the government has allocated $110 million to be spent on capital works, and an additional $37 million each year for the next

two years to be spent on mental health services compared with the last year of the previous government.

ADJOURNMENT

At 5.40 p.m. the house adjourned until Wednesday 21 September at 2 p.m.