HOUSE OF ASSEMBLY

Thursday 26 October 2006

The SPEAKER (Hon. J.J. Snelling) took the chair at 10.30 a.m. and read prayers.

The Hon. G.M. GUNN: I have a point of order, Mr Speaker. I draw to your attention that yesterday on page 5 of *The Advertiser* there was—

The Hon. M.J. Atkinson: It was you.

The SPEAKER: Order!

The Hon. G.M. GUNN: On page 5 of *The Advertiser* there were drawings of three members of parliament—the members for MacKillop and Hammond and me—which did not depict us in a favourable manner. I am quite happy to appear in *The Advertiser* in a favourable manner and members would have to pay a great deal. Mr Speaker, I ask you to ensure that this sort of escapade does not proceed in the future, particularly when it depicts members in a less than favourable manner.

The SPEAKER: I will investigate the matter. I take it the basis of the objection is that the drawings are not flattering.

The Hon. G.M. GUNN: Correct.

APPROPRIATION BILL

Ms THOMPSON (Reynell): I bring up the report of Estimates Committee A and move:

That the report be received.

Motion carried.

Ms THOMPSON: I bring up the minutes of proceedings of Estimates Committee A and move:

That the minutes of proceedings be incorporated in the votes and proceedings.

Motion carried.

Mr PICCOLO (Light): I bring up the report of Estimates Committee B and move:

That the report be received.

Motion carried.

Mr PICCOLO: I bring up the minutes of proceedings of Estimates Committee B and move:

That the minutes of proceedings be incorporated in the votes and proceedings.

Motion carried.

The Hon. K.O. FOLEY (Treasurer): I move:

That the proposed expenditures referred to Estimates Committees A and B be agreed to.

I am happy with the process of scrutiny of the budget through the budget process. I am pleased that the budget has been appropriately scrutinised, the integrity of the budget is intact, and the quality of the budget is accepted by the house. I look forward to the passage of the bill.

Mr WILLIAMS (MacKillop): That is an interesting comment by the Treasurer, and I will make a couple of comments in relation to it. First, I think a number of people in recent times have spoken about the process of estimates. I believe that estimates is an incredibly important part of the function of this parliament, and—

The Hon. K.O. Foley: So, why did you do it so badly?

Mr WILLIAMS: I like the Treasurer's comment: 'Why did you do it so badly?' The Treasurer also made comments such as: 'What a silly question; that is the worst question.' The problem with the Treasurer is that he does not answer the question and, the tougher the question, the more he says: 'What a silly question.' If the Treasurer was incredibly confident about his budget, he would answer the questions. He would not prevaricate or stand there and try to make a show of it. He would not try to make fun of the questions: he would answer them. The fact is that the Treasurer is not very proud of his budget, and I can understand why. That is the reality of the matter.

The estimates process should be one of the most important functions of this parliament. Unfortunately, I think there is a general consensus that the process is seriously flawed because of the attitude of people such as the Treasurer who refuse to answer questions, who try to make a mockery of the process and who are hell-bent on not being what the Premier and other members of the government have said since they came into office, that is: 'We are open and accountable to the people of South Australia.' They try to be as evasive as possible by playing down the process and not answering every question that is put to them.

One of the interesting things that I noted during the committee process was that the chairs of the various committees indicated that questions taken on notice were to be answered by a certain date. I can tell the house that, after re-reading the *Hansard* report of the estimates committees 18 months ago (because we went through this nonsense of the Treasurer's not being able to get his house in order and not being able to bring down his budget anywhere near on time), I noted that there were a number of instances in the portfolio areas for which I am responsible where the minister of the day undertook—

The Hon. M.J. Atkinson: No, you're not responsible for any portfolio areas; that's the point.

Mr WILLIAMS: I am responsible for them on behalf of the opposition. Ministers undertook to bring information back to the shadow ministers, and we are still waiting for that information from the year before. So, I hope the process works a fair bit better this year.

In response to the Treasurer's opening remarks that his budget is still intact, the reality is that the parliament will pass the government's budget: by convention, that always happens. That does not mean that this is the budget the opposition would have introduced into the house, and it does not mean that the opposition agrees with the measures in this budget. Shortly I will come to the areas for which I have responsibility on behalf of the opposition and comment in a little more detail about them.

Unfortunately, yet again, South Australia will find itself lagging at the tail of the pack, because we have a Labor government which does not understand how to bring down a decent budget or how to manage the public sector. The reality is that we are wasting hundreds of millions, if not billions, of dollars because of the way in which this government is managing the opportunity it has to govern South Australia, and South Australia is missing out on opportunities. There are huge opportunities out there.

One topic about which everyone in the community is talking at the moment is water. The whole nation is suffering as a result of this incredible drought. We have heard a lot of talk about the Murray River and how important it is to South Australia. In the last five years since this government has been in power, when we have seen huge revenue increases,

where are the projects to do something about waterproofing Adelaide and South Australia? We receive plenty of brochures and hear plenty of rhetoric, but we do not have any projects or initiatives. That is just one area—and I am sure my colleague the shadow minister for transport (the member for Waite) will have plenty to say about the lack of other infrastructure and, in particular, the mess that the Minister for Transport is making in his area.

We do not concur with the Treasurer's comments that his budget is intact. It is a very poor budget. History will show that, like the period in the 1980s and the early 1990s when the Labor government brought the state to its knees, we are again going through a period where a Labor government, through its mismanagement, is ensuring that South Australia is at the back of the pack. I would argue that, during the life of this government—that is, from when it came to power in 2002 until the next election in 2010—will have wasted probably more money than the Labor Party lost during the State Bank, the state government insurance office and those fiascos that dogged South Australia 15 years ago. That is the reality. The Treasurer cannot claim that his budget is in tact. He cannot claim that it is a good budget. In fact, he was four months late. If the Treasurer worked for any other organisation but the government of South Australia, he would have been sacked months ago: he would have been sacked before June. That is the reality, yet he has the temerity to stand in here and say that he has brought down a good budget.

I will now use a few minutes to go through a number of issues that arose in the estimates committees of which I was a member, and particularly the areas for which I have some responsibility on behalf of the Liberal Party opposition. I will deal with them in the order that I sat on the committees. The first one concerned Aboriginal affairs in this state. No-one in the community or in Australia believes that we have made great headway in this particular area. It is a blight on the way in which governments across Australia and over a long period have treated this portfolio area that we are left with a situation where we have within our state people who are living under conditions which you would not find in Third World countries. I have visited Third World countries and seen their conditions, and the conditions here are at least as bad in some parts of South Australia. I find that shameful, to be quite honest.

One of the things that really annoys me, though, is that the state and federal governments put together a funding package of about $15 million—I am not sure of the exact figure now because it has changed over time—to build a new power station in the APY lands. A solar array was built and completed about three years ago and it is sitting there. We have this really green Premier, who has a little windmill on the top of the state admin centre. It is about a couple of metres in diameter. That is how green this Premier is. He has had that put up there and he gets his photo taken. He reckons he is doing really wonderful things for the greenhouse effect, the atmosphere and the planet.

The reality is that we have a solar array power station in Central Australia, which has been built at the cost of many millions of dollars, and it has been sitting there for three years not connected to anything. In the meantime, we have trucks and trains carting diesel fuel throughout Central Australia to run diesel generators. The project to distribute power throughout the APY lands and to the communities to try to give them a better and more regular power supply and one which will help them have the sort of living conditions which I am sure they and all of us want them to have is a non-event. The solar array power station sits there with the sun shining on it, but it is not connected to anything. The project keeps being put back year after year.

A project which should have been up and running probably three years ago is not happening. We have asked the same question during estimates committees each year. 'Yes, we have had this complication and so we have pushed it back a little.' It is still being pushed back another year. I will probably be standing here in 12 months' time making the same comments about that particular project—

The Hon. M.J. Atkinson: Probably a bit further back.

Mr WILLIAMS: Who knows. The Treasurer has claimed that next year he will get the budget out in June. He announced the date the other day. We will wait to see because he has certainly made a mess of his timing this year. I move on to the estimates committee where we looked into the portfolio area of science and information economy. Again, this is an area where the Premier tries to prove his green credentials and tries to have himself seen as somebody who is not only incredibly environmentally friendly but also attuned to the scientific world and major scientific breakthroughs; he wants to be at the cutting edge. Far from being at the cutting edge, the science community has been let down dramatically by this government. Fortunately, our federal government has been managing the national economy very well, unlike what is happening locally, and it is putting many hundreds of millions of dollars into scientific research and cutting-edge scientific projects. We have been the recipients of some of that money in South Australia, and I believe that is a hangover from the days when we were in government, rather than there being any bold new initiatives that have come from the current government.

The Hon. M.J. Atkinson: Surely all initiatives are new.

Mr WILLIAMS: The sort of initiative that your government has, I say to the Attorney-General, is that we are claiming that the South Australian economy is going to go forward on the back of mining, with the boom at Roxby Downs and the air warfare destroyer defence contract, and that is the sort of thing that your Premier is claiming he is doing to keep South Australia going into the future. These are highly technical operations and businesses, yet our schools are seeing fewer students tackle maths and science, particularly in our public school sector. In the private school sector, the numbers are also declining, but nowhere near the rate they have in the public school sector. Where will we get the engineers, scientists and highly skilled technicians to work in these businesses if we cannot even get students to pick up maths and science in our high schools? What do we do? How do we encourage them? We sit back in a measly, miserable way and allow the Investigator Science Centre to close its doors because we are so disinterested—

The Hon. M.J. Atkinson: Uninterested.

Mr WILLIAMS: I know you are uninterested, Attorney-General. Your government is so disinterested in seeing students (young South Australians) being encouraged into the fields of science and mathematics. So, they sit there and watch that close down, and students continue to opt out of maths and science. We are going to build a heavy engineering skills centre in the north of the state to underpin the mining sector, but you cannot teach students, even at the trade level, unless they have a basic understanding of literacy and numeracy. They need some scientific understanding—particularly, in physics, chemistry and mathematics—so that we can teach them the sorts of trades that the mining industry and air warfare destroyer contract will be calling for.

This government is missing the point. We have a number of cutting-edge scientific organisations in South Australia, one of which is at the Waite Institute—namely, the Plant Genomics Centre—which was brought to South Australia as a result of some very strong lobbying by the previous Liberal government, and this current government nearly let it slip. I congratulate the government for finally coming on board with that project and seeing it through to fruition. But the minister informs me that their small amount of money—and I think it is about $1.5 million, which goes from the state taxpayer into underpinning the admin of that centre—will be withdrawn, and there is an expectation that the cutting-edge scientific R&D establishment will be totally self-funded. The reality is that these sorts of businesses find it very difficult to be totally self-funded. Why do we want to employ there, almost on a full-time basis, people from the scientific community to go out to seek funding? They spend their time seeking funding when they should be in their laboratories working on their research and building a better base of knowledge here in South Australia and, in the meantime, encouraging young South Australians to become involved in the study of maths and science so that they can come through in the next generation and take on that work. It is the same thing at the Thebarton Bioscience Precinct which we established when we were in government.

This government has been saying year in year out that it will build a bioscience incubator out there. It is one of the projects that gets pushed back year after year. The government is disinterested in maths and science and in ensuring that the future of South Australia is underpinned by a knowledge based economy. That is the problem we have in South Australia. We have a government that does not understand how to develop, nurture and have a knowledge based economy, and that is where South Australia will continue to come unstuck and continue to run a poor last relative to the other states of this nation.

I move on to industrial relations and WorkCover, which is an interesting area at the moment because of the federal WorkChoices legislation. I was a bit surprised that the minister earlier in the year took the decision not to reappoint three commissioners in the Industrial Relations Commission, stating that the workload will be considerably less. But the budget line has not reduced by very much at all. Unfortunately, the minister is ill, was not there and there was an acting minister in his place, who I congratulate as I thought he performed reasonably well. However, it would have been better if the minister had been there and he could have given the committee a deeper insight into the operations of the portfolio area.

Notwithstanding that, the committee was told about the industrial relations people working for the government—and there is a significant number of them as they put on another 19 IR inspectors in the previous 12 months, bringing the number up to 38 or 39. Notwithstanding WorkChoices and decreasing workload, the committee was told that the inspectors would pick up all sorts of other functions. That was interesting. I would have thought that a government and Treasurer who is desperate to make some savings to try to get the budget back on track would have picked up that there were some savings there.

We asked the minister about the true cost of the High Court challenge to the WorkChoices legislation, and the minister fudged the answer and refused to give us the true cost. He told us what it cost to fly a few people to Canberra, stay in a some motels with a few expenses, but there was no understanding of the cost of all the preparatory work for that case or the opportunity cost to have some of the highest paid legal brains in South Australia working on that case. They are smart people, but I am sure they did not build their case overnight—a fair bit of work would have gone into that. The minister stated that it cost about $50 000 or $60 000. I do not believe you can mount a High Court challenge and spend some weeks before the High Court and be charged only $50 000 or $60 000. I do not think anybody else in Australia would contemplate going anywhere near the High Court without $300 000 or $400 000 in their back pocket. It was an interesting answer. I go back to my earlier comments about the flawed nature of the process we have been through.

WorkCover was interesting also. I note that WorkCover put out its quarterly report for the June 2006 quarter on 28 September, the day the parliament got up and two days before the AFL Grand Final, hoping that it would not get a huge run because in reality the unfunded liability is still heading north, still going up and is out of control. Despite what the acting minister endeavoured to tell the committee, he has not convinced me: it is still out of control and is heading further away.

The Hon. S.W. KEY: On a point of order, Mr Speaker, I was a member of the same estimates committee as the member for MacKillop and he is reporting incorrectly what happened in that committee.

The SPEAKER: There is no point of order. The member for Ashford is free to respond in the course of her speech.

Mr WILLIAMS: I look forward to the response of the member for Ashford because I am giving the house an accurate record of what occurred in that committee.

Time expired.

Ms THOMPSON (Reynell): I wish to speak only briefly to thank the many table officers, Hansard, messengers and all attendants in Parliament House for their support during the estimates proceedings—proceedings which, I find, are not well understood. In talking with many of the public servants afterwards, I learned that they had spent many hours preparing for them. They find the process quite useful—not always, but quite frequently it enables them to scrutinise how they have been performing over the previous 12 months and to focus on their commitments for the next year and beyond. I am not sure whether this is now integrated with the planning process, but I know that, at times in the past, it has been. It has been quite a useful exercise within the Public Service, despite the fact that it is often denigrated within this parliament. For me, often the denigration results from the fact that participants have not only not really understood the purpose of estimates but certainly they have also not understood the process. Unfortunately, that was evident again this year. Many members of the committee performed well and effectively. Other members of the committee seemed to have no notion of the ability to read the budget papers.

They seemed to have no notion of the ability to count to one, as in ask 'a' question. They asked questions with four or five components, and then got snaky if the minister started the answer after one or two of those components. I do think that it is incumbent on members of this parliament to treat every process of this parliament with respect. Estimates committees are a process of this parliament. It is incumbent on all participants in estimates committees to think about the process, consider the rules, see how those rules can be applied to their plan of questioning and ask their questions

accordingly, and not go on with some sort of petulant performance.

Such performances do bring this parliament into disrepute. My observation throughout the many hours I presided over estimates was that, certainly, they did not elicit any useful information. It is far more useful for members to focus on the budget papers and not go into a fish-trawling exercise related to government policy, direction and a few other things. It would be very useful if all members would be polite at all times and respect this parliament and its organisations. Also, they should respect the staff who are trying to provide support. I know that, at times, it was not pleasant for some of the staff listening to some of the performances. I do believe that we can do better. We are elected representatives of the people. We try very hard—all of us—to get to parliament. It seems to me a little stupid if you try very hard to get to parliament and then you do your best to disrespect the processes. I call on all members to use estimates effectively; to use it as a valuable tool for good and open government.

One has only to look very briefly at what happens in other countries in the world to see how important and valuable a process such as estimates is. I had the privilege of attending the Commonwealth Parliamentary Association Conference in Abuja earlier this year. I heard people from many parliaments around the commonwealth talk about the organs of government that are so essential to preserving and protecting democracy and to developing it to start with. We could look at our processes and see how vital they are. Having just come back from Abuja, I was particularly disappointed with some of the performances this year. I have seen how difficult it is for some of their parliamentarians to have any form of accountability, because their parliamentary systems do not allow for such forms of accountability.

I heard speakers from the World Bank speak about the types of measures that are necessary within parliaments and governments to develop and protect democracy. Those people would have envied our processes being available—although not all of them because some of them benefit greatly from those processes not being available. Our processes as a version of the Westminster system have taken a long time to develop. They have been developed with the loss of blood and much pain and suffering, and it really is incumbent on us all to respect them, to treat the parliament with dignity, and to cherish the freedoms that we have. If some of the organs of those freedoms sometimes feel a bit cumbersome, we should reflect on why they are there. I call on all members to do so.

The Hon. G.M. GUNN (Stuart): I agree with the member for Reynell about the importance of respecting this institution and understanding why we do things in certain ways and why the parliament has certain procedures. I say to the honourable member that I am looking forward to having her support for the retention of the upper house to ensure that our system has checks and balances. With a democracy you have to be very careful that you are not legislating for and on behalf of the bureaucracy. The bureaucracy is there to answer to and recognise the supremacy of parliament.

One of the things that has concerned me for a long time is that the bigger the bureaucracy, the less sensitive it is to the average citizen. We have a system in place where the average citizen today is at a tremendous disadvantage when challenged by the government or its instrumentalities or its systems, because those bodies have unlimited resources and the average person is not aware of their rights. So, this institution and the ability of members to ask questions, to challenge the government of the day, to comment and to protect the parliamentary privilege of members of parliament, is absolutely essential if democracy is to be maintained.

Therefore, I think we have to be very careful when people talk about changing or streamlining the system. I attended a presiding officers' conference some years ago in Sydney where the late Sir Billy Snedden was asked a question about the conduct of members of parliament. His answer was this: the only well-behaved parliaments that he had ever seen or visited were in countries where they had dictatorships. We settle our differences in a robust and challenging way in these chambers, not out on the streets; that is the difference, and that is what we should do.

The member is right: members should understand the process, the history of parliamentary democracy and why we have it, and the value of ordinary members of parliament. The budget estimates may be cumbersome and boring for some people, but it is absolutely essential that members of parliament can ask questions, challenge, and comment on the budget process. Because if they can't do it, who can? There is nowhere else. The parliament gives the government of the day the power to raise huge amounts of revenue, and we are entitled to know about this. It may annoy the minister; it may annoy Sir Humphrey 1, 2 or 3. Too bad. Who cares?

As I was told when I first became a member of parliament, the more annoyed that a minister and a head of a department get when you ask a question, the more persistent you should be. In the last 48 hours we have seen what happens in New South Wales when ministers do not do the right thing, when they mislead the parliament and are brought to account. We have seen the disgraceful conduct in Tasmania. If it was not for the parliament asking questions and challenging the government, that information would not have come out. Therefore, it is terribly important that members of parliament are well resourced, quite fearless and not intimidated by the bureaucracy, its organs or instrumentalities. Members of parliament in their offices in this building should have absolute parliamentary privilege.

I will give members an example. A few years ago, when I had the honour of being Speaker in this parliament, a member of the then government said that they would bring the police into this building to go to someone's office. The media asked me about it, and my answer was this: 'There will be no police coming to raid the offices of members of parliament while I am Speaker, except if it involves a criminal matter.' If someone is in receipt of a leaked document, that is the price you have to pay for democracy. Therefore, in my view, if that member of parliament acts irresponsibly or does the wrong thing, the electorate will judge them—and that is how it should be.

These budget estimates have been interesting, and one of the provisions was that the Office of the Upper Spencer Gulf, Flinders Ranges and Outback would be closed. I was most interested in this because I received a letter, dated 17 October. I do not think that it was meant to be sent to me, even though it was addressed to me. I thought that the house should be aware of it because its contents are interesting. My secretary handed the letter to me and said, 'You'll be interested in this,' and I thought the house would be, too. It states:

Dear Mr Gunn,

Closure of the Office of Upper Spencer Gulf, Flinders Ranges and Outback.

I write to you as a key regional stakeholder to thank you for your involvement in the Office of the Upper Spencer Gulf, Flinders

Ranges and Outback various ventures and to inform you of the arrangements for the closure of the Office as part of the wider restructure of the Public Sector along with the Office of the North, North-West and Murray-Mallee.

Mr Pisoni: Who manned that office?

The Hon. G.M. GUNN: Hang on—let me go on. The letter continues:

An innovation of the first term of the Rann Government, the Offices have successfully worked to improve economic development, social environment outcomes within the regions. It was never envisaged these Offices would become a permanent feature of the government but rather they have been a part of the process of enabling better whole of government focus on particular issues and communities. The work of these Offices is now complete and it is now timely to apply these resources to other purposes.

Let us just look at what happened. After the previous election, when Mr Farrell would not fund the Labor Party candidate any longer, the government had to think of another reason. So, it established this office and guess who got the job—the candidate. He was then propelled around the state—

The Hon. S.W. KEY: On a point of order, I ask for clarification from the chair as to what this has to do with the Appropriation Bill.

The Hon. G.M. GUNN: It is a part of the budget papers.

The SPEAKER: Order! It is part of the budget papers, so the member for Stuart is free to speak on it.

The Hon. G.M. GUNN: That is one of the reasons why members need the ability to speak in this place. It will be embarrassing to the Labor Party because it misused it. It is the role of this parliament to comment on those things and have the ability to raise such issues. I say to this house: in the time the office was there, to my knowledge, it contacted my office twice. It was purely there to promote a Labor candidate, and I read a portion of this letter into *Hansard* so that people know what went on. It was an appalling abuse of government activity. It was designed purely to isolate and undermine me as the local member.

Let us be frank. I sincerely hope that some of the things that were done to me never happen to anyone again. Remember, once one side does it, it can be applied by the other side of politics and, make no mistake about it, the wheel of fortune turns. Let us look at some of the things that happened. I was isolated from attending functions. I was in the process of setting up deputations; those were taken out of my hands. I was prevented from being on the railway platform when the first passenger train came through, but the Labor candidate was there. I was not invited to the opening of the science laboratory at the high school. It is the first time in my nearly 35 years in this place as a member of parliament that I have ever not been invited to an opening of a school function—it is absolutely deplorable—and I think some of it might have been commonwealth money. And so the list goes on.

So, this is what the office was used for. They had three people there, and they had a compound so that the cars would not be damaged. I was never invited to go inside it. It probably has better facilities than I have as a local member. I am not complaining about the facilities they have, but I am saying that this government was embarrassed because the stunt it put on failed. They had every resource possible. They had the Premier racing around. The office was there to organise the Premier; it was not there for my good. So, you had people coming up there. They went to Kapunda, and the Minister for Health raced in to have a photo opportunity at the hospital—they did not want to see the hospital, they just wanted a photo opportunity—and off they tracked. And so it went on.

I am just bringing this to the attention of the house so that people fully understand what went on. We were most interested to get the letter. We were not a stakeholder. Yes, I was there as a result of the office being there, but it was not for my good or wellbeing—and it certainly was not for the good or wellbeing of democracy. I am sure that other members of the Public Service up there would be pleased not to have these people looking over their shoulder.

The other matter I want to talk about is that, in my small, isolated communities, they suffer greatly from the tyrannies of distance. However, small communities should not be required to pay things like the River Murray levy. I have a letter here that was written to SA Water (it really should have been written to the minister) by the Marree Progress Association, which states:

As the Marree Progress Association. . . is 'out of areas' it has to raise ALL of its own funds, to have what you people in Council areas have as part of your rates. Marree is a very small community and it is very difficult to raise funds when a lot of the community is on Government benefits.

We are no where near the River Murray and we do not have access to any of its water so think this is a very unfair charge to us when we are already struggling to survive with the bare essentials. On top of that you add a late payment fee. We are not late in paying our fee of water rates. It is the levy rates that we have not paid and as we get NO benefit and are struggling to make ends meet this is the 'belt tightener' that we have had to take. Our rainwater supply is very low. Are you going to supply our community with drinking water from this levy charge? We have to BUY water for drinking purposes when our rainwater tanks are dry.

The burden of the River Murray Levy on [the] Marree [community] is $387.00 a year. This might not seem a lot to you but try raising funds in a community of less than 100 and still have street lights, airstrip for emergency flights, Town maintenance service, Insurances on all facilities, Community Hall to name a few is a real struggle.

We don't have these funds spare so please deduct them from our account. I am forwarding a copy of this letter to politicians so that they can take it to parliament to show the burden that they are putting on [a small] rural. . . [community].

I call upon the Treasurer to show a little compassion and commonsense. It is an absolute nonsense to slug these people when the water at Marree is of poor quality, anyway, and this small community is battling. It seems to me to be bureaucratic insensitivity. It is just like when someone from the education department went up to Marree and measured one of the schools and said they had too much space. One of those crazy things. Then we had another character from planning going up there wanting to enforce some building code and taking photos of buildings. Obviously, some of these people have very little to do with their time, but they are very good at annoying people.

The last subject I want to mention is the very poor season because of the drought that has affected South Australia and many parts of Australia. I think it is very fortunate that the people of this country have a person such as John Howard as Prime Minister, who is friendly towards rural people and has an understanding and is making it his business to see it firsthand. There are very few prime ministers who would come back from that Pacific Forum and next morning would go out to visit rural Australia to see it first-hand. The funds that have been provided are very important. The effect of this drought goes a lot broader than the farmers and the pastoralists. It will affect the people living in these rural communities. One of the side effects that will flow on long after the drought subsides is that, in many of these rural communities today, a considerable number of people are working in machinery agencies with considerable skills in servicing the modern equipment. There will be no work for them and they

will have to go elsewhere, to the mining industry and other areas. It will be very hard to get them back in the future. Therefore, there will be a loss to those communities.

It is important that we maintain the population in these rural communities. It can affect the schools, it affects the amount of things on the supermarket shelves, and the sporting bodies, so there is a flow-on effect. I know the amount of interest there was in modern machinery at the Cleve field days, but there has not been too much of that flow through in orders, because of what has happened. I declare my interest. I am a farmer. I suppose I am fortunate that where I come from is not as badly affected as many other people; but I am fully aware that the cost of putting in a crop is probably between $75 and $80 a hectare. I think the member for Schubert would agree with that.

Mr Venning: Yes.

The Hon. G.M. GUNN: Somewhere around that. Therefore, there has been a huge outlay and there must be a significant return to meet those costs. It is important that people are in a position to put in a crop next year. It is important so as the rest of the community that relies upon these people also can benefit in the future. What concerns me is that the government and its instrumentalities need to understand this. We do not want too many inspectors, with their intransigent attitudes, racing around making life difficult for people.

I refer to legislation that we pass through the parliament dealing with trucks and transport. If for some reason the government will not accept some fair, reasonable and proper amendments because the bureaucracy gets its way, I say to the minister: I hope he does not bring in such legislation this year, because if he allows these inspector-type people to race around and start harassing people there will be a reaction. The minister said they are there to help and cooperate with the industry, but that has not been the policy adopted by these people in the past.

I was asked on local television yesterday my views on this matter. My views are simple: if they act unreasonably, we will act unreasonably. I have no hesitation in naming some of these people in this parliament and moving a censure motion on it if the bureaucrats get their own way and do not accept commonsense and reason. One unreasonable act will generate another. We know what happened at Ceduna a couple of years ago when a fool up there stopped the transport of wheat to meet an export order. It was absolute nonsense of the highest order. If any commonsense had applied, it would never have come to that.

This is an important issue. There are many people who will not be aware of the consequences of this legislation. When you place unreasonable power in the hands of bureaucracy, the public are entitled to expect that it will be exercised with care, caution and commonsense. If that is not the case, I say to these people: remember, if you misuse it you will lose it, and there will be a reaction. Make no mistake—people are not in a position to put up with it. A lot of these people are under great stress, and they do not need any more. That also applies to other people in government going around making life difficult.

There was money for the continuation of the Native Vegetation Council. If there was ever an organisation which has acted unreasonably and unwisely, contrary to the original intention, it is that body. Its wings must be clipped, because in the future it will create the opportunity for a disaster. The problem is: the people who administer it advise the minister. The minister does not seem to understand that these people lack commonsense and are creating a tinderbox. We have already had a couple of effects with a couple of bushfires this year. We do not want any more. The cost to the taxpayers is horrendous. The money could be better spent looking after the needy. I look forward to participating in these estimate committees for the next three years.

Dr McFETRIDGE (Morphett): Estimates have been likened to watching paint dry and not being a source of information, but let me just remind the house that when information was released two years after estimates committees it was then used by the Labor government to discredit John Olsen. Let me just put everybody on the other side on notice that we will be going through every word that has been said over there. I should put on the record that I think the way John Olsen was treated by those in the place at the time was rather shabby, and South Australia is the worse for it.

Let us move on to my portfolio this time now, shall we? Let us have a look at the education budget here. There is going to be a lot more said about education in this place than has been said in estimates. We did get 102 questions up, but not too many answers. We got the same cracked record that the minister gave out every time she opened her mouth with answers, but that is not surprising when you consider what the minister said last week on Radio 891. The minister said, 'I'm not sure what has gone on in the department.' That is the case with this minister. This minister does not know what is going on in education, does not know what is going on in her department and is being forced to defend the indefensible.

The number of issues out there as a result of this budget are growing by the day. We have seen cuts to the aquatics program, cuts to the instrumental music program, and the small school grants. The latest one we have seen (while it is not a pure education issue) is the impost of $35 per course of treatment for primary school dental patients in the school dental service. The need to spend money on education is not a one-sided approach in this house. We know that we need to spend money on education and we need to keep improving the standards and resourcing of education in this state. We know we have some very old infrastructure that does need to be at least refurbished and, in some cases, replaced.

Building six new mega schools is not the only answer. There are other ways of spending money. There are a lot of issues to be raised when we start looking at these schools. Where they are going to be, their configuration and the way the PPS are going to be constructed have not been decided. I know the New South Wales Auditor-General was very concerned about some of the long-term financial gain for the New South Wales government when it entered into privately financed projects (PFPs) to build schools over there. There may be some benefits from that. There is no doubt that the Liberal Party does encourage the involvement of the private sector in providing infrastructure for state projects, but whether this government is capable of doing that I am not so sure, particularly when you look at the history of building police stations and courthouses. Certainly, from the information I have been getting, there are numerous issues there.

The minister keeps saying that this government is spending 38 per cent more per student than was spent in the past. I do not know about the accuracy of that percentage, but let me just say that there are thousands fewer students in the public system now than there have been in the last 10 years, and that is because the private system is challenging, competing and providing something that is obviously not

attractive to all parents in this state. I know that teachers, administrators, principals and certainly members of governing councils in our public education system are working their backsides off. They are doing a very good job. There are some teachers who, I think, may need to lift their game but, in general, as an overall statement, the quality of teaching in South Australia is exceptionally good.

There is a need to resource schools to ensure that teachers are able to convey the information in the curriculums and that they are able to teach, and nobody in this house would argue about that. How it is being done is something that we need to be concerned about. We are seeing cuts in the budget of $176 million, and those cuts go across a number of areas. The minister's official line is that they are proposed cuts and that nothing has been decided on yet; however, my information is that the costs to the aquatics program, the instrumental music program, and the Be Active program are done and dusted, as are the cuts to the small schools grants. This government is taking away the $30 000 in resource entitlement for the administrative workload of small schools, yet the government's own document entitled '2005 Resource Entitlement Statement' states:

> Much of the school administrative workload is fixed and does not vary for the size of a school. . . This issue has been addressed in the 2005 Resource Entitlement Statement through the introduction of a Small School Grant of $30 000 per school. . .

One moment this government is recognising the fact that there is that load on small schools, but in the next breath we have a government cut. To quote a small school principal, 'There was no warning and so 2007 school budgets will have to be cut drastically. . . ' The effect on small schools will be atrocious.

We have heard a number of people in the media—both media commentators and I would say, hundreds of members of the public—talking about the effects of the government cutting the aquatics program. I hope that is not done and dusted, although my information is that it is a fait accompli. If the minister were to go out and talk to people at West Lakes, at Victor Harbor, at Port Vincent, and in the Riverland about the life-saving value of that program I am sure she would change her mind. When you add up everything in the education budget it is approximately a $2.9 billion budget—the second-largest budget in South Australia as far as government departments and spin goes—and the peanuts, the few dollars, that will be saved in that total budget by cutting a program such as the aquatics program cannot be justified. The cost of not spending that money could equate to a child's life. I do not want to have that on my hands, so I will be out there supporting those who want this program to continue. I certainly hope the government rethinks its decision.

Regarding the instrumental music program being cut, the minister obviously has not read the national report on music education in Australia, otherwise that would never have been considered. The value of learning an instrument is not only in its vital contribution to our school bands. If you want to see how good they are, on Tuesday night we had the Marryatville Primary School band welcoming the new Thinker in Residence, Fraser Mustard, and they did a marvellous job; the Marryatville High School has another great band and, obviously, my local school, Brighton Secondary, is another fantastic music school.Many of those students are able to reach fantastic levels of accomplishment in playing musical instruments because of the instrumental music program. The discipline it teaches and the self-confidence it gives these young people cannot be measured in money.

They talk about cutting the Be Active program, but every day we hear more and more about the obesity epidemic in Australia—both in adults and, more particularly, in children. To cut a program that has been very successful in our schools for many years now is something that, like the instrumental music program and the aquatics program, cannot be justified. To replace it with a media stunt of a short duration—a Be Active or physical exercise program—will just put more pressure on teachers to try to complete more programs for the sake of satisfying bureaucratic outcome. It cannot be justified.

There are so many things in this education budget that we need to look at and need to rethink, and I would very strongly support the government in this case to come out and say, 'Well, it was an issue that was there and we thought we may be able to save some money, but the ramifications of making those cuts are too great.'

In relation to the building of 10 new trade schools, I used to be a tech studies teacher and I know how much it costs to build, refurbish and supply technical studies. In fact, at Nuriootpa High School the government is spending $3.5 million on building one technical studies centre. But what do we see in the budget? We see $2.9 million this year, and that is not enough to build even one new technical studies centre. So where will the ten new trade schools be? They will not be new schools: they will be refurbished technical studies centres. I am one of those people who would love to see this program accelerated, because we remember it was the Bannon government that closed the technical schools. They should never have been closed, and I know there are a number of members on both sides in this place who lament the day technical schools were closed.

There is money for 10 children's centres, and that is great. We would love to see that. Fraser Mustard, the new Thinker in Residence, is a world export—he is a world expert on early childhood development. He certainly has been exported by Canada all over the world! It is a good thing for that intellectual knowledge to be exported in the form of Fraser Mustard. He recognises the importance of education in early childhood development. We see that 10 children's centres are to be built, but only $1.5 million has been allocated this year. What will that build? Not much at all. It goes without any argument whatsoever that there is a need to put in more money.

The Investigator Science Centre now is not a DECS issue, an education issue, per se. Minister Lomax-Smith was the minister for science when it was moved to Regency Park. The department of education benefits by all the interschools programs being run by it. The CSIRO school education centre will not come anywhere near providing the programs that were put up by the Investigator Science Centre. We only need to ask famous South Australians such as Andy Thomas and Barbara Hardy what they think of the government's not maintaining the Investigator Science Centre. When talking about the money going to the CSIRO, Barbara Hardy said, 'Why is the state government giving money back to the federal government? Why would you do that?' Once again, in the scheme of things, the amount of money that the Investigator Science Centre requires to refurbish and upgrade both its site and resources is really peanuts. It really is small beer in the size of this whole budget.

When we consider the amount of money that has come into this budget from GST, property taxes, plus the other myriad taxes (everything from speed cameras through to conveyancing and other taxes), it is amazing. Where has the money gone? That is the question I am asked all the time. Apart from 8 800 extra public servants, it seems to have just

been frittered away on things that certainly have not benefited the battlers in South Australia.

The other cuts in education include $17 million from restructuring state and district offices. I understand two employees are going from each district office, and we know that teachers' jobs will go when the 17 schools, at least, are closed. That was acknowledged in the press the other day by the new chief executive of the department of education, and I can provide that quote or members can just look in *The Advertiser* of earlier this week. The sum of $16.9 million will be found by cuts to the unattached teacher numbers. I am yet to find out the detail of that but I am sure that will be revealed in the next few weeks.

There will be $16.9 million saved over four years by schools taking over the management of their own workers compensation obligations. How anyone can come up with that figure I do not know, because one of the DECS officers admitted in estimates they have not yet set the levies. They do not really know what is going on, just as they do not know what is going on with the new schools. In fact, at one of the consultation meetings in the western suburbs about the new schools, one of the handouts said, 'if these schools are built'. So, we are not sure exactly what is happening, and certainly the government does not know. As I said, the minister does not know. She admitted that when she said on radio last week, 'I'm not sure what has gone on in the department.' She does not know what is really happening in her own department.

Schools will lose $18 million earned in interest on school bank accounts. If those schools are not spending that money in the accounts for the benefit of students at that school today, tomorrow, next year and in years to come in the short term, they need a kick in the pants. But I guarantee that people I talk to in schools do not have a lot of money floating around. I do not know whether there is $18 million in interest to be earned. The government seems to think there is. I will be very interested to see how the government is able to differentiate between money coming from fundraising and money from consolidated revenue going into those combined consolidated SASIF accounts.

Grant payments to schools will be cut by $6.8 million over the next four years. There are $176 million of cuts in education. The minister may be spending more per student but, overall, the situation is a disaster. Let us go on to something far more pleasant, that is, the arts industry in South Australia. Arts employs 16 000 people in the creative industries and puts about a billion dollars into the GSP, according to the Premier. It is a great industry and one that should be fostered. I am proud to say that it was not just Don Dunstan who was the doyen of the arts but Steele Hall who was the architect, so to speak, of the building of the Adelaide Festival Centre. The Liberals, through people like Di Laidlaw and many others, have a proud history of supporting the arts in South Australia and will continue to do so.

The Adelaide Festival Centre has great new programs for 2007 with State Opera South Australia, the State Theatre Company and the ASO. However, what do we see for the Adelaide Festival Centre: a lousy $8 million that will be taken up in desperately-needed repairs and maintenance, not for some great refurbishment. There should be a bigger picture there. The Fringe going annual is something on which I need to congratulate the Premier: that is a great move. The Fringe in Edinburgh is annual. I spoke to the people organising the Fringe when I was in Edinburgh in July and they were able to assure me that, once the Fringe in Adelaide goes annual, it will probably compete for the number one fringe in the world. And so it should. We have the location, the artists and the weather: it has everything going for it; and now, having it go annual, is a good thing.

In relation to the Guitar Festival, I do not want to be seen to be coming down on a great new festival and, obviously, there are some good qualities there, for $500 000 per year. I am not trying to say 'Don't spend that money on getting new events here' but, unfortunately, when you put the Guitar Festival in comparison with the Adelaide International Horse Trials, which has been getting $300 000 a year, I have a bit of a problem as to what we will be fostering, particularly with the Olympics coming up in 2008.

Mr Bignell interjecting:

Dr McFETRIDGE: Biggles, you were there, saying nice things about the International Horse Trials when you were at the launch, so let us be consistent there. The horse industry in South Australia employs 3 500 full-time equivalent people. It puts $35 million into the coffers. These people are not freeloading, they are not asking for a free ride, just asking for some of their taxes back. When you talk to the organisers of the International Horse Trials you realise that by not having the trials at a four-star level next year—and it will not be able to go anywhere else to be four-star next year—you are seriously compromising the selection of the Olympic team for Beijing, and that could seriously compromise our chance of winning gold.

We know the proud history of South Australians in winning gold, with Gillian Rolton and Wendy Schaefer. Let us not be penny pinching when it comes to a good event. We also have the Pageant that morning, which is a fantastic event. I saw the launch the other day. Approximately 40 000 to 50 000 mums, dads and kids will go from the Pageant to watch the cross-country event at the International Horse Trials—hopefully not for the last time.

I have only a couple of minutes to talk on tourism, but in South Australia 30 000 people are employed by tourism, which was a $4 billion industry in 2004. What did we see in 2005: a $260 million drop in turnover. We should not be seeing any drops at all. Tourism is one of the parts of the experience industry and will be a huge driver for this state. We have to make sure that we keep marketing tourism. Greg Smith, God bless him, came over and did a fantastic job. He recommended about $1.5 billion in cuts across the portfolio. In tourism in the ACT, Greg's recommendations were taken to heart by the government and they cut tourism to bits in the ACT. That cannot happen here.

We have had Bill Spurr, who is retiring. What a fabulous bloke he has been. He will be a sad loss to tourism. We have had Bill Spurr driving tourism here. Tourism in South Australia is many, many small businesses, mums and dads and families who have been paying land tax and stamp duty on their businesses. They do not want a free ride, either, they just want some of their tax money back. Tourism is the big industry for South Australia. Combine the creative industries, put in motor vehicles and wine and they pale in comparison to tourism. When you add in sport and recreation and education, all those experience industries in South Australia, that is the future. International education is the fourth biggest export earner for Australia and here in South Australia, and it needs to be promoted.

I am very happy to have these three portfolios. I am very happy to wear my heart on my sleeve when I talk about South Australian education, arts and tourism—they are great. They could be even better. The government has the money; it needs

to think about spending it in a strategic way, look at its priorities, and not keep spending it on public servants, many of whom are, unfortunately, just shuffling papers. If they are delivering services, that is fantastic.

Time expired.

The Hon. L. STEVENS (Little Para): On Friday 20 October 2006, I saw an article in *The Advertiser* headed 'Boards axed to streamline health system'. I read that article, and I was concerned about the language used by the journalist because he mentioned terms such as 'axing the boards', 'getting rid of these boards' in respect to 'streamlining the system'. I want to put on the record something of the work they have done, and the people who sit on them. In particular, I refer to the Central Northern Adelaide Health Service Board, the Southern Adelaide Health Service and the Children's, Youth and Women's Health Service Board. Members might be interested to know that the combined budget of those three boards for this coming year is in the vicinity of $1.6 billion, so they really are some of the biggest businesses in the state.

They were established in 2004, following recommendations of the Generational Health Review, and their most significant task was to pull a very fragmented health system together. They played a key role in doing that by building networks of support and coalitions for change and health reform. We need to remember that we had come from 30 years of inertia in health system delivery with little success in achieving major reform. Drift and cynicism were abundant until we initiated the Generational Health Review and then began to deliver on its principal recommendations. We did this by a process of engagement and cooperative reform and, yes, we had to make some hard decisions.

I asked John Menadue to run a strong, transparent and inclusive process in the Generational Health Review, and he did. This created a groundswell of support and anticipation, but it did not stop there. We deliberately went out to talk to people, members of old hospital and health service boards, and sought to make them part of the process. When we announced our intention to reform governance structures in the metropolitan area, we deliberately set up an inclusive process where all existing boards could have a role in helping to design a new system, which they did, and in record time they agreed to be part of it. This meant them voluntarily agreeing to dissolve themselves to form these new comprehensive health services. We are talking about Adelaide institutions, Adelaide icons—the Royal Adelaide Hospital board, the Women's and Children Hospital board, and the others, some of which had a history going back to the early days of European settlement.

These boards did not lightly consider dissolving and handing over their history and heritage to a new organisation, and nor should they have. But, when given the chance and the choice to be part of something new, bigger and better, they could see the logic and the wisdom of it. They knew that we were serious and that we had the same aim as them—better health for all South Australians. They put their trust in the Rann Labor government, and I hope that it is a trust that we never break. These were hard decisions, but we all held our nerve. Just as old boards put their trust in the government, we put our trust in them. It was a gamble to give them a choice and a chance to participate, but it was a chance that they all took. Their trust at that time in me as minister is something that I treasure, and I certainly would never betray or mislead them. I was straight with them, and they were certainly straight with me.

I place on the record my absolute gratitude to those members of the old boards under the South Australian Health Commission Act who agreed to dissolve themselves in 2004. I also want to put on the record my absolute gratitude to the members of the new boards that we put in place from those three organisations to take over in 2004, because we gave them an enormous task to carry the reform effort forward into the future. These boards, made up of 33 men and women, are people I am very proud of. I believe South Australians should be very proud of them and grateful for their courage, dedication and commitment to health in this state.

These members of the Central Northern Adelaide Health Service, the Southern Adelaide Health Service and the Children, Youth and Women's Health Service boards were, in part, drawn from members of the old boards in order to provide continuity. They were also augmented by members of the South Australian community, whose backgrounds, knowledge and expertise in a diverse range of areas made them eminently suitable to govern the affairs of South Australia's largest government enterprises for the good of us all.

I do not want to single out any one of them by name except to say that they have been led by exceptional South Australians, such as Mr Ray Grigg, Mr Basil Scarsella and, when Basil Scarsella left to take up a new position in the UK, Mr Clive Armour, and the Hon. Carolyn Pickles. Suffice to say they were all drawn from high level positions in business, community service, health, academic, government, financial and non-government backgrounds. They covered the field. More than 50 per cent were women, an achievement I was particularly proud of, and I was happy to achieve the target set by the Premier for government boards. I was also particularly proud to appoint members of the Aboriginal community, ensuring that the voice of Aboriginal people was heard loud and clear at the highest point in these organisations.

The Minister for Health has announced that he will dissolve these boards by the middle of the year and replace them with a model where our health services will run directly from the department. As the Minister, this of course is his prerogative, and I wish him well in his endeavours. However, I must say that these old boards and their respective chief executives had a scant two years to do their job, and what a mighty job they did. They brought together a wide range of disparate and separate organisations and melded them into modern service delivery health agencies dedicated to improving the health of their particular populations.

I will mention just a few of their achievements, and it is an enormous task when you realise how big these agencies are. They established comprehensive integrated health services within regions. Previously, all hospitals behaved as single entities, not cooperating with each other and actually competing against each other; they pulled them together into integrated services. They established the world class Every Chance for Every Child program for newborn children and primary health care networks with GPs across the metropolitan area. They did advanced planning and development of primary health care centres, now called the GP Plus Health Care centres, and rolled out Metropolitan Homelink and other hospital to home and hospital avoidance strategies. They initiated and achieved better management strategies for reducing elective surgery and dental waiting times. They developed magnificent service improvement strategies

through redesigning care in metropolitan emergency departments, and they modelled this on the principles of motor car assembly lines. That is where it was particularly vital to have people of the ilk of Basil Scarsella, Clive Armour and Ray Grigg in charge, because they came from the private sector and knew how these things could be translated into a public sector organisation. They are just a few of the achievements realised.

They also developed population needs-based funding proposals (which should be taken forward), and they developed—with the department—electronic health initiatives. They did fantastic things and, at the same time, made record savings by slashing through levels of bureaucracy and returning the dividends to the provision of health services. I will use the Central Northern Adelaide Health Service as an example, because that is one with a very big budget—over $1 billion a year. In its first year that board saved $7 million (or thereabouts) by rationalising administration across its organisation—its hospitals and health services. It ploughed the $7 million back into programs such as community-based mental health services, primary health care networks, quality and safety initiatives, and other service innovations.

The other health services—the Southern Adelaide Health Service and the Children's, Youth and Women's Health Service—also got down to working hard within their organisations to manage better the resources they have. I did notice that the savings target reduction to be saved by dissolving the boards was in the vicinity of $2 million over three years. I point out that when an organisation can save $7 million to plough back into priorities it is doing very well. I have to say that when this happened in the first year we were absolutely amazed because in previous years the bureaucracy had been trying to extract these savings out of health services and had not been successful. They were able to do it because they had built a strong and responsible organisation.

When the history of this period of South Australian health is written—and it will be written—these boards will be seen for what they are; that is, mighty engines of reform and service improvement. They are the best of the best and they have brought out the best in their organisations. I congratulate them and thank every one of them for their strength, commitment and the tremendous effort they make on behalf of health service delivery in South Australia.

Mr PISONI (Unley): I thank all members of the estimates committees and the ministers for putting themselves forward, and I congratulate the chairs (the members for Reynell and West Torrens) for the very capable and fair job they did in chairing the estimates committees. If one was to draw an analogy with the closest thing to the parliament and the estimates process, one could suggest World Championship Wrestling. In World Championship Wrestling it is very robust in the ring.

My memory of World Championship Wrestling is from watching it on television with my grandfather who swore black and blue that it was for real. I am sure the member for Mawson, being a sports commentator, could relate to this: my grandfather swore black and blue those guys hated each other, it was for real, and they were out to kill each other. That is the perception the public may get from witnessing the estimates committees—or the parliament at times. However, just as in World Championship Wrestling, often we will have a friendly chat or a cup of coffee together in the refreshment room afterwards. The task of World Championship Wrestling is to entertain and the task of the parliament is to scrutinise members opposite.

As I reflect on my first experience in the estimates committee, I am struck by the lack of information provided in response to questions of great importance in the budget; in particular, I am disappointed with the attitude of ministers in many portfolios towards the idea of encouraging South Australia's small business community by a reduction in the rate and/or increase in the threshold of payroll tax. It was not even on the radar. There did not seem to be a great deal of interest from any of the ministers about the high rate of payroll tax at 5.5 per cent here in South Australia, and the lowest threshold in the country of $504 000. Even a small family business with half a dozen employees is required to pay payroll tax in South Australia, whereas in other states the threshold is as high as $1 million.

The Rann government is the highest taxing government in our state's history. It receives almost $3 billion more revenue annually than when it first came to power almost five years ago. That is considerably more than the previous Liberal government had, which had been given the task of cleaning up the Bannon Labor government's economic disaster. This government and this Treasurer have, indeed, been fortunate to have inherited the conditions to claim a AAA credit rating, which was made possible by the hard decisions taken by the previous Liberal government and a stable national economic climate, which was made possible by the responsible fiscal policies and workplace reforms of the Howard Liberal government.

What the Treasurer does not tell people when he boasts about the state's good credit rating is the commentary that comes with that rating, which is that in Australia the federal government has a history of bailing out state governments. This is rare in other countries in the world that have state and province systems. The federal government is a Liberal government, and it has done an extraordinary job in creating a strong economic climate for Australia. It has no public debt and it has record surplus budgets. It is easy to understand the actions of the credit agencies, with that type of history of federal governments bailing out state governments and, of course, a very strong and robust balance sheet with respect to the federal Liberal government.

With the impressive GST revenue stream and a housing boom windfall of budget revenues from state taxes, such as stamp duty, this Labor government has been rolling in money. However, as we are aware from the budget, there has been no tax relief, no reduction in levies, no reduction in stamp duty and no reduction in payroll tax, which is such an impediment on small business growth here in South Australia. Some 80 per cent of South Australian businesses are small to medium enterprises, and these are the future for South Australia. Our large traditional industries are finding it difficult to compete out there in a globalised economy, so the 80 per cent of small to medium business enterprises in this state are the backbone of the state's economy, and payroll tax hits that sector particularly hard.

The budget and our questions in the estimate committees have reinforced the message that the Rann government will continue to bite the hand that feeds this state's families. Given that small business is so vital to this state it was, indeed, disappointing that such a limited time was allowed in estimates for analysis of the small business budget: one short hour. This, more than anything, illustrates the lack of empathy of this government for small to medium businesses. Why should that come a surprise, when the Rann Labor

government's cabinet, in fact, is a business experience free zone?

I note that, in estimates, a stated objective for small business growth was to 'ensure that small business issues are represented at state government level and that their interests are taken into account in the delivery of programs or the development of policies'. This government can apparently reconcile the spending of only $2.8 million in the small business portfolio. Many of the payroll tax receipts coming from small businesses are budgeted at over $1 billion. They have increased by a massive 19 per cent between the financial years 2003-04 to 2006-07.

Then the Bannon Labor government saw fit to increase the payroll tax rate to 6.5 per cent in its dying days, when South Australia was in the middle of a recession and suffering high unemployment and a number of collapsed public enterprises. Labor has somewhat a history in this regard. I think it was Churchill who once said that some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few are those who see it as a sturdy horse pulling the wagon, as we do on this side of the house. On this side of the house, we understand that it is private enterprise and small business that is the sturdy horse in our state's economy. This government is certainly milking the cow that is small business. In estimates I was informed by the Minister for Small Business that the Office of Small Business has a full-time equivalent of 13 staff.

Out of a public sector of 70 000 to 80 000-odd (I think we are still trying to establish the exact numbers), we have 13 public servants dedicated to small business in this state—80 per cent of the state's economy and we have 13 public servants dedicated to this very important industry. Given the fact that thousands of extra public servants have come into the Public Service over the past four years, this government has seen fit to employ only 13 staff in the small business area. Similarly, this government seems oblivious to the burden to South Australian businesses of our high WorkCover levies, which are double that of the Victorian average and the highest of any Australian state. Why is that the case? Post estimates we are none the wiser.

We are still in the dark as to why the Rann government has allowed our unfunded WorkCover liability to blow-out by 10 times—from $67 million when it came to government to $700 million announced several weeks ago. That is 10 times the unfunded liability. Payroll tax again is a disincentive to business expansion and a time consuming administrative burden. It hampers the ability of small business to employ and train our youth. It prevents their modernising and investing in innovations to assist them in maintaining a competitive edge in an international marketplace. Not even charities are spared payroll tax in South Australia, as they are in other states. But then, as the Cancer Council could confirm from recent experience of being picketed by Janet Giles about its under-age recruits, not-for-profit organisations are not spared from union harassment in this state either.

Mr HAMILTON-SMITH (Waite): It has been an interesting if, at times, disappointing session of budget estimates. For a start, let me paint a picture of how different the economy is in the context of this budget today from what it was before this government came to office. South Australia has been enjoying the best of times: interest rates are low; unemployment is low; and house prices are high. We enjoy high demand for our products from China and other trading partners. It is quite a different environment from the 1990s, when head offices were leaving in droves; we had $11 billion worth of debt; state finances were $300 million in the red; and we had high interest rates, high unemployment and plummeting house prices.

The Premier was a senior minister in the government that delivered those outcomes, and the Treasurer was a senior adviser to the Premier who handed the catastrophe over to the state. Clearly, the trade and economic development strategies in these two different environments require different approaches, as do the budget strategies. I think this budget is a demonstration of that. The government is funding trade and economic development less now than we were back in the 1990s, simply because the situation was more urgent at that time. The government today, in the context of this budget, enjoys the luxury of buoyant economic circumstances. Jobs are being created; there is growth in the economy. Things are happening before this government even gets out of bed in the morning through no good work of its own.

Things are simply happening in this state whereas, in 1994, 1995, 1996 and 1997, the world was a different place. The government has done well to encourage mining exploration and in the area of defence, and I acknowledged that during the estimates. However, Food for the Future, manufacturing and knowledge industries remain under challenge. States like Queensland and Western Australia are investing heavily in science and innovation, both in gross terms and on a per capita basis, as a strategic investment. Certainly, they have the money to do that, but they are heading in the right strategic direction.

At the end of this budget estimates session, I ask whether this government, through the budget, is building for the future. In fact, I argue to the contrary. Our relative position in regard to other states seems virtually unchanged in economic terms over the past five years. In that context, I argue that these five budgets have been failures. Many in the business community and across the state are looking for clear overarching strategies not only for trade and economic development going forward but also for the state as a whole.

We have seen the flashy so-called State Strategic Plan and the infrastructure plan, but these things do not tell us what will happen, when, in accordance with what program it will unfold, how much money will be allotted to each goal or, frankly, how it will be delivered. They are largely glossy brochures without a great deal of substance, and I think the budget reflects that failure. The budget has, in fact, presented a clutch of ideas which are over promoted and many of which have been delivered on a platter by others—for example, BHP in the case of the Roxby Downs expansion, and the federal government and the ASC in the case of the air warfare destroyers. When you go searching in this budget for new initiatives and investments that have been created by this budget, or the four that have preceded it, I think you are found largely wanting.

A line of inquiry I pursued during estimates was to try to find out how the construct of this budget would deliver in the medium to long term, how it would encourage growth in our areas of strength, and how state government investment would add value to our future economic and trade opportunities. I am afraid to report to the house that I did not get very many answers. I will dwell on that for a while. I think the market has worked very well for South Australia over the past five years because the structural problems of debt and shrinking government revenues were overcome by the former Liberal government. Okay, it was through asset sales, but also

it was through sound government budgets delivered in the most difficult circumstances and the creative industry attraction schemes made necessary by the catastrophes of the 1990s.

The Treasurer is running the argument that those industry investment attraction schemes are no longer appropriate. I think there is a sound argument that can be built that you do not need to put taxpayer money into attracting industry here with the same tempo that you did in the 1990s. The Treasurer knows that the environment in the 1990s was totally different to that of today. The patient was dying and on the operating table; urgent measures were needed to save its life. Today, the patient is bounding down the street, fit and well, and requires nowhere near the same amount of attention.

Therefore, given that through no good work of its own this government has inherited a healthy and vibrant state, this budget should have been building for the future. That is where I was disappointed with the budget estimates in respect of infrastructure investment, which I think is wanting. I read a report in *Business Review Weekly* just last night that showed, of $8.5 billion of infrastructure investments across the country in the next five or six years, South Australia would be making 1 per cent of those investments. I think they are wrong and that it is a bit more than that. It might be 2 or 2.5 per cent, given the cost blow-outs, but it is a paltry fraction of the amount of infrastructure investment going on across the country, and the government knows that. It is not spending the taxpayers' money well, and the budget demonstrates that. The opportunity in this budget was to build on these nationally economic buoyant times so that, with drought and an inevitable slowing down of the economy, in the fullness of time South Australia would be seen to be 'making hay while the sun has been shining'. I do not think that has occurred. The legacy of this government and this budget will be determined when the good times end and we see what is left.

Before going into more detail on specifics, I want to talk about the process during this budget estimates and the examination of this budget. There has been quite a bit of media speculation and comment in the house and during the estimates about how it unfolded. I am one of the people who think budget estimates is a very important process, for two reasons: first, it forces ministers and their staff to hunker down and go over the events of the past 12 months, look forward to the events of the next 12 months and catch up on all potential issues, problems and opportunities before them. It requires a lot of work from departmental officers, for which on behalf of the opposition I thank them, as it is very hard work. It is a massive brief back to the minister on all issues in that portfolio. There are positives and some potential negatives, but it causes everyone to dust out their filing cabinets, empty their filing trays, go over things and make sure that every 't' is crossed and every 'i' is dotted. In government it stops you being lazy or slack and forces you to look at potential problems going forward; it is part of the accountability process and it is very worthwhile. I have seen it in government and in opposition.

For the opposition it is a very important process. It is the one opportunity of the year to get your minister or ministers in the hot seat and pursue an intense line of questioning, to go to areas which the formalities and strictures of question time in the House of Assembly do not offer. I think that our standing orders have become, through our own fault, far too rigid. They are nothing like those of the House of Commons or the House of Representatives and could be much more flexible, but they are not. At times question time becomes a farce where the opposition gets to stand up under strict control, ask a one sentence question with virtually no explanation, and then the minister gets to stand up and for 10 minutes be funny, witty, cynical and abusive, while not answering the question but going straight off into debate, with very little constraint. It is a joke, with the whole thing being tilted strongly in the government's favour. That was our advantage when in government and it is your advantage today. I do not think it helps openness and accountability, and there needs to be reform to our standing orders.

To get back to budget estimates, this is an opportunity for the opposition and the media to look closely at issues, portfolio by portfolio. In the spirit of a true and vibrant democracy this relies on a degree of goodwill, and that is how the Westminster system works. Things are tilted very much in the Westminster system in the government's favour. When I say it relies on a degree of goodwill, I refer to the point raised by my good friend, the member for Unley, about the attitude of ministers. If they come to the budget estimates determined to avoid or not answer questions, to obfuscate, to cover up and conceal and if they are determined not to go anywhere near the truth but rather to bury under the carpet potential problems and issues rather than be fully open and accountable, then the budget estimates process flounders. The losers from that are the people of South Australia, the media and all of us and our credibility out there in the electorate. In this budget estimates there has been a lot of obfuscation. I was responsible for some of the key questioning, as I had the portfolios of Treasury, industry and trade, infrastructure, energy, transport and multicultural affairs.

I would have welcomed more openness, frankness, directness and some proper answers from the ministers with whom I dealt. As a member of this place, I was particularly embarrassed by the attitudes of the ministers with whom I was dealing. I was abused and called a liar over nothing—over things such as whether or not the minister would take a question on notice or whether he would answer in the house. Two ministers called me a liar, and I had to go through the unedifying process of extracting an apology. You have ministers belligerently threatening and saying,' Come outside and say that and I'll sue you.'

They accuse you of all sorts of demeaning things. They abuse you personally and do not refer to you by your title as the member for the electorate which you represent. They call you by your first name and use personal invective and abuse, make savage personal attacks and then get outraged when you throw it back. My experience with schoolyard bullies has always been that, if you smack them in the face, usually they burst into tears and go off crying to mummy, and that is exactly what happened with the Treasurer and the Minister for Transport, Energy and Infrastructure. Buttons were pushed and, on cue, they ran off in tears.

You need a bib, a dummy and a nappy when you come in here with those two ministers because you know what will unfold. At least it was a little more entertaining for the media, and I hope they enjoyed it. We got to see the true calibre of at least two ministers who, in my view, behaved during budget estimates more like Dimboola councillors than they did with the dignity and presence of ministers of the Crown. I mean no offence to Dimboola councillors—none whatsoever, and I hope I do not get any calls from offended Dimboola councillors—but I simply say that some ministers in this place conduct themselves with great dignity and with

great presence. One of those, I am happy to say, is minister Hill, and there are others.

A number of ministers, I think, conduct themselves with the dignity and presence that one should expect from state government ministers. Others, frankly, should not even be in local government let alone in this house judging by the way they behaved during budget estimates. They embarrassed themselves in front of their own public servants; and they embarrassed themselves in front of the media and the people of South Australia. However, I have found that, in four or five years of dealing with this government in budget estimates, if you just sit and conduct yourself in a polite, competent and sensible way, all you get is a barrage of abuse.

I foreshadow to the Treasurer and the Minister for Transport, Energy and Infrastructure that I have decided that you have hit a brick wall. You will get nowhere with me. If you have a glass jaw it will be smashed. You will get back as good as you give. You are a couple of schoolyard bullies, and you will get absolutely nowhere with me for the rest of the time that you are in government. You will get back as good as you give. I strongly urge those ministers, on behalf of South Australian electors, to conduct themselves with a little more appropriateness, gravitas and dignity. If they have a beef with me about that, come in here to the house and let us have it out, because I think the people of South Australia deserve better.

I say to the media—who I think have worked very well in reporting budget estimates during a difficult couple of weeks—that it is a bit much to expect an opposition during budget estimates to bring the government down in one morning of questioning. The expectations, I think, have been a little high. This is the first budget estimates in the first term of a four-year term. The government is awash with cash. It has $2 700 million more money than we ever dreamed of. All the things the government opposed, such as the privatisation of ETSA, the out-sourcing of bus contracts and the GST, have all delivered it enormous savings and revenue windfalls.

What you will get—and I think have got—are some teeth being pulled and some hairs being plucked. We have got a lot of information during the course of the last two weeks, some of which has been quite reportable and some of which will come to light more fully in the weeks ahead. It has been useful. Certainly, I know that I have been able to get some important announcements, statements and revelations out of the government in the areas in which I have been dealing. Sure, there are no knockout blows, but we will always have ministers—particularly ministers who are not worthy of being ministers—come in and, before you have asked your first question, trot out lines like, 'Oh, is that the best question you have got?' 'Oh, can't you do better than that?' 'Oh, this is your big session now.' 'Go on, hit me with a real knockout question.'

These are the sort of dumb statements that dumb ministers come out with and, if you check *Hansard*, they have done so in each of the last five budget estimates. The do it to try to position themselves as hairy-chested, competent ministers, while we are looking at hundreds of millions of dollars of cost blow-outs and fiascos, while we are looking at projects in everything from red-light cameras to train safety management systems going belly up, while we are looking at public servants being sacked and abused. There was one quote from the minister responsible for transport and energy about public servants along the lines of, 'If you don't like the bark of the dog, get rid of the dog.' That was in regard to the sacking of his CEO.

What sort of message does that send to public servants? Ministers spoke about the need to be suspicious of them, making comments such as, 'They did the sums, not me.' I thought that, under the Westminster system, ministers took responsibility. I say to members opposite, particularly those on the government back bench, that some of the people who present themselves as competent, capable, senior ministers are nothing but show ponies. If they are not careful and do not pull them to heel, the public image of their government will start to tarnish. I attended a public meeting on Tuesday night, I think, at the Woodville-West Torrens footy club, and an angry group of western suburbs residents hooked into one of the ministers on a range of issues. The members who were there know what I am talking about. That signals to me the way public attitudes may go if certain ministers in this government do not clean up their act.

I could go on about some of the things that came out of budget estimates in my portfolios, for example, the massive blow-out in the cost of the Techport project at Osborne, the use of speeding fines and covert cameras, massive increases in revenue, and government plans to get rid of 110 km/h speed zones. The Northern Expressway has been cleverly scoped down, virtually writing out the southern section to get it down to $550 million, concealing a much larger blow-out in the project were the full facts known. There are the massive cross blow-outs of the South Road tunnels and the refusal in this budget even to give a total project cost for both the Anzac Highway and Port Road underpasses so as to conceal the true figures. The Seaford rail extension has been abandoned, virtually downgraded to a study, and we will have a look at that when we see it. There is a refusal to reverse the 10 per cent hike in public transport fees now that petrol prices are coming down, the abandonment of the taxi industry, leaving it to a levy to install new cameras, and the smoke and mirrors about public transport. A stream of revelations have come out in budget estimates in my portfolio areas that I will be pursuing.

In some respects, it has been a little unedifying. The government sets the standard, and I think it has set a very low standard. It would have been a much better budget estimates process for the people of South Australia if, in certain cases, the ministers had conducted themselves with a bit more dignity and if they had answered the questions. I am prepared to be very polite and reasonable—as I am sure are all members on my side—if I am treated with simple plain manners. We are here to represent the people of South Australia, and they have a right to a decent budget estimates process. I put it squarely back at the government's feet. It is up to the government to make budget estimates more successful.

Time expired.

The Hon. R.B. SUCH (Fisher): I begin with a few brief general remarks about the estimates process and the process of government as reflected partly in estimates. I think it is true—and the member for Waite alluded to this—that there are at least three, maybe four, ministers who display elements of arrogance and a cockiness which I do not think is befitting the role of a minister. The government needs to take stock of that sort of behaviour, because it is something the community does not appreciate or want. I make a similar comment, likewise, about the focus on what is commonly called spin. We know that people need to sell a message, that a government needs to sell a message, as does the opposition and members like me. However, the public can see through what

is often put forward in the format of spin, an attempt to rejig what is happening or what is proposed.

My friendly advice to the Premier would be that he take stock of where the government is at the moment. It is still early in the four-year term, but I think that there are some signs that should concern him and certainly concern members of the public. I believe that many ministers are doing a good job, and the Minister for Health was used just now as an example of a minister who is competent and, I think, modest and appropriate in his behaviour, which shows that you can be competent and act in a way that is dignified without degenerating into the behaviour which I would define as arrogant and cocky and resented by the public.

I have been a critic of the estimates process for many years. I think that it is fair to say that one improvement has occurred; that is, it takes up less time now than it used to. The figure I was given this morning was that, in total, it is about 80 hours now instead of 120 hours. So, I guess if you are looking at it in quantitative terms, there has been some improvement. However, I still make the point that, as a process, it needs to be revisited and revised to see whether it can be done in a way that is more efficient and more effective.

Last week, I visited the Western Australian parliament. One of the aspects it is currently debating (in fact, it may well have passed the law) is the creation of more positions of parliamentary secretary, and I think there is a lesson there. We do have some, and I have always argued that we should have parliamentary secretaries, as I think it is a good training ground. Importantly, and in relation to estimates and parliament generally, in Western Australia they are giving legal authority (because there was some doubt) for parliamentary secretaries to handle legislation, and I think that there is a place for that. Likewise, I think that parliamentary secretaries could be part of the estimates process—certainly for the portfolios that have enormous workloads and expenditure.

I also think that, particularly when the shadow minister is not able to participate directly, members of the Legislative Council should be involved in estimates directly and not in a 'carrier pigeon' way, when someone from the Legislative Council tries to get a question to someone sitting on the estimates committee. I think that process needs to be revised. I am not suggesting that there is an easy answer but, in terms of other aspects highlighted in relation to estimates, we have a bureaucracy which is, in effect, a series of cells, a cellular structure a bit like a honeycomb. Clearly you cannot have (unless you want to go down the path of the man with the little moustache) a completely unitary approach.

Obviously, you have to have some separation of responsibilities within the bureaucracy. Because it has changed (nowadays more frequently than in the past), it is hard enough for a member of parliament to know which minister has responsibility for what, and I suspect that half the time many ministers do not know which particular bit they have responsibility for, unless they happen to have one large slab, such as education or health. If you look through estimates, you will see that it is a smorgasbord of responsibilities.

There is a more serious aspect in relation to this cellular structure. I am not picking on the police, but I use it as an example. I have suggested in the past that the police run police youth clubs. The police legitimately say, 'It's not our role to run youth clubs. We are not funded for it.' That is true; they are not funded for it, but what happens is that no-one runs police youth clubs because the police are not funded for it and it is not their role. So, an opportunity which exists and which is practised in other states, such as New South Wales, is lost and we do not have the youth clubs here. I use this as an example, but there are many others. For instance, who enforces some of the orders of the courts in relation to juveniles? The court does not, so often no-one does it. I am sure that the Premier is well aware of this issue in terms of having people review the structure of the Public Service.

I am increasingly of the view that you need units within the Public Service not to be small for the sake of it but to be structured in a way in which they can respond quickly and effectively to issues. Bureaucracies by their very nature tend to be self-serving; they exist and operate to perpetuate themselves and the people who hold positions within them. A classic case of that which now gives me concerns is the education department. DECS has gone through a process of decentralisation and back to centralisation, and now we have an extremely centralised bureaucracy, which means, for example, that at the school level governing councils (and that is an euphemism) do not actually govern and principals do not actually make any significant decisions in the schools, because it is all controlled from Flinders Street.

I think that, in reviewing the Public Service, the government needs to have a look at whether these large entities are structured in a way in which they can respond quickly. If we take the example of young people, where young people are going off the rails, we want an agency that can respond quickly to ensure that they do not go into a path of criminal behaviour. However, if you go through the current arrangements, it takes forever and a day to get a large bureaucracy to respond. The consequence of the current arrangement is that we frequently have a name change, which destabilises the department, and so it goes on.

In terms of specifics—and these are not in any particular order of priority—I noted under health some positive initiatives were highlighted during the estimates process. I would like to see more focus on preventative aspects, not only issues such as prostate cancer, cervical cancer and breast cancer but more effort into trying to keep people out of the health system, particularly hospitals. Like many, I carry more padding than I need to, and you do not have to be a Rhodes Scholar to realise that we have a very serious health problem arising from people carrying too much weight. The health system has to deal with current emergencies and treat people who have chronic illnesses, but I believe there needs to be a greater focus on preventative health.

One of the interesting initiatives being canvassed at the moment is the establishment of a men's health research institute in Adelaide—and I know that discussions are taking place. South Australia has the Hanson Institute, which is a valuable research institute; it has the IMVS; and work is done at the Women's and Children's and at the universities. However, we do not have the sort of medical research institutes they have in Western Australia, for example, where, in the past 20 years, they have established three outstanding medical research units. I was informed recently by someone who was on the funding panel that South Australia received no capital money for research institutes in medicine; from the $300 million that was allocated throughout Australia, we received nothing, which is pretty worrying. So, we need to do more in that respect.

The estimates process did not seem to throw any light on a particular focus on preventative health, although I acknowledge that the minister this week announced a greater effort in terms of improved food labelling, through his traffic lights announcement, which is a step towards making people more

aware of what they are consuming. I also add that consumption is one aspect; the other side is physical activity. There are some suggestions that the government appears to be cutting back on supporting physical activity, particularly through the school environment, and that is of concern to me.

In relation to transport, we are many years behind Western Australia, where there is a very well-developed electric rail system, and I have discussed this with the minister. One of the points made is that they have a lot money. Yes; they do have a lot of money, but they also have a transport plan, which helps; and they have a public transport plan, which we do not.

One of the things that is evident from the estimates is that the government needs to get some forward-thinking, top people—visionaries who can plan and develop a comprehensive integrated public transport system for Adelaide, and for regional areas as well. We do not have it. I see no evidence of vision, other than extending the tramline down King William Street and doing a lefty into North Terrace. That is commendable, but it basically just replaces the current Bee Line bus service.

There needs to be a plan. That was highlighted to me, coming back from Perth, as I was travelling on the Indian Pacific and someone travelling on the train said, 'Can I catch a train from Keswick Interstate Rail Terminal into the city?' I said, 'No, you cannot, because it is not connected, even though they are 50 metres apart.' That is just one example that I keep referring to. It is ludicrous that we have an interstate rail terminal at Keswick, a suburban train network that goes within a few metres, and yet you cannot get between the two systems. Crazy! We have an O-Bahn, which is an unusual system. It is the only one, I think, outside of Germany. It works well in its own right, but it is not a fully integrated system. It is very expensive, and you can achieve the same thing by having a sealed busway; it will do exactly the same thing, except the drivers have to keep their hands on the wheel (we hope) while they are on the sealed section.

The problem with public transport has been compounded by the Adelaide City Council building its bus terminal in Franklin Street. The reason is that it wants to encourage backpackers and support its particular council area; that is understandable. It should have been adjacent to the rail system, so that it is part of an integrated one-stop centre. In Perth—just harking back to that—they are bringing their new electric rail line from Mandurah down south right into the heart of the city, right into the heart of the shopping area; something that we do not do, and we should do. Other things that they have in Perth in relation to public transport: they have got an excellent system called the Central Area Transport System (CATS): three systems in the centre of Perth linking all key inner area facilities and at peak hour running every five minutes. It is a very popular and incredibly efficient system. It has both visual and voice information at bus stops and on the buses, and is way ahead of anything that we have got here.

An honourable member: Why can't we do that?

The Hon. R.B. SUCH: Well, it requires vision. The member says, 'Why can't we do it?' We could. That is why we need some people in charge of public transport planning—I think the minister knows that—who have vision and who can build on what is done elsewhere.

Perth is introducing an electronic tag system for public transport users. You do not have to punch a ticket: you just tap your tag as you leave a railway station, which, incidentally, have toilets, which ours do not, except for the Adelaide Station. They are just so far ahead of us. If anyone working in the minister's area has not seen what is going on in Perth, they should. I have been raising these issues for years. I hope we see some results shortly.

A lot of other matters of great interest arose in estimates. Reference was made to the fact that we have not been attracting as many people to live in South Australia as we could or should. The State Strategic Plan says we need 2 million people by 2050. I am not convinced that we do. I have never been a great supporter of quantity; I prefer quality. I cannot see any advantage in having 2 million people in South Australia, rather than our current 1.4 million. For what purpose? We are struggling to provide water and other requirements now. I think we need to shake off that simplistic argument that more is better and that, if we keep building housing from Adelaide up to Port Augusta, that is going to be fantastic. I just cannot see the logic in that. In estimates people kept trotting out this mantra about why we need two million people here. Do people really want to live like the Chinese? No offence to the Chinese, but do you want to live like the Singaporeans? If you have not experienced that lifestyle, try it, and see whether you want it.

The minister for agriculture highlighted in estimates the different aspects of drought relief. I do not have a problem with drought relief, provided it is designed to have a long-term beneficial outcome for the community and individuals, but I cannot help but note that our system, our whole society, treats people differently. For the poor souls who have lost their jobs this week at Irons Engineering, there is no-one rushing in with a package and saying to them, 'Well, you've worked there for 18 years.' It's just bad luck. Some people in some companies get their entitlements; some do not.

Likewise, the poor souls known as 'baggies' (the guys who used to take around big canvas bags for households to put their rubbish in) have lost their business, and some of them will probably lose their home. The same term is used for drought relief—'exceptional circumstances'. They have lost their businesses because councils have brought in a recycling system, which is good, but there is no compensation or consideration for those poor souls. They are going to lose their business and I know some are probably going to lose their home. It is not their fault. It was completely outside their control.

The point I make is that, if we are going to compensate some, let us have a system that is fair for everyone. As I say, I am not against giving drought relief as long as it has a long-term benefit, but let us have a system which also assists small businesses. If you are going to be generous then help small businesses who, through no fault of their own, are crushed by exceptional circumstances. It is probably wishful thinking on my part, but I hope it comes to pass.

I now come to one of my favourite topics. I note the minister for the environment was trumpeting the three million trees to be planted by 2014. I commend this; it is worthwhile, particularly given the next round of Kyoto Protocols, which Australia, having helped create, then walked away from. In the near future, those urban forests will be counted towards our effort in helping to deal with global warming.

I now come to my hobbyhorse, but I will not go into all the aspects. I have just written to all ministers, highlighting my concern at the misleading advice given to the Premier and other ministers about what happened on North Terrace. Perth is a city which actually looks as though it is part of Australia, unlike the inner part of Adelaide, which looks like it is from I do not know where. It is amazing how Perth can grow

beautiful native trees such as eucalyptus maculata (spotted gum) in the heart of the city, in Hay Street, their main street, and in other streets. They can have them there. That is amazing, is it not? They can look Australian, be Australian, and be proud to be Australian—but not in the City of Adelaide: the city from nowhere, the city where people, for some reason, are not proud to be Australian. Where is the commitment to the ecology of Australia?

Time expired.

Mr GRIFFITHS (Goyder): It is a great honour to have the opportunity to stand up for a few moments to speak on the Appropriation Bill. As a new member of parliament, and someone who has been entrusted with an opportunity to have a shadow ministry, I was definitely looking forward to the six days of estimates. As part of the seven months since I have been in this—

An honourable member interjecting:

Mr GRIFFITHS: I will get to that later. During the seven months since the election I have wanted to challenge myself at all times to make sure I could learn as much as I could about how government works, and that is why I thought estimates would be a great chance to do that. Frustratingly, however, the way I actually felt by yesterday afternoon was very different from how I hoped I would feel. I note there were some very different approaches taken by the ministers. On Wednesday last week, I had the opportunity to sit on the Treasury session. It was obvious that the Treasurer was up-front. He challenged the opposition (I am paraphrasing here a little) and said, 'Bring it on. Give me all that you've got.' It was obvious that other ministers, whose examination I had the chance to sit in on, had very detailed written answers prepared. I question how much effort was put in by staff and departmental officers to prepare very extensive written answers to every potential question, because I believe that defeats the purpose to some degree.

I admit that my lack of experience did not help my cause in a couple of areas, where I made a presumption that particular ministers would have control of certain areas. One of these areas was the Gamblers Rehabilitation Fund, which I naively (as it turned out) assumed was under the control of the Minister for Gambling—in fact, it is the responsibility of the Minister for Families and Communities. It was a similar case with the 10 new trade schools, a $24.8 million project over the next four years. Being associated with employment, training and further education opportunities, I assumed that minister Caica would have responsibility for that. In fact, it is actually the Minister for Education and Children's Services.

This morning in my office (not in the house) I listened to the speech made by the member for Stuart. I commend him for the message he delivered regarding what parliament—in particular, the budget estimates process—should all be about, and I now find it very easy to understand why he is acknowledged as father of the house. I would like to take a brief moment to commend the staff and chairs of the estimates committees for their efforts over the last six days. It would not have been easy process. Being a member who spent the majority of my time in the other place, it is indeed a pleasure to be back in this chamber and to see more familiar settings.

I would like to comment briefly on my portfolio areas. With regard to gaming machines, the state revenue for this year is anticipated to be $307 million. A drop is forecast within the next few years as a result of the smoke-free legislation that is coming through, but it will then increase to the $307 million figure by, I think, 2010. My specific questions to the minister were about whether the forward estimates period had taken into account the additional 800 gaming machines that have to be removed. It took a while but, after some clarification, the minister confirmed that it was not factored in—and that was a bit of a surprise to me.

The question was asked of the minister in August when he admitted that it would be a difficult process, after the resumption of the 2 200 machines currently from the system, to get the other 800. During the estimates session he talked about the fact that a further round attempting to reduce the numbers would occur in January, and he tried to use that as his answer. I said, 'Minister, you have to respect the fact that forward estimates project out to the 2009-10 year, and therefore what plans are in place to ensure the removal of the 800 machines?' He was not able to give me a clear answer on that and the question I raised then—and the question I raise now—was, given the fact that forward estimates do not reflect that reduction, has the government, in fact, given up on its ability to remove the other 800 machines? It will be interesting to see what happens.

It is unfortunate that the Minister for Gambling is not responsible for the Gamblers Rehabilitation Fund. Last night I had the opportunity to attend a meeting of Pokies Anonymous at Brompton, which was my first chance to meet with a group of people who have to deal daily with the difficulties attached to being an addicted gambler. All of them spoke about the effect it has had upon their lives, upon their families, their homes and their futures, and about the fact that they sincerely do not want to have to suffer that way again. It is important that all members of this place have the chance to listen to those stories, because it will impact upon the way they think about it—in fact, it will make parliament and society in general do what they can to help those people.

In relation to youth, the minister and I certainly agree that we have met some outstanding young people in the seven months since he has had the ministry role and I have had the shadow ministry responsibility. About three months ago I attended the national final of the Voice of Rostrum forum, which involved people from each state, and, quite obviously, they will be political leaders one day. They came from across the political spectrum and they were wonderful orators, very passionate about what they want to do. That is a challenge for us in here; we have to make sure that we challenge all young people to aspire to achieve. Young people must not accept their current lot; they must always challenge themselves to make sure they turn out to be the best people they can be, because by doing that they will make our communities the best possible places they can be.

The young people I have met are leading the way, they are young people who will always accept the challenges of boundaries, and young people who, I am confident, will lead our communities into a very strong future. To do this, however, we have to recognise that young people need careers. The youth unemployment rate is currently running at 22 per cent, after being 27 per cent last month, I believe. Last month's figure was the worst in the nation. With this month's reduction it is back to being the third worst in the nation. But we should never be satisfied with that. Youth unemployment in Western Australia is, I believe, around the 11 per cent mark, and that is the sort of figure we need to aspire to. It is very important that government focus is on programs and resources to ensure that our youth are given a job because, if they have a job, they have a future, and, if they have a future, we all have a future.

In regard to employment and further education, we were constantly told that within South Australia there is a skills shortage in this area. Therefore, it is very surprising to me that, when reading the 2006-07 targets for the SA Works program (which is a learning, workforce development and employment program), the numbers for this year's target are far reduced from last year's estimated results, and I want to take a few moments to talk about some specifics. In total, the SA Works program is looking to target 23 455 people this year. That sounds a good number but, in fact, it is down by over 5 000. The estimated result for 2005-06 was 28 757 people. For mature aged people involved in the SA Works program, the estimated result for 2005-06 was 5 020 people. The target number for this year is only 3 050, a reduction of 2 000 people. In the critical area of indigenous people involved in SA Works, last year we had an estimated result of 1 402 people and this year we are down to 1 200. Why is there a 14 per cent reduction? In other target groups that make up a fairly broad cross-section, the estimated result last year was 4 764 people. This year it is 2 730 people fewer. We cannot accept that. We have to aim much higher.

If we look at the amount of training hours delivered, the story is worse. The estimated result for 2005-06 for accredited training was 1 540 731 hours. This year the target is 781 000 hours. Basically, that is half. In non-accredited training the story is a little bit better but still very disappointing. The 2005-06 estimated result was 393 065 hours, whereas the target this year is 342 000 hours. We have to do something about that. In vocational education and training I want to highlight one particular figure, and that is the number of student hours for annual hours of curriculum adjusted. The estimated result for 2005-06 was 18 900 000 hours. That is fantastic. But what have we done again? We have reduced it by about 6 per cent to 18 400 000 hours. If that is an indication of a government trying to tackle skills shortage issues and ensure that our young and unemployed people are getting all the training they need, I would be very surprised.

Mr Pisoni interjecting:

Mr GRIFFITHS: Or, as the member for Unley says, we may have to consider 457 visas. We need to ensure that we aim higher. We must ask ourselves the question: why are our targets for this financial year so much lower than last year? Last year was a good result. Let us aim to improve upon that. We have to ensure that we give every person the opportunity to develop those skills, and the only way to do that is to engage them, so therefore set the target higher.

I want to talk briefly about the additional training costs for people involved in these programs and the removal of government funding support from the certificate II options within TAFE. The minister is quoted as saying these are the low skills areas for which training requirements will not be supported. He is quoted as saying that therefore the onus is upon employers to fund this cost. My question to the house is: what will this do to entry level job positions for young people? For many people who have reached a good career in life it is because they learned the work ethic of coming into an entry level position, which the minister talks about as being a low skills area. Okay, it may be a low skills area, but it gives us all an opportunity. Statistically, we are being told now that, not only will people have missed jobs in their lives, but they will have something like five different careers—not positions, but careers. We all have to start somewhere and need the first chance. It is important that training opportunities, at a subsidised cost, are available for our young people. The capped fees within the TAFE system are going up from $1 285 to $1 900. Again I ask the question: will this price of training be beyond the capacity of many people? I hope not.

The user choice increase, having gone from $1 to $1.50 in the 2003 year, has gone from $1.50 to $2, a 33 per cent increase. For people involved in carpenters and joiners courses, that is an additional cost of $510 over the four years in which they are undertaking their training. It is also very important to recognise that this reduction in the subsidy that the government will provide will make it very difficult for independent training providers to operate. They perform a very valuable service, operating distinctly removed from the TAFE system. They have a lot of skills they are trying to impart to our younger people to re-skill themselves and get back into the job market. Without the subsidy available, it will be very hard.

I want to talk very briefly about the impact of the budget as I believe it to be for regional South Australia. I have talked to a few groups across my electorate since the budget was brought down, and all the people I have spoken to feel as though they have been left out. Drought will be an enormous situation for all of us. It will affect every regional community in some way. We will find that spending will dry up. Good, loyal employees will be put off as many businesses tighten their belts to ensure they will be there for the long term. People will not be able to socialise in the same way as they may have done previously. By not being able to get out and be with your friends but having to spend more time at home to conserve costs, you are keeping within yourself the frustration that builds as a result of a drought situation. You would wonder whether this frustration may lead to tragedy.

It will be very important that there are a lot of skilled people out there talking to the people who will have financial and psychological issues to deal with in the next few years, to make sure that we get through this. Going into a drought is bad enough, living through it is terrible, but coming out of it is just as hard, in many cases. All regional South Australia needs the support of the state government now more than ever before. Instead, it appears as though the exact opposite is actually happening. We are not getting enough money for our roads; we are not getting enough money for the services that people in regional South Australia need and, importantly, we are not getting the recognition for the fact that 25 per cent of the South Australian population actually lives out of the metropolitan area.

Mr HANNA (Mitchell): Many issues were canvassed in the examination of the budget by means of the budget estimates committees in the past two weeks, and much criticism has been levelled at the process. The estimates committees were created a couple of decades ago, according to my understanding, because prior to that the examination of the budget had occurred in the chamber in the normal course of parliamentary debate with all the members present. So, it was seen as a more efficient means of looking at the budget. It has progressively become a more and more opaque process. The budget papers themselves are hard enough to read, but the way the estimates committees have been carried on by Labor and Liberal governments over the past 10 years has made them even more difficult to understand. I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

ASSENT TO BILLS

His Excellency the Governor's Deputy, by message, assented to the following bills:

Geographical Names (Miscellaneous) Amendment,

Groundwater (Border Agreement) (Amending Agreement) Amendment,

Murray-Darling Basin (Amending Agreement) Amendment,

Statutes Amendment (Electricity and Gas),

Workers Rehabilitation and Compensation (Territorial Application of Act) Amendment.

de ROHAN, Mr M.J., DEATH

The Hon. M.D. RANN (Premier): I move:

That the House of Assembly expresses its deepest condolences to the family, friends and colleagues of South Australia's Agent-General in London, Maurice de Rohan AO OBE, and places on record its appreciation for his outstanding contribution and tireless service to the state, and, as a mark of respect to his memory, the sitting of the house be suspended until the ringing of the bells.

Maurice de Rohan was an extraordinary man. He cared deeply for people in both spirit and by his actions. He had a gift for friendships and relationships. He was thoughtful and generous, energetic and charming, and he touched the lives of so many people in so many ways. Maurice served South Australia with unparalleled distinction and professionalism. For me, Maurice was the finest Agent-General in my memory, in terms of serving our state. I believe he would have become an outstanding governor of South Australia. His death in London on 5 October was a terrible loss to all those who knew, loved and respected him. Today our state is immeasurably poorer for his passing.

The Times newspaper of London summarised his recent achievements when it published the following words in a rare, full-page obituary:

Maurice de Rohan brought total dedication to the task of encouraging trade and tourism with his homeland. At the same time, however, he immersed himself to the full in many areas of British life, to the point where he was known and admired far beyond the business and diplomatic circles in which an Agent-General commonly moves.

Maurice John de Rohan was born in Adelaide on 13 May 1936. He was educated at Adelaide Technical High School and at the University of Adelaide, from which he graduated in 1960 with a degree in civil engineering. As a young man he jointly founded the firm of Kinnaird Hill de Rohan & Young, which went on to become one of Australia's largest engineering and planning consultancies. In the mid 1970s he began what was supposed to be just a two-year period in London, serving as managing director of Llewelyn-Davies Weeks International, but, of course, Maurice was made for London and his love of the city and his connections within it expanded rapidly.

Apart from his own business interests, he became a founding member of the organisation called Australian Business in Europe, a director in 1978, and its president in 1982-83. After deciding to stay in London, his life changed profoundly in 1987 when his beloved daughter, Alison, and his son-in-law, Francis Gaillard, died in the Zeebrugge ferry disaster in the channel in Belgium. Maurice joined others who were bereaved in setting up the Herald Families Association, which sought justice for the victims of this tragedy and which campaigned for higher standards of safety on ferries.

In 1991, Maurice played a major role in establishing a charity called Disaster Action, which supported those affected by a number of disasters, including the Lockerbie aircraft tragedy and the London bombings of July last year. Maurice remained chairman of that group until October 2005. I am told that, apart from his advocacy in all the commissions of inquiry on behalf of the families, he also acted as a counsellor for many bereaved families.

For his efforts in relation to improving maritime safety, Maurice was awarded an OBE in 1992. In 1998, he was accorded the honour of being a Freeman of the City of London. He was appointed South Australia's Agent-General in London by the Olsen government in 1998, an outstanding decision that we on this side of the house supported.

When he was well into his 60s and even after he became very ill, Maurice was exceptionally hard-working and he drew on quite amazing stores of energy. For example, from 2000 he was chairman of the Cutty Sark Trust, which preserves the famous tea clipper (at Greenwich) that sailed between Australia and Britain in the 19th century. He was also, I am told, a member of the Maritime Trust of Britain, and had a very close working relationship with His Royal Highness the Duke of Edinburgh.

He was also a prominent member of the MCC (Marylebone Cricket Club), using his position as the chairman of the MCC Estates Committee to bring about a major redevelopment of Lord's cricket ground. I am told that a space-age media centre was one of Maurice's projects. He was the proud owner of a narrow boat that plied the canals of London, and he loved demonstrating to Australian visitors his knowledge of London history from water level (going through the Regent's Canal) and also President of the Narrow Boat Owners Association.

During my visits to London in recent years—and I know members of both sides of this chamber, members of the business community and other community leaders have also visited—I was always greatly impressed with Maurice's competence and unflappability. Not only did he provide practical assistance to South Australian businesspeople in Britain, but he helped build bridges to the rest of Europe. He effectively fostered British migration to South Australia, personally overseeing a campaign that has increased numbers to levels not seen in 40 years. Maurice was also a focal point for the broader South Australian community based in the United Kingdom, which includes people in academia, sports and the arts.

For so many young South Australians in London, he was not just a useful contact, he was a friend and mentor, constantly inquiring after their welfare and making valuable introductions on their behalf. This is a story that we have all heard on countless occasions at functions where we have met young South Australians who tell of how Maurice helped find them homes, jobs or introductions to an extraordinary level.

Maurice loved to host social occasions for expatriate South Australians—events that always involved either Cooper's Ale, Villi's pies or the finest South Australian wines. One year he managed to have a Crows versus Power Showdown beamed live into London, getting friends in the television industry to somehow bounce the signal off satellites and, also, a range of buildings in Central London to achieve this. It was only because of those connections that he was able to achieve what some people said was technically impossible. Maurice was a one-eyed Port Adelaide Power supporter. He loved receiving and watching DVDs of Port Adelaide games every week. I know that he came back to

South Australia on a number of occasions to see Port Adelaide play; and also he was there in 2004 to witness Port Adelaide's AFL Grand Final victory over Brisbane at the MCG. Many of us remember his returning regularly to Adelaide to compete in the Classic Car Rally, often hurtling around the Adelaide Hills in an E-type Jag looking just a little like his very close friend Stirling Moss.

In recent times I was particularly struck by Maurice's kindness and compassion towards Gillian Hicks, the young South Australian woman who lost both legs in the London bombing of last year. Having spoken personally to Gillian, I know how Maurice's interventions were so helpful to her recovery. He visited her constantly during her time in hospital, lifting her spirits with empathy, inspirational words and occasional bags of Haigh's chocolates. He constantly urged on Gillian. He made a promise that he would see her walk down the aisle using her new prosthetic limbs at her recent wedding in London. He made it to the church for that moment, but by then his grave illness and the effects of a gruelling course of chemotherapy meant he was unable to stay for very long; but it was a gesture that was greatly appreciated. When Gillian visited me here in Adelaide she told me that Maurice had been critically important to her recovery from those horrific injuries.

From a Premier's and parliamentarian's point of view, we could not have had a better representative than Maurice in London. His unsurpassed level of contacts in London and his impeccable manners meant he could bring you into contact with just about anyone: a visit to Buckingham Palace or 10 Downing Street; or meetings with the highest level business people in Britain and Europe. It seemed that Maurice would always be able to organise something, often at short notice. For him no task was too difficult, no detail too small. His professional abilities and his personal qualities had long made him the 'dean' of all Australian agents-general based in London. I know that various high commissioners to Britain have spoken so highly of his role.

As members are aware, the government is currently considering the appointment of a new Governor of South Australia to follow Her Excellency, Marjorie Jackson-Nelson. Earlier this year when I began seriously to turn my mind to the question, one name stood out ahead of others and one name drew strong endorsement from all whom I consulted—and that name was Maurice de Rohan. In May this year when I visited London I had the pleasure of hand delivering a letter to Maurice when he greeted me as I came off the plane. I want now to quote from that letter that he read in the car as we drove into London. It states:

> I would like to formally ask you to consider my proposal to advise the Queen to appoint you as South Australia's next Governor. At my most recent meeting of cabinet, following Executive Council last Thursday, I raised this proposal with my ministerial colleagues. It was not only endorsed unanimously but with great enthusiasm. I have no doubt that you would make an outstanding Governor of South Australia—one who would continue Marjorie Jackson-Nelson's exemplary role in building bridges between young and old, between country and city, in reaching out to Aboriginal and multicultural communities. You would also, given your business and international experience, assist our state greatly in trade, investment and diplomatic initiatives. Your community and charity experience plus your roles in heritage and history through the maritime and *Cutty Sark* trusts would be an invaluable help to South Australia. It is with great pleasure that I formally invite you to consider returning to South Australia in 2007 to become South Australia's Governor for a five-year appointment from 1 August. If you agree, and following the Queen's acceptance of my recommendation, I would propose to make the announcement of your appointment on Anzac Day next year.

Maurice was honoured and deeply moved by this invitation, but he knew that he had to first win the battle over the cancer that had stricken his body. However, it had certainly not robbed him of his will to live and his inherent optimism.

Maurice succumbed to illness early this month, but not before he was made an Officer of the Order of Australia during a special bedside presentation witnessed by family and close friends. I understand that, on behalf of the Governor-General, that award was made by Richard Alston, Australia's High Commissioner to Britain. I am told that his funeral, which was conducted on 11 October, was a dignified and poignant event. I was very pleased that it was attended by many prominent South Australians, including our Governor and Deputy Premier. The number and range of people attending reminded us once again of the extraordinary impact he had on people's lives.

The funeral service was held at St Mark's Anglican Church, and the reception was held in the Long Room at Lord's—a rare honour, indeed. The hearse carrying Maurice's casket circled the playing field at Lord's, as all staff and onlookers at the ground bowed their heads in honour of this good and decent man. A memorial service for Maurice will be held in the Bradman Room at Adelaide Oval on 14 November.

Engineer, businessman, diplomat, humanitarian, mentor, host, friend, gentleman: Maurice de Rohan was all these things and more. He had dealt with great sadness in his life, and he fought a brave battle against illness with tenacity, stoicism and good humour. Right to the very end he always looked to the best in people and brought out the best in people, invariably making them feel better about themselves, their circumstances and life in general. Those of us who knew Maurice were warmed by his friendship and civility, enriched by his brilliant mind and buoyed by his generosity of spirit. I and I know all members were privileged to have known Maurice de Rohan, and treasure the times we spent with him. We will remember him always. On behalf of members of this side of the house—and, indeed, I am sure, all members of this house and this parliament—I extend my condolences to Maurice's family and friends, especially to his wife, Margaret, his son, Jonathan, and his daughter, Julie.

The Hon. I.F. EVANS (Leader of the Opposition): On behalf of the Liberal Party, I second the Premier's condolence motion and express our sincere regret at the passing of Maurice de Rohan, who served South Australia as Agent-General in London from 1998 to 2006. For all the reasons outlined in the Premier's contribution, Maurice de Rohan was an outstanding South Australian. I speak on behalf of all Liberal Party members and all members of parliament, past and present, and place on the record our sincere appreciation of his distinguished service to this state and, indeed, the country in general. We were truly saddened when we heard of Mr de Rohan's passing after a battle with cancer. Mr Speaker, I ask that you convey our deepest sympathies to Mr de Rohan's wife, Margaret, and his family. We have already written to Margaret, but we ask that you pass on our condolences as part of this motion.

The Premier indicated that he had offered the position of Governor to Maurice. We certainly would have strongly supported that. We agree that he would have been a magnificent Governor for South Australia: we have no doubt about that. In 1998, I think, when then premier John Olsen appointed Maurice de Rohan as South Australia's Agent-General, he got it absolutely right when he said, 'No doubt at all we have

found the right person.' The fact that he was reappointed a number of times by governments of all colours, I think, is testimony to the very high regard in which Maurice de Rohan was held as a person and in the way he carried out his role on behalf of the state and the high regard in which he was held in London as a representative of the state. It is a testament to his caring and empathetic nature.

It was most fitting that a special ceremony was held in Mr de Rohan's London hospital room to present him with the Order of Australia for his distinguished service to Australia and to people in general. I understand that Mr de Rohan had a Cooper's beer to toast the achievement, a drink he took every opportunity to introduce to many Londoners throughout his residency, along with his beloved South Australian Villi's pies. Mr de Rohan sought to help people's life in everyday plights. In 1991, he founded the charity Disaster Action, which is an advocacy and advisory service that has aided British victims of more than 20 disasters. As the Premier indicated, this arose out of the tragic death of his daughter and son-in-law in a ferry disaster in 1987.

He oversaw a campaign that took British migration to South Australia to levels not seen for something like 40 years. He was a keen boatman. Mr de Rohan was president of Britain's Canal Boat Owners Association and liked nothing more than taking visitors and friends on a trip down the river. I understand that the member for Stuart might have had the pleasure of one, two or more of those experiences over time. He was a keen cricket supporter and chairman of the Estates Committee at Lord's Cricket Ground for seven years, and was closely involved in many of its developments. As the Premier said, part of the funeral service was held at that particular ground.

The MCC's chairman, Charles Fry, stated in his tribute that 'his legacy is all around us and will benefit everyone coming to Lord's for many, many years to come'. It has often been said that Mr de Rohan was one of the best connected Australians in London, and that his connections opened many doors for South Australian businesses and individuals, as the Premier mentioned. He was someone who became involved in all sorts of organisations. He was a fellow of the British Institute of Management. He was a founding member of the Australian Business in Europe. He was involved in the *Cutty Sark* Trust; the Cook Society; and the Britain Australian Society, to name some of the organisations. It is our view that we were indeed fortunate to have Maurice de Rohan in our service and it was an honour for us to have Maurice represent us in London.

He was admired far beyond the business and diplomatic circles in which he commonly moved as Agent-General. The tributes continue to pour in, and something that has been echoed by all is the feeling that Mr de Rohan was not simply a colleague but a true friend who constantly focused on improving the lives of others. I am sure all members present will join me in paying respect to the late Maurice de Rohan and acknowledging the significant contribution he made to our state. He was a fantastic and great South Australian.

The Hon. K.O. FOLEY (Deputy Premier): I will speak only briefly because both the Premier and the Leader of the Opposition have certainly covered much of Maurice's contribution to South Australia as our Agent-General. I, like many, have had a long association with Maurice, having been a frequent visitor to London over many years for various aspects of my role both as a shadow minister and latterly as the Treasurer and Minister for Industry and Minister for Police. Maurice, as the Premier has outlined, has served the state with great distinction and, like many, I have great and fond memories of the service that Maurice provided, whether it was the quality of business leaders whom he would bring to dinners in Australia House, or whether it was the quality of the meetings that Maurice would arrange for me and the level of service that he provided.

I remember many such events, indeed, luncheons on the *Cutty Sark* with business leaders who, like me, and others—perhaps the member for Stuart more than many—enjoyed one or two trips on the narrow boat along the canal in London. There was something quite unique about having a group of business people to dinner on Maurice's boat and then heading off in the very narrow channel, through a tunnel (which is a much narrower tunnel on the way home than on the way to dinner) and pulling up at a Chinese restaurant, which was Maurice's favourite. They would open the window to the restaurant which overlooked the canal and you would have to step into the restaurant via the window. It was something quite unique and something at odds perhaps with Maurice's general level of attention to detail and quality of service that he would provide—entering a restaurant through a window was quite unique. Getting back out of the restaurant into the boat was even harder, as I said. As I am sure the member for Stuart would have seen, as you head towards that tunnel, it looks very narrow on the way home and it is very dark—nothing to do with what one might have consumed at dinner.

Maurice was a great host and a great ambassador for South Australia and one who always went out of his way to go beyond what would be the norm in this type of job. I was able to represent the government at the funeral. The Premier would have preferred to have been there but, unfortunately, due to commitments in Australia, it was not possible. I was overseas at the time and I diverted to London where I represented the government alongside the Governor, representing the state. It was a very moving ceremony, one attended by an enormously diverse cross-section of British and Australian people from business to sport to charities to the general community. It was a memorable service, also attended by the former member for Morialta Joan Hall, who also knew Maurice extremely well, and was followed by the wake at The Long Room at Lord's, which was quite a unique experience, and again it demonstrates the esteem in which Maurice was held by many people.

It was a very sad day but a very proud day for Maurice's family in terms of the memories they will have. The speakers on the day, and the clear affection in which Maurice was held by many people, were evidence of that. The following day, I spent some time with our staff at our office in London, who have served the state exceptionally well, many of them having been there for the length of time that Maurice has been our Agent-General. I had a good talk to them—I counselled them—and we talked particularly about their most recent months with Maurice. They are obviously hurting, but they have got on with their job of representing South Australia. There is no question that we have a very good office in London.

I would like to recount one anecdote about when I was first elected to office. I had an idea, which I had not floated with the Premier, that perhaps our Agent-General's office should be part of the general trade department within government and, perhaps, it would be better located under me as the trade minister, given that its major role was to promote trade between states and, thus, it would have better synergies. I had been told that this idea was an idea of the former

Liberal government, but I thought I would have a crack at it and, before I had a chance to even raise it with the Premier, from memory, Maurice made an appointment to see me, although I am not quite sure how he found out about it. I guess he realised that it might have been on someone's agenda—

The Hon. G.M. Gunn interjecting:

The Hon. K.O. FOLEY: You told him. As many would know, I can often be stubborn, but he spent a good hour with me and convinced me of the folly and inappropriateness of my idea and that the office should remain as a central agency reporting to the Department of the Premier and Cabinet, because that was the clout that was the necessary bureaucratic arrangement that made the office work, and he was right. So, my very first meeting with Maurice was a win to Maurice and, from that day on, Maurice had a unique way of ensuring that his view was well understood both by me and the broader government. With those words, I extend my condolences to his wife, Margaret, his son, Jonathan, his daughter, Julie, and his family.

The Hon. G.M. GUNN (Stuart): I am very pleased to support this motion, because Maurice de Rohan was a great South Australian. Many people would not be aware that he went to the Port Germein Primary School in my electorate for a small part of his early education. My second interesting experience concerning Maurice de Rohan was that, when I was chairman of the Economic and Finance Committee, I think it was the now Deputy Premier who had an idea that we should examine all overseas offices. So, I had to send a letter off, which I signed. A few days later, I arrived in London on a visit and I had an appointment with the Agent-General, and the first thing he did was to hand me the letter, asking me what was the meaning of it. I assured him that I did not initiate it and that it was actually an initiative of the now Deputy Premier but, not to worry, because everything would be all right. I assured him of that.

I want to say how much my wife and I appreciated his hospitality and help. Sunday afternoon on the canals is something to remember—very enjoyable—but one did not plan anything for that evening. It was most enjoyable. Also, the appointments that he made on various trips to London were not only useful but also very educational. The office was very efficiently run. I know that the former agent-general from Western Australia held Maurice de Rohan in the highest regard. I join with the Premier and others in expressing my sincere sympathy to his wife and family. It will be very difficult to find someone to fill his shoes in London.

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I also rise to add some comments about Maurice de Rohan, who was truly an absolutely great South Australian, someone who made a difference to our standing on the world stage but, more importantly, had a profound impact on businesses in South Australia, the Public Service and our lives. His hospitality was legendary. He had an extraordinary capacity to make connections—he was a great networker and knew everybody. He had an extraordinary gift for remembering people's names and, if you needed or wanted something, he not only knew who it was but he could find the phone number and make those connections immediately. We all send our condolences to Margaret and the family, and all of us would have different memories of the special services he provided, as well as anecdotes about his charm and, more than anything, grace.

I read the obituary in *The London Times*, which stated—and this surprised me—that his most obvious memorial would be Lord's. Many South Australians would not understand the impact he had in London. In that respect, the following is noted:

> His contribution as chairman of the Estates Committee and, notably, the widely praised £8 million refurbishment of the splendid Victorian pavilion, completed as the tour 6 season opened, and his installation of a new outfield, whose drainage quality cut weather disruption to a minimum.

We do not have that sort of weather disruption here, but he was an engineer and one of his skills was to put himself into a position where he could use his professional expertise and help lesser mortals, who otherwise might make some very foolish mistakes. On top of that he was particularly good at planning a project, executing it with military precision and ending always on time and on budget, which for a cricket oval is a very good skill and one that he carried through into his life.

If there is any message about Maurice's life and achievements—and there were many—it is that he was not just a member of organisations: he did not join a club or sit on a committee and say that somebody should do something; if something needed to be done, he actually did it. He started organisations: many of his achievements were as the founding member or leader of an idea. The number of areas in which he was integral were extraordinary: whether it was The Cook Society, disaster funds, working for Lord's or being a leader of the Australia Day Foundation, he always made a difference. He never took a ride or a journey that was easy but was always integral in reform.

Victoria's Agent-General, David Buckingham, said, of Maurice's role in the Australia Day Foundation, that he played a key role in many aspects of what it meant to be an Australian in the UK, but, more than that, in many ways he served the United Kingdom as if he were British and contributed to their way of life as well. Gillian Hicks said something interesting: that both Australia and the UK have lost a good friend. This is what Maurice knew was special: that a deal, a negotiation or any kind of interaction between two people is about both sides of the discussion feeling important and feeling like a winner. That was one of his great skills: he could negotiate, do it with grace and make everyone in the negotiation feel that they had won.

One area that perhaps has not been mentioned about his life—having been the recipient of his hospitality and enjoyed trips to Lord's and attending 20/20 matches and joining him for lunch and dinner—is that he also had a profound impact on the staff employed by the South Australian government in London. For many of those young people it would have been their first posting overseas and their first chance to work with a truly good operator, and it gave them the chance to see how a project could be managed and organised. One thing about Maurice was that he was meticulous in everything he touched. There was no doubt that every detail was dealt with. However trivial, foolish or personal a requirement might have been, it was always delivered.

There was never any doubt that for those staff with whom he worked not only do they have great affection for him but also their lives have been changed. Certainly, the staff with whom I have spoken talk about the last moments of his life with pride that they were with him. He was still helping and advising them. His last moments were spent, of course, with a glass of Cooper's beer. I was very fortunate to have discussions with him on occasions by telephone and in

person. I will miss him also. He was a truly great South Australian. He is a man who could be summed up, perhaps, with one word. He was a man of grace.

The Hon. R.G. KERIN (Frome): I rise not only to support the condolence motion but also the sentiments put forward by other members. Like several other members, I was very fortunate to have a longstanding and strong relationship with Maurice. There is no doubt that Maurice was not only a great South Australian but also a great Australian. His contributions for Australia in London were enormous. His dedication and contribution to this state was exceptional. I was but one of many South Australians to benefit from his brilliant hospitality and from his huge network of connections. I remember one trip when we were trying to find out as much as we could about what had happened with GMOs in Europe. The people Maurice brought together for lunch were exactly the right people to talk to; and he had a reputation to be able to well and truly do that.

I got to spend many good times with Maurice both here and in London. His friendship, gentlemanly demeanour, willingness to help and the love of his many causes were all things that anyone who knew Maurice greatly appreciated. I had the pleasure of Maurice taking me through every nook and cranny of the Lord's cricket ground. I admired the contributions he had made to the ground, and that continued on.

There was just this love of what he was doing there. He took the controversy over the media box in his stride, because he knew that he was setting it up as a great ground. Certainly, he was extremely proud of that, and the MCC was not shy about using Maurice's engineering expertise. As the Minister for Tourism said, there is no doubt that much of what is at Lord's nowadays is a legacy of Maurice de Rohan. Whilst we shared a love of cricket, we definitely agreed to disagree when it came to football. I never really came to terms with the fact that both Maurice and our then governor, Sir Eric Neal, were Port Power supporters.

However, no-one is perfect but Maurice was close. He lived in London for a long time, and he was incredibly well known and highly respected within the local community. He was an absolute gentleman, and he liked to get everything right all the time. It must be something about deputy premiers, I think, but on my first visit to London during his tenure he held a reception at which a South Australian tourism delegation was present. Brian Gilbertson was in London at the time to promote the upcoming Olympic Games. Maurice held a reception which the tourism people attended, as well as a lot of locals.

At the time, Maurice was on crutches, which was part of the price he paid for barracking for Port Power. He went on one of its Outback Odysseys with his great mate David Klingberg. Maurice got out to open a gate and ping went his Achilles tendon, which was quite a bad injury for him. At the reception he called the crowd to order and went on to speak about the deputy premier, what a good friend he was and a bit about his background. He got to the stage of announcing me and, to his incredible fear, he forgot my name, which is not hard to do. He forgot my name.

Members interjecting:

The Hon. R.G. KERIN: Yes. This led to an ongoing laugh between us; and, in the last six or seven years, I do not think I saw Maurice when he did not apologise again and again. It was one thing that stuck in his mind forever. I add my heartfelt condolences to Margaret and family. They should be immensely proud of the contribution Maurice made not only to South Australia but also to his adopted home, as well as the way in which he has left a big mark on a lot of people who have had the pleasure of coming in contact with him.

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I also pay tribute to Maurice de Rohan's service to our state. For any of us who have travelled to London and experienced his kindness, it is very sad to think that we won't be meeting Maurice again. I recall one occasion where he assembled a group of affordable housing leaders in that sector in London and it was a very impressive group of people who got together at relatively short notice. What I found interesting about the occasion is that as they sat there amongst themselves they were all quite surprised that they never took the opportunity to meet this way, and it was testimony to the remarkable networking skills of Maurice that he was able to pull together such a highly relevant group of people about a particular topic in a way that they themselves had never managed to organise before.

I think I have part of the answer to the member for Frome's dilemma: they're both Port boys—former governor, Sir Eric Neal, and indeed Maurice de Rohan. Maurice de Rohan spent a lot of time living I think in Queenstown.

The Hon. M.J. Atkinson: Eric Neal was from Chief Street, Brompton, which is not the Port.

The Hon. J.W. WEATHERILL: No. But I think he went to Le Fevre Boys Tech.

Members interjecting:

The Hon. J.W. WEATHERILL: I think we are, in fact, claiming Sir Eric down the Port. But I am quite certain that Maurice, in fact, attended a local Baptist Church, I think, in Cheltenham, and, if I am not mistaken, he may have even married his wife at that church. But he certainly had a long connection with the Cheltenham area.

The Hon. R.G. Kerin interjecting:

The Hon. J.W. WEATHERILL: That's right, and that will be in my next newsletter. Can I give one anecdote about his attention to detail. The son of one of my constituents had an awful accident in London. He fractured his spine, and was banged up in hospital and was spending a long time recuperating. This lad was from a family that also supported Port Power, and Maurice knew exactly what the cure would be and so he ensured that a range of DVDs were procured of the Port Power Final campaign of 2004, and it really assisted the recovery of this young man to see the magnificent Port Power go up to victory in that magnificent year that we hope to replicate soon.

Members interjecting:

The Hon. J.W. WEATHERILL: That's right, we keep watching them and watching them. I add my voice to those here who have paid tribute to Maurice, and I pass on my condolences to his wife and family. Our thoughts are with you.

Dr McFETRIDGE (Morphett): I had the pleasure of spending quite a long time with Maurice just a couple of months ago in London, and we had a full and frank discussion about his illness then. Can I say that Maurice put on a very brave face for what was obviously a very grave illness. He was leaving the next week to go to America for some experimental treatment. He knew the future was looking very grave, but both Maurice and his staff in the London office did

everything they possibly could to assist me with my appointments over there. I had met Maurice a couple of times before that, and, again, he could not do enough for you. I think others in this place have described Maurice as a man of grace and an exemplary South Australian, but I think it is very important we recognise Maurice as a true gentleman.

Mr BIGNELL (Mawson): I, too, rise briefly to add my little piece to this condolence motion. Many people before me have spoken eloquently and lovingly about Mr de Rohan. Maurice de Rohan was, in every sense of the word, a true gentleman. In our life we come across hundreds, thousands of people, and you always look to people from whom you can take on board some of the good aspects of their lives, when you come across people and think, 'I really like that quality in a person, I want to learn a little from that and take that on board.' With Maurice you wanted to take a big chunk of the man on board because he did do things so well. He was extremely well connected, not just in London, as people have spoken about today, but right the way through Europe. I was with the Minister for Tourism in Barcelona a few years ago and Maurice was there. He had amazing connections throughout Spain. As recently as July I was in Russia talking to Austrade and the ambassador over there, and I suggested they get in touch with Maurice and the South Australian office in London. They contacted them the next week and went and met with Maurice and David Travers.

The Austrade officials in Moscow were just blown away by Maurice's enthusiasm. Even at that stage, when he was extremely gravely ill, he showed great enthusiasm for trying to get South Australian products into the European market, such as wine from McLaren Vale (the area I represent). He was a great promoter of South Australia, of its people and of its products. Unfortunately, because he left South Australia in the 1970s, he was not as widely known here, outside of business and political circles, as he should have been. I am sure that he would have been much loved as governor of the state. He was an outstanding man and a great person, and he will be sadly missed.

I would like to add the condolences of the Minister for Transport and the Minister for Sport and Recreation in their absence today. We have often spoken fondly of our trips to London or Europe. In 2002, in the dining room of Parliament House, Maurice once said to me that it was extremely important for politicians to travel—not only to learn new things but to reinforce that many of the things we do in South Australia are world leading, which reinforces that we are doing some great things. That was a piece of advice from Maurice that I will always live up to.

The SPEAKER: Mr Maurice de Rohan served this state with great distinction. I have also been a recipient of his hospitality on a trip to London. I will pass on to his family the record of today's proceedings. I ask members in support of the motion to rise in their places.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.47 to 2.57 p.m.]

RIDER SAFE MOTORCYCLE TRAINING

A petition signed by 1 382 residents of South Australia, requesting the house to urge the government to reverse the decision to increase the Rider Safe Learner Motorcycle Training course fees and return the level of fees to pre July 2006 amounts, was presented by Mr Hamilton-Smith.

Petition received.

ORGAN HARVESTING

A petition signed by 500 residents of South Australia, requesting the house to urge the government to investigate the alleged forced organ harvesting and the illegal detention of Falun Gong practitioners in detention centres, labour camps, prisons and hospitals, was presented by Ms Bedford.

Petition received.

QUESTION ON NOTICE

The SPEAKER: I direct that the written answer to a question on the *Notice Paper*, as detailed in the schedule I now table, be distributed and printed in *Hansard*: No. 84.

PUBLIC SECTOR EMPLOYMENT

84. **Mr PISONI:** What action is being taken to ensure that expatriate South Australians returning to this State with valuable private sector experience are given equal consideration with public sector employees in the recruitment process for public sector jobs?

The Hon. M.D. RANN: I have been advised of the following:

The primary recruitment objective of all Chief Executives within the public sector is to select and employ the best possible people. All applicants for positions within the South Australian Public Sector are considered on equal merits regardless of whether they are current Public Sector employees or not. The nature of the selection process followed by the public sector ensures that all applicants are afforded equal consideration. The guiding principle is the 'Merit Principle' which in relation to selection processes means:

> 'The extent to which each applicant has abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the carrying out of the duties in question.'

Workforce analysis conducted prior to 2005 suggested the number of potential and suitable applicants for senior level positions from within the public sector was declining. This coupled with an increasing demand from Chief Executives to advertise more vacancies outside of the public sector led to a significant policy change for the South Australian Government in relation to employment restrictions. Since April 2005 senior positions, ie above $64 060 per annum, have been advertised in the press and on the Internet, seeking applications from any suitable applicant eligible to work in Australia. Such employment policies complement the "Make the Move" campaign and the South Australian Government's participation in interstate career and employment fairs.

PAPERS TABLED

The following papers were laid on the table:

By the Speaker—

- Auditor-General—Report 2005-2006
  - Part A: Audit Overview
  - Part B: Agency Audit Reports—Volumes 1, 2, 3, 4 and 5—Ordered to be published.
  - Agency Audit Report—Supplementary Report
- Report of Public Works Committee entitled SA Water Adelaide Office and Laboratory Accommodation Fitout which has been received and published pursuant to section 17(7) of the Parliamentary Committees Act 1991
- Pursuant to section 131 of the Local Government Act 1991 the following 2005-06 Annual Reports of Local Councils:
  - District Council of Peterborough
  - District Council of Tumby Bay

By the Minister for the Arts (Hon. M.D. Rann)—

- Jam Factory Contemporary Craft and Design Inc.—Report 2005-06

Art Gallery of South Australia—Report 2005-06—
Independent Audit Report

By the Premier (Hon. M.D. Rann)—

Capital City Committee Adelaide—Report 2005-06

By the Minister for the Arts (Hon. M.D. Rann)—

Jam Factory Contemporary Craft and Design Inc.—Report 2005-06
Art Gallery of South Australia—Report 2005-06—
Independent Audit Report

By the Deputy Premier (Hon. K.O. Foley)—

Witness Protection Act 1996—Report 2005-06
Regulations under the following Act—
Petroleum Products Regulation—Environment Protection Authority

By the Deputy Premier for the Minister for Transport (Hon. P.F. Conlon)—

Adelaide Cemeteries Authority—Report 2005-06
Development Act—Development Plan Amendment Reports—
District Council of Mount Barker—District Wide Heritage Plan
Tatiara District Council Heritage Plan
West Beach Trust—Report 2005-06
Regulations under the following Acts—
Development—Technical
Harbors and Navigation—Boat Havens

By the Attorney-General (Hon. M.J. Atkinson)—

Legal Practitioners Conduct Board—Report 2005-06
Legal Practitioners Disciplinary Tribunal—Report 2005-06
Legal Practitioners Education and Admission Council—Report 2005-06
Regulations under the following Acts—
Controlled Substances—Cannabis Offences

By the Minister for Families and Communities (Hon. J.W. Weatherill) for the Minister for Health (Hon. J.D. Hill)—

Physiotherapists Board of South Australia—Report 2005-06

By the Minister for Families and Communities (Hon. J.W. Weatherill) for the Minister for Industrial Relations (Hon. M.J. Wright)—

Regulations under the following Acts—
Fair Work—Declared Employer
Workers Rehabilitation and Compensation—
Medical Practitioners
Scales of Charges

By the Minister for Tourism (Hon. J.D. Lomax-Smith)—

Adelaide Convention Centre—Report 2005-06
Adelaide Entertainment Centre—Report 2005-06
South Australian Tourism Commission—Report 2005-06

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

Regulations under the following Act—
Fisheries—Rock Lobster Quota System

By the Minister for Consumer Affairs (Hon. J.M. Rankine)—

Regulations under the following Act—
Liquor Licensing—
Salisbury
Spalding.

MURRAY RIVER WATER ALLOCATIONS

The Hon. K.A. MAYWALD (Minister for the River Murray): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.A. MAYWALD: Widespread drought in the Murray-Darling Basin is putting incredible strain on our water resources, particularly the River Murray. Last month, the state government was forced to take the unprecedented action of reducing River Murray water allocations mid-season. Allocations reduced from 80 to 70 per cent, as the Murray-Darling Basin recorded the lowest inflows throughout winter and early spring since records have been maintained (that is, since 1891). Now I advise the house that it is highly likely that River Murray water allocations will be further reduced because of the rapidly deteriorating outlook for the basin.

As an example of the severity of the situation, the estimated inflows to the basin for October are forecast to be just 74 gigalitres. The previous minimum for October was 139 gigalitres in 1914. Unfortunately, the situation in the Murray-Darling Basin is only getting worse and we are moving further into unchartered territory. The latest three-month rainfall outlook from the Bureau of Meteorology is also not good. It was released today, but it does not forecast much relief over summer, with the chance of below average rainfall of 50 to 60 per cent for South Australia.

It is too early for me to speculate on the quantum of reduced allocations, but it is important that this house, irrigators, communities and residents who depend on the River Murray know the extent of the lack of River Murray inflows and that a further allocation reduction is on the table. In regional South Australia irrigators are making major decisions on the future of their businesses. Communities are hurting as a result of this drought, and it is imperative that they have access to as much information as possible to help them make the best decisions for their own individual situations.

Accordingly, I advise the house that next week I will make available to irrigators risk scenarios on the possible outcomes for water allocations, depending on the amount of rainfall we receive during summer. I am working closely with South Australian Murray irrigators to ensure that irrigators' questions on how the River Murray system is being managed in South Australia are answered. A new allocation figure will be announced in early November when the latest inflow and storage figures are available and following advice from the Department of Water, Land and Biodiversity Conservation and consultation with the South Australian Murray-Darling Basin Natural Resource Management Board and the River Murray Advisory Committee.

As irrigators and communities struggle with widespread drought, the River Murray environment is also a victim. There are 100 000 hectares (or thereabouts) of floodplain along the length of the River Murray in South Australia, and because of the drought we will only be able to water between 1 and 2 per cent of it this year. In a year of good flows we would have the capacity to water close to 40 per cent of the floodplain, but we have not experienced such a season in the past 12 years.

Under the approved 2006-07 Living Murray Environmental Watering Plan, 20 gigalitres has been made available to South Australia for our icon sites at Chowilla and the Lower Lakes, the Coorong and the Murray Mouth. These projects will continue as planned this year, and South Australia is currently contributing 9.1 gigalitres towards that, which is 70 per cent of the 13 gigalitre commitment made to the Living Murray this year. However, any further reductions to allocations will also impact on the final volume delivered to that 13 gigalitres. As a result of the drought, all other

watering projects in South Australia have been cancelled this year. This includes the planned weir pool raisings and the watering of other areas of the floodplain and wetlands across South Australia over and above our Living Murray program.

I assure the house that the government remains committed to delivering on the Living Murray initiative first step target of returning 500 gigalitres to the River Murray for environmental flows by 2009. South Australia has long-term goals to ensure the sustainability of the river under the Living Murray, and our commitment to the initiative and to our partners interstate has not changed.

QUESTION TIME

DROUGHT RELIEF

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Premier. Why is it that South Australia can only find $4 million for its drought package, when the Victorian government announced this week a package of some $114 million?

The Hon. M.D. RANN (Premier): I can announce today that this government will do whatever is necessary to fulfil all our obligations under the exceptional circumstances criteria. We hope that we will get a positive result from the commonwealth about applying exceptional circumstances provisions to much wider areas. We do not hear the opposition, of course, criticising the federal government for its allocations.

RENEWABLE ENERGY

Ms PORTOLESI (Hartley): Will the Premier inform the house about what the government is doing to achieve increased renewable energy use within government departments?

The Hon. M.D. RANN (Premier): On 14 October I announced that South Australia would lead the nation by purchasing 20 per cent of the state government's own energy requirements for government departments from certified green power. Green power is a government-accredited, clean, renewable energy sourced from sun, wind, water and waste. It is the premium green energy product available on the Australian market. The second-highest jurisdiction is Victoria, which currently buys 10 per cent of certified green power.

I am advised that this decision will mean that the South Australian government will reduce its own greenhouse gas emissions by 21 per cent by the end of 2008-09. That is equivalent to 107 741 tonnes of greenhouse gas, or taking 29 000 cars off the road. Government sites, including schools, hospitals, police stations and office buildings, will now have access to renewable energy under a contract. This decision means that the government will increase its use of renewable energy so that it comprises 20 per cent of total electricity consumption in South Australian government departments by 2008.

In other words, we are converting a target into a contract—putting our money where our mouth is. It will play a significant role in helping South Australia reach two targets: reducing the state's greenhouse gas emissions by 60 per cent of 1990 levels by 2050; and increasing our renewable energy use so that it comprises 20 per cent of total electricity consumption in South Australia by the end of 2014.

In 2004, the state government also set a target of reducing energy consumption in government buildings by 25 per cent within 10 years, as part of South Australia's Strategic Plan. This target relates to energy consumption in buildings, not other forms of energy consumption by the government. During estimates, the Leader of the Opposition asked whether SA Water was included in the definition of 'government' for the target and I said I would check that. I am advised that, in keeping with long-term practice, public corporations (non-financial) are not included in the general government sector. I understand that the practice was followed when the former Liberal government established the agency greenhouse targets program in July 1997 and, again, when it approved the energy efficiency action plan in November 2001 when, from memory, the Leader of the Opposition was environment minister. I acknowledge former Liberal ministers, Stephen Baker, minister for energy, and David Wotton, minister for environment and natural resources, for starting this important work.

Although not included in the government target, SA Water will contribute to energy efficiencies in buildings across government. I announce today that the state government has approved the first six green star building in South Australia, to be occupied by SA Water, on the former tram barn site in Victoria Square, next to the cathedral, I am advised. This development is currently before the Public Works Committee, an outstanding committee and the launch pad for great careers, I am told. I am very pleased to be able to announce to this parliament that I am advised that some of the energy efficiency measures will include:

- a veil on the western facade of the building to reduce solar loads, while still retaining views and daylight;
- high-performance glazing to north, south and east facades;
- displacement ventilation systems using raised floors to give individual control to occupants;
- high percentage of outside air provided to building occupants;
- carbon dioxide monitoring on each floor to increase outside air rate when required;
- a full height atrium to allow natural light into the heart of the building;
- an energy-efficient lighting system with automatic dimming control;
- automated internal blinds with manual override;
- recycling of over 80 per cent of construction and demolition waste; and
- extensive metering and monitoring of energy and water.

The purchase of green power is one of a number of initiatives that demonstrate this government's commitment to tackling the impacts of climate change. These issues come at a time when the federal government continues to bury its head in the sand about climate change; its support for renewable energy remains unconvincing. While I welcome yesterday's announcement of a $75 million solar power station near Mildura, the federal government is yet to set a renewable energy target for Australia—which I believe should be 10 per cent. Obviously, we want to do better in this state, and we are prepared to commit to tougher targets.

The federal government must extend the Mandatory Renewable Energy Target, known as MRET. More broadly, the federal government must follow South Australia's lead by setting targets and policies to achieve the targets for Australia. Australia needs to achieve a 60 per cent reduction of 1990 greenhouse gas emission levels by the year 2050 and increase its renewable energy use so that it comprises 10 per

cent of total electricity consumption by 2014. Of course, that is half the 20 per cent target we are setting for South Australia. However, this is not about politics; it is about the creation of a sustainable country for future generations of Australians. We will be the only state or jurisdiction in Australia that will back our targets with the force of law and active policies.

DROUGHT RELIEF

The Hon. I.F. EVANS (Leader of the Opposition): My question is again to the Premier. Following the Premier's answer that the government will meet its obligations under the exceptional circumstances classification, given that Victoria has put $114 million into their drought package in addition to their exceptional circumstances obligation, what prevents the state government from putting in more than $4 million in drought assistance to South Australia over and above what may be required under the exceptional circumstances obligations?

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): Unlike the shadow minister, the Leader of the Opposition does not want to get the facts. In South Australia at the moment we are dealing with a whole lot of areas that are not EC declared. There are five areas in South Australia that are EC declared, and in those areas we are meeting all our obligations—

An honourable member: He is not listening; he is on the phone.

The SPEAKER: Order! The Minister for Agriculture, Food and Fisheries has the call.

The Hon. R.J. McEWEN: Mr Speaker, I am wondering whether the leader is actually interested in the answer.

Members interjecting:

The SPEAKER: The minister has the call.

The Hon. R.J. McEWEN: Now that the Leader of the Opposition is again focusing on the answer, I can advise that we are meeting all our obligations in the five EC-declared areas in South Australia. Announcements in New South Wales, Victoria and Queensland are all within EC areas. The challenge we face in South Australia is to get potentially 15 new areas declared—

Members interjecting:

The SPEAKER: Order!

The Hon. R.J. McEWEN: As the Premier has said, we do have a national drought policy led by the federal government and supported by the state governments, and we all work with and embrace EC declarations within that policy. The challenge we face in South Australia is to get up to 15 new areas declared for EC support. Yesterday the shadow minister asked me what we were doing in terms of speeding up those applications, and he made some good suggestions. I was delighted to report to him yesterday that we actually responded along the lines he asked. What we need to do in this state is put together a methodology to coordinate applications and, equally, provide the resources to communities to prepare those applications. That is what he asked me to do yesterday. I was delighted to point out to him and the committee that we had already done that. We began this work last week and I negotiated earlier this week with the South Australian Farmers Federation.

Members interjecting:

The SPEAKER: Order!

The Hon. R.J. McEWEN: Mr Speaker, they do not want to understand the process or listen to the answer. What we must do for South Australia is put a case to the federal government to get new areas declared for exceptional circumstances because we need to argue adverse seasonal circumstances. The challenge we have had, of course, is that, under the present guidelines, an application would not have been successful, and we said to the communities, unlike those opposite, 'We are not prepared to set you up to fail.' What we must do—

Ms Chapman interjecting:

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

Members interjecting:

The SPEAKER: Order! The minister has the call.

The Hon. R.J. McEWEN: The challenge we have had, which we have been dealing with over the past week, is to get a commitment from the federal government to consider definitions other than greater than 12 months to trigger an assessment for exceptional circumstances. I got that undertaking verbally from the federal minister last Tuesday. He did not make that public. I said that I took him at his word and, on the basis of his saying he would look at other combinations of adverse climatic circumstances beyond greater than 12 months, we immediately began preparing a case and putting in place a mechanism so local communities could commence these applications.

The other problem we have had is that a lot of people do not understand the exceptional circumstances process. A number of people have been arguing that the state government must put in these applications. It cannot. That is not how the process works. I even had to write to the Hon. Patrick Secker and Barry Wakelin, who were making public statements that were incorrect. Again, I compliment the shadow minister because he, like I, understands this process. He worked through this in the lead-up to the fire declared areas in 2002. He understands that these applications start in a community and are led by a community, industry or commodity group. We provide the resources for those groups to put the applications together. The first point of assessment happens to be the state minister, who then sends it to the federal government. Under that process we provide the support, but we cannot do the application ourselves. What we announced this week—

Ms Chapman interjecting:

The SPEAKER: Order! I warn the deputy leader.

The Hon. R.J. McEWEN: The most fundamental thing we can do in this state in a bipartisan way—and the opposition does not accept this—is to get behind these communities and get EC declarations, because it is through that process that the very benefits that the leader is talking about flow. We have given a commitment—and we will continue to give a commitment—that we will meet our obligations once these areas are EC declared. We are not going to move outside drought policy. Nobody is asking us to move outside drought policy. The shadow minister, on the record, has said to us to work through the process. I have given an undertaking, and that is what we are going to do. That is what these resources are for. If the Leader of the Opposition is now suggesting in this state that we are going to go outside national drought policy, let her put it on the record.

WORLD TEACHERS DAY

Ms FOX (Bright): My question is directed to the Minister for Education and Children's Services. How is the state

government honouring teachers on World Teachers Day, which is tomorrow?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Bright, and I am not at all surprised that she should ask this question about national teachers day, because she knows the significance and importance of teachers better than anyone in this chamber. She would know that teachers have the capacity to change a young person's life irrevocably. In fact, when you meet someone with a passion, whether it is for English, science or even horticulture, I can tell you that that passion has often been fired by the experience of one truly stellar teacher such as the member for Bright.

World Teachers Day gives the whole community an opportunity to pay tribute to and thank our state's many teachers. I am delighted that tomorrow I will be presenting awards to honour some of our best teachers at the Council of Education Associations of South Australia World Teachers Day celebration. However, I would like to take this opportunity to acknowledge all teachers' efforts and dedication throughout our schools and to celebrate their achievements, because their achievements become our children's achievements. Across the state today, schools and preschools will be holding their own celebrations to show their appreciation of their teachers, and I urge everyone to join in, particularly those people with children.

When you pick up your children from school, just spare a moment to say a few kind words to those who make the difference in the children's lives. Almost everyone will talk about the teachers they have known in the past, and I think that our classrooms are really a testament to the quality of the teachers even more than the state of the buildings and even more than the dedication of our government. Today, teachers are required to keep pace with rapid changes in technology. They have changed the way information is accessed and delivered and they have to be up to date not only in their own subject area but in opportunities, workforce planning and career directions for young people.

They work through distance education, so that teachers are reaching out to those in rural and remote areas by video-conferencing, on-line chat and email, to ensure that those children have top quality education regardless of their location. They are providing young people with skills, knowledge and practical experience to find jobs and go on to further study. There are more than 13 000 year 10, 11 and 12 students in state government schools currently participating in vocational education, so the subjects that teachers are engaged in are not always the traditional subjects in schools. As a society we need to be smart about how we teach our young people. That is why the government is spending $24.8 million in the 2006-07 budget to start to establish 10 high-tech trade schools for the future and why, in addition, we are putting $216 million into our Education Works strategy to build six entirely new schools and reshape education across the state through our extra $82 million package as part of that.

Our plan will develop integrated schools, give young people choice, excellence and continuity from birth to year 12. Again, I would like to thank all South Australia's teachers for their professionalism and extraordinary contribution to the lives of young people in our state.

DROUGHT RELIEF

The Hon. R.G. KERIN (Frome): Will the Premier guarantee to our drought-stricken farmers that, upon the federal government declaring areas as being in exceptional circumstances, there will be no delays in the approval of the state contribution?

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): Yes, we will. Obviously, as the Premier and I have said, and as was acknowledged by the shadow minister yesterday, the difficulty we have in this state at the moment is to process EC applications as quickly as possible. Obviously, we will immediately honour our commitments within the national drought framework the minute we even get an interim agreement from the federal government. That is the deal: that is the partnership. As many as 13 new applications in South Australia could be successful, depending upon what interpretation Minister MacGauran is going to place on our claim that three out of five ought to be considered to be at least as bad as greater than 12 months.

In fairness to minister McGauran, when the rules were drawn up, nobody ever conceived of the fact that you would have in five years three adverse events that are likely to occur less than once every 25 years. The mathematical probability of that is such that it just was not considered in the guidelines. When you take the letter of the previous guidelines, you see that we have to demonstrate that the situation is beyond the scope of normal risk management and has demonstrated severe downturn in farm income over a prolonged period of more than 12 months. This is the problem we have. We have not had a prolonged period of more than 12 months. What we have had is three periods in five years of about 12 months.

This is where we have had trouble, by taking the letter of the guidelines. Now we have an understanding that other combinations will be looked at, and we hope that that is done in a timely manner. The shadow minister is asking whether we will respond; the answer is that we will respond urgently but, equally, we hope that the federal government will assist these applications urgently, and take this other interpretation. We are not asking for a lessening of the guidelines, because we actually think that three out of five is actually more severe on our farming communities and businesses than greater than 12 months.

We believe that already there are potentially 13 areas in South Australia that, under that interpretation, would gain EC support. We have 13 communities in South Australia where we are now preparing the data and providing resources to commence immediately, and some have already commenced these applications. Those 13 areas include: Western Eyre, Eastern Eyre, Lower Eyre, Upper North, Mid North, Lower North, Yorke Peninsula, Mid Murray, Riverland, Mallee, Upper South-East, Kangaroo Island and Central Pastoral. It is not obvious that they all get over the line immediately; a couple of them have been problematic. In fact, Mr Speaker, if you follow that list, there are only two areas in South Australia at the moment that probably would not be considered for EC support: the Lower South-East and part of the Fleurieu.

This means that, for the first time in our history, almost all of South Australia, we believe, will qualify for exceptional circumstances support. This is the first time in our history that we have seen anything like this. The majority of New South Wales, of course, is already EC declared so, that when people talk about the support packages to which the Leader of the Opposition alludes, they are support packages within

EC areas. It is totally inappropriate that he try to compare that with what we have in South Australia at this time. We must, though, get behind these communities—all of us, in a bipartisan way—and back these applications.

Honourable members: Hear, hear!

The Hon. R.J. McEWEN: Equally, those opposite can help us work through the bureaucracy. The shadow minister said yesterday that he understood how complex that is, and he has actually worked through that bureaucracy and will offer support. All of us need to get behind these applications, get them addressed quickly, get them approved by Canberra and, yes, we will then, in a very timely manner, meet our responsibilities under that shared agreement.

RECLAIM THE NIGHT

Ms THOMPSON (Reynell): Will the Minister for the Status of Women advise the house of plans for the 2006 Reclaim the Night rally and of the importance of this celebration in the light of some recent events?

The Hon. J.M. RANKINE (Minister for the Status of Women): It is a disappointing coincidence that we have seen some appalling events and comments on the eve of Reclaim the Night, an event that is a celebration of the right of women to walk the streets safely at night and to be safe from all forms of violence. I understand that the history of Reclaim the Night marches dates back to 1976 when they were held in Rome as a response to large numbers of women who were reporting rape, and then in 1977 in the UK as a response to the Yorkshire Ripper murders when women again took to the streets. The common sentiment driving these initial marches was to challenge and dispel the idea that women were responsible for the violence perpetrated against them. As it was then, we are still battling inappropriate perceptions and ideas that a woman on her own is somehow 'asking for it'.

Sadly, we again heard a version of this sort of attitude today. I want to applaud the comments of Iktimal Hage-Ali, a young Muslim woman who described these comments as lacking intelligence and common sense and who said that 'the onus should not be on the female to not attract attention, it should be on the males to learn how to control themselves'. Also, shockingly, we learnt of an incident in which a group of Victorian teenaged boys allegedly assaulted, sexually abused and humiliated a mentally impaired young woman, all while filming their despicable actions. To have leaders from within any community suggesting that the dress of a woman somehow relieves men of any responsibility for their behaviour validates this type of appalling behaviour.

It cannot and must not be tolerated. All women within our community have the right to live safely without fear. These sentiments mirror exactly the ideals that underline the Reclaim the Night celebration. Let us be very clear. Women's safety is not just an issue that is the responsibility of women to be dealt with by women: it is the responsibility of everyone.

I can advise the house that Reclaim the Night celebrations commence tomorrow (Friday 27 October at 7 p.m.) with a rally in Victoria Square, followed by a march down King William and Hindley streets, concluding with a celebration at the Register Street Cafe in Hindley Street West.

MURRAY RIVER IRRIGATORS

The Hon. R.G. KERIN (Frome): What strategy does the Minister for the River Murray have to ensure that River Murray irrigators have sufficient water to protect their important perennial crops this year and next, and is there any consideration of differentiating between allocations for perennial versus annual crops?

The Hon. K.A. MAYWALD (Minister for the River Murray): I thank the member for that extremely good question. As I outlined in my ministerial statement, we have a very significant climatic event occurring throughout the nation at this time. We are faced with the situation of reinventing the word 'minimums'. In the past, all our scenario planning was based on worst case scenarios, and those scenarios were drawn from the data that we collected over the last 116 years, or thereabouts. Over the last four months, those minimums have been rewritten. As a consequence, we are facing circumstances that none of us could have predicted, which requires some very significant scenario planning, and some big questions need to be answered.

Absolutely every one of those is being considered. We are inviting people from right across the irrigation districts and the leaders in our communities to ask those questions so that we can answer them. We are establishing a task force within the Department of Water, Land and Biodiversity Conservation to address the issues that are brought forward that need to be managed on a daily basis, and also to talk about the strategic issues that we need to deal with. We are doing that as quickly as we possibly can, and I will put the honourable member's question on notice for that task force to answer.

CHILD PROTECTION

Mr KENYON (Newland): Will the Attorney-General advise the house of the results of the recent judicial seminar that investigated training for legal professionals working with children in the South Australian justice system?

The Hon. M.J. ATKINSON (Attorney-General): Members of the South Australian judiciary recognise the need to have a sound understanding of child witnesses. To bring this about, a pilot judicial seminar on child witnesses was held for South Australian judicial officers earlier in the year. The seminar was part of the state government's pledge to the child protection reform Keeping Them Safe.

The purpose of the seminar was to provide training for judges, prosecutors and lawyers who work with children and vulnerable witnesses, as identified in the South Australian Strategic Plan and the Justice Priorities for Action 2004-05. A reference group was assembled and it was chaired by Justice Layton. It included judges, child protection services staff, a psychologist, a representative of the Office of the Director of Public Prosecutions, and a representative of the Justice Strategy Division of my department.

The seminar was designed as a two-day program. It gave attention to increasing participants' knowledge of matters about children as vulnerable witnesses, including an understanding of child development. The seminar was structured along the lines of a trial. Its topics were: the courtroom environment, competency testing, children giving their evidence and summing up. Together with the judicial seminar reference group, it is now intended to modify the format and conduct another seminar this year. I am pleased to report further that Chief Justice Doyle has indicated a wish to then forward the package to the National Judicial College with the aim of creating a national program.

DROUGHT RELIEF

The Hon. R.G. KERIN (Frome): Will the Premier increase the drought package to help irrigators through their current plight? Part of the Victorian drought package—announced on Monday by Premier Bracks—is a $46 million package to assist irrigators on top of the exceptional circumstances funding.

The Hon. K.A. MAYWALD (Minister for the River Murray): I understand that, according to the paper this morning, the Victorian government will provide immediate relief for irrigators via a $5 000 rebate on water bills where their allocation has been reduced by more than 50 per cent. Our irrigation has not been reduced by more than 50 per cent. In fact, in the Murray Valley in New South Wales, and in Sunraysia in Victoria, they are still on 95 per cent, so it does not apply to a lot of those irrigators.

RENTAL TENANTS

Ms CICCARELLO (Norwood): My question is to the Minister for Housing. What services is the government providing to assist public and private renters with tenancy-related issues?

The Hon. J.W. WEATHERILL (Minister for Housing): For almost a decade Anglicare SA has been running Housing Advice and Support SA. It is an information, advocacy and support service for social housing tenants. This has been an essential service for those tenants, many of whom have special needs and, as a consequence, experience some difficulty in navigating the government's system. They are tenants who may have felt that they have been treated unfairly in a decision made by our agencies and need help in redressing this or need some other advice about helping them with a problem.

There is another area that we consider needs to be addressed, that is, similar support for private tenants. This government has responded to that call—something that we laid down in our State Housing Plan. I am pleased to announce that we have just awarded a new tender to Anglicare to run the Tenants Information and Advice Service. This is a $350 000 state government initiative that will provide free information and advocacy services to vulnerable and low income private, public and community rental tenants in South Australia, so the whole gamut is now covered. The Tenants Information and Advice Service will help tenants to maximise their legal entitlements and fulfil their tenure responsibilities in order to maintain tenancies. Essentially, it will provide education, information and advice on tenants' issues, including rights and responsibilities of rental tenure and other housing issues that affect tenants. The service will expand on the support already offered to low income households and help to improve tenancy outcomes in the private rental market—meeting an objective of the State Housing Plan.

Support for tenants will be provided in a range of ways, including a statewide toll-free advice line, a drop-in service, visiting services and a website. Tenants will be able to access information and advice on issues such as the application process for private and public rental, housing options, appeal processes, policies and procedures, conditions of a tenancy, evictions, neighbourhood disputes, conflict resolution and mediation. The service will mean that clear information will be accessible to all South Australians, regardless of their circumstances. The service will be funded through the Department for Families and Communities and developed to complement and work alongside the recently established Housing Legal Clinic, which is primarily to address homeless people in and around the Adelaide area. The new service should be up and running by January 2007.

The SPEAKER: I point out to the cameraman in the gallery that he is only to film members on their feet speaking.

SA WATER

The Hon. I.F. EVANS (Leader of the Opposition): My question is to the Treasurer. Does the government accept the Auditor-General's criticism of the government for taking too much money out of SA Water to a point where it cannot maintain its capital works expenditure? The Auditor-General's Report criticises the government for taking too much money out of SA Water and raises the point that it cannot maintain its capital works expenditure. The tables in the report indicate that in 2004 the capital works expenditure was $184 million and in 2006 it is $105 million. In 2004 the dividend the government had taken out was $164 million and in 2006 it will be $291 million.

The Hon. K.O. FOLEY (Treasurer): I have not read the Auditor-General's Report to which the honourable member refers. I am happy to look at it. I am glad that members opposite have high regard for the opinion of the Auditor-General, and when I give notice later today to introduce a bill to extend the period of employment of the Auditor-General to the age of 70, I am sure they will give it their full support.

CONSUMER AFFAIRS

Mrs GERAGHTY (Torrens): Will the Minister for Consumer Affairs inform the house about itinerant operators purporting to be tradespeople who might be moving into South Australia to take advantage of elderly people?

The Hon. J.M. RANKINE (Minister for Consumer Affairs): I thank the member for Torrens for her question, because it is an extremely timely one and is, again, an important reminder to consumers to be on their guard when itinerant con artists, purporting to be tradespeople, come knocking on their doors. The Office of Consumer and Business Affairs has been alerted by Western Australian authorities that two dodgy roof painters may be touting for work here in South Australia. Darren Warrilow and Jimmy Yelding are known interstate for their involvement with travelling gangs of con artists taking money from unsuspecting consumers for shoddy painting and roof work. Warrilow was fined in 2005 for fleecing older consumers over painting and roof work, and Yelding has also spent time in gaol after pleading guilty to theft and attempted fraud charges after conning elderly women.

OCBA is particularly concerned about claims that a pensioner in Port Augusta has been defrauded of $20 000 by an itinerant painter. The complaint, along with other intelligence gathered, suggests that these dubious operators may be at work in the Iron Triangle area. Itinerant tradespeople such as these tend to target older consumers, offering repair and maintenance services. Unfortunately, history has shown that many of these traders are not licensed for the work they do, they significantly overcharge consumers and the work is often of very poor quality. This is not the only case. Consumer Affairs is also investigating a complaint about an unsolicited approach by a roof painter here in Adelaide. The trader

allegedly drove the consumer to the bank to withdraw $4 000 before any work had commenced.

When an itinerant claiming to be a trader knocks at the door of a consumer, people should think carefully before agreeing to any work. People should not be pressured by claims that the special price is 'only available for today'. That special price may not be such a bargain after all, if the work is not up to standard. Itinerant people claiming to be tradespeople often make false claims, such as claiming that the work can be done cheaply using materials supposedly left over from another job or by offering a large discount for cash. Consumers should always check that a person is licensed to do the work by asking to see their licence card as proof or by contacting Consumer Affairs to verify the licence details. I urge anyone who has been approached by a person claiming to be a tradesperson to first of all contact Consumer Affairs. That information will assist investigations by consumer protection agencies across Australia that are concerned about the activities of Warrilow and Yelding.

ICT PROJECTS

The Hon. I.F. EVANS (Leader of the Opposition): My question is again to the Treasurer. In regard to the Auditor-General's criticism of the government's handling of the four ICT projects worth about $50 million, what cost savings will now not be met, as raised by the Auditor-General, and does the government accept the criticism of the cabinet for not putting in place proper reporting processes on the progress of the projects in terms of financials and planned deliverables?

The Hon. K.O. FOLEY (Treasurer): I have not had an opportunity to read the Auditor-General's Report. I am in question time. But can I say this—

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: The deputy leader—what a hoot! No wonder the drumbeats are sounding opposite—Rex Jory, out jogging, we understand (so I heard; I do not know whether it is true), with the deputy leader. Rumours are buzzing around about the Leader of the Opposition being under threat. And the member for Waite: look at him sitting there very quietly and patiently—

Ms CHAPMAN: Sir, I rise on a point of order—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: Thank you.

The SPEAKER: The Deputy Premier needs to return to the question.

The Hon. K.O. FOLEY: Thank you, sir. It is just like night follows day with the Liberals when it comes to leadership.

Ms CHAPMAN: Point of order, Mr Chair: sit him down.

The SPEAKER: The Deputy Premier, I think, is getting to the question.

The Hon. K.O. FOLEY: Oh, 'Sit him down'—sensational.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: No, I have not read the Auditor-General's Report. I have been in question time, having to prepare myself for an onslaught of probing and incisive questioning. The issue of SA Water's dividends is that we have had a new ownership framework for our public non-financial corporations—enterprises such as SA Water and Forestry—which apply appropriate levels of gearing and appropriate levels of dividends. I think the member for Waite attempted to ask me this question or asked this question during the estimates process, and I gave him an answer, from memory, that—

Mr Venning: You said 'attempted'.

The Hon. K.O. FOLEY: Sorry?

The SPEAKER: Order! The Deputy Premier will not respond to interjections and the member for Schubert will not interject.

The Hon. K.O. FOLEY: —I think satisfied the member for Waite. I will look at the Auditor-General's Report. What I can say is this: after five budgets, this state has and will maintain a AAA credit rating. This budget delivers surpluses going forward. This budget delivers increased spending in health and record spending in health. This is a budget that has been well received—

Ms CHAPMAN: Mr Speaker, I rise on a point of order. I think that the Deputy Premier has forgotten that he is answering a question about the Auditor-General's Report, not his budget.

The SPEAKER: I do not accept the point of order.

The Hon. K.O. FOLEY: I will conclude by pointing out to the deputy leader that the Auditor-General's Report does refer to the budget. Have a look; it makes comment in there. I did see that bit when I had a quick look. It makes reference to the 2006-07 budget. It makes reference to the government's budgeting and—

Ms Chapman interjecting:

The Hon. K.O. FOLEY: I just said that I had a quick look and it makes reference to the 2006-07 budget. As I said from the outset, clearly the agenda of the deputy leader is to undermine her leader and—

The SPEAKER: Order!

The Hon. K.O. FOLEY: I am happy to have a running commentary on that—

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

SOUTH AUSTRALIA WORKS

Mr PICCOLO (Light): Will the Minister for Employment, Training and Further Education advise the house what outcomes are anticipated for the regional component of the South Australia Works program for 2006-07?

The Hon. P. CAICA (Minister for Employment, Training and Further Education): I acknowledge the honourable member's commitment to all aspects of training and education and his understanding of the success of the South Australia Works program in the regions. The state government has announced an enhancement to the highly successful regional component of South Australia Works. The regional program has provided over 17 000 people with work or training opportunities since its inception in 2004, and it is now moving into a three-year planning cycle for regional communities. South Australia Works directs assistance to South Australians facing the greatest difficulty in accessing and benefiting from skills development, training and employment opportunities. For instance, young indigenous and mature-aged people, the long-term unemployed and people with a disability.

The 17 regional employment and skills formation networks can now plan their unique strategic priorities for their regions up to the 2008-09 financial year. The networks consist of people from businesses, federal, state and local

governments, education and training organisations and local communities. It is important to recognise that the success of this program is based on the fact that the networks consult with the local communities about employment and skills formation issues; they build strategic alliances to ensure there is a coordinated effort; and they increase the capacity of local and regional communities to respond to the needs of local economies. It is about local people working together to do what is required for their local communities in the areas of training, education and employment opportunities.

The government's support includes the placement of regional coordinators and executive officers on regional development boards and local councils. In 2005-06, the government assisted 7 682 people to participate in regional initiatives, and I am also pleased to advise that this assistance culminated in the direct employment of 2 852 people. This totalled 464 741 accredited and 52 780 non-accredited training hours being delivered. The 2006-07 regional commitment to South Australia Works is $7.7 million in projects and support funds, which will assist people to participate in regional projects, with an expected 3 120 people being employed as a result of this program. This has been boosted to a total of $11.4 million with additional funds leveraged from other sources.

The broader South Australia Works strategy will receive more than $23.4 million this year from the state government for learning, training, work and industry programs, some of which will be in the southern area, including the electorate of the member for Mawson. I know that he has an active interest in this program, as should be the case with every member in this house. This will be further boosted to $26.1 million by the leveraging of further funds, and it will provide excellent employment and training outcomes for both our state and the individuals who participate. It is an outstanding program.

WATER THEFT

Ms CHAPMAN (Deputy Leader of the Opposition): My questions are to the Premier. Which minister is responsible for water stealing? Why have both the South Australia Police and SA Water refused to investigate serious allegations of water stealing from a residential water supply? One of my constituents, an elderly widow, came to tell me that she had just discovered that her neighbour had connected his own watering system into her back garden sprinkler system by way of a hose under the side fence. This occurrence has subsequently been verified and rectified by her gardener.

Honourable members: Her gardener?

Ms CHAPMAN: Wait for it; you might laugh, but the stealing has been going on for an undefined period of time and the constituent's water bill this quarter was $300 while her neighbour's was only $13.50. This is important, because this constituent complained to SA Water—the providers of water to her property—which refused to investigate the matter. She then complained to the South Australia Police, who said that it was not their responsibility and refused to interfere. She has since gone to the local council which, not surprisingly, has indicated that this is a state matter, and she has asked for our assistance.

The Hon. M.D. RANN (Premier): When I heard about the gardener's intervention, I wondered whether the honourable deputy leader had heard this from her butler. I will investigate this very serious matter. We will talk to the 'water police' (the 'water rats') and we will make sure that decisive action is taken.

CONSUMER AND BUSINESS AFFAIRS OFFICE

The Hon. G.M. GUNN (Stuart): Can the Minister for Consumer Affairs explain why she is closing country offices of the Office of Consumer and Business Affairs? Did she advise the staff at Port Augusta of this when she was there yesterday? How many employees will be replaced or lose their jobs?

The Hon. J.M. RANKINE (Minister for Consumer Affairs): I thank the member for his question. It was a pleasure to visit Port Augusta and the northern regions over the past two days. I always enjoy going back to the Mid North, having lived up there for such a long period of time. Some adjustments will be made to the offices of consumer affairs in country regions as a result of some budget initiatives. One of the great initiatives that has occurred in country regions is the utilisation of the Service SA offices in country regions. My colleagues would attest to this: whatever regional city we go to, people are now asking for these Service SA sites to be established. For example, in Port Lincoln, over the past 10 months about 400 transactions have been undertaken at the Service SA site. About 650 transactions have been undertaken at Whyalla over the 10-month period that it has been operating. In Mount Gambier, in August, a record 229 transactions were undertaken in one month.

However, we know that most of the people undertaking those transactions with Service SA sites are accessing the web to do most of their transactions, and they also have access to a free telephone service to Adelaide for those other sorts of complaints that they need to locate. Yes, I spoke with the people in the Port Augusta office, and I understand that one person in Port Augusta will be transferring to Adelaide, which was always their intention, and another person will be retiring some time during the next four years.

SCHOOLS, SMALL SCHOOLS PROGRAM

Dr McFETRIDGE (Morphett): My question is to the Minister for Education and Children's Services. When the government re-examined its existing programs and decided to cut up to $30 000 each from 20 small schools under the small schools program, did the government seek input to the review from the schools' communities themselves, the South Australian Primary Principals Association or the Small Schools Association about whether they thought the program worked and, if not, why not and, if yes, did they support the cut?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): When we rearrange our budget, all the Primary Principals Associations, the unions and teachers in general are aware of the massive investment we have made in education. We are talking about 38 per cent more per capita—about $76 million extra in the forward budget—which is a massive investment in education. Across the state we have 38 per cent more per capita funding going to each child in the public education system. On top of that, we have decreased the size of our junior primary classrooms and invested $35 million in a significant strategy for literacy. We have an agenda for school retention and engagement. We have invested massively in children's education, and school communities, the AEU, teachers and principals know that that 38 per cent more going into our schools in four years is a very significant investment.

Dr McFETRIDGE: By way of a supplementary question, if the government has not spoken to the schools, the South Australian Primary Principals Association or the Small Schools Association prior to deciding to cut up to $30 000 from the 20 schools, how has the minister assessed the education impact of the cuts on students?

The Hon. J.D. LOMAX-SMITH: I do not think the member listened to the answer to his first question because, when you have made such a large investment and put extra dollars into every school, the question of one program is actually swamped by the investment we have made. The reality is 38 per cent more, more than $2 000 extra per child going to every child across the state. There is more money, more programs, more focus, more commitment and more money in the forward budget.

Dr McFETRIDGE: My question is again to the Minister for Education and Children's Services. Could extra money be found for small schools if the number of employees earning over $100 000 had not risen from 231 to 468 in the past two years?

The Hon. J.D. LOMAX-SMITH: Unlike members opposite, I think teachers are worth their weight in gold. If they incrementally go up the salary scale, we should commend them. Teachers and principals deserve the pay they get—they work hard. This is Teachers Day, as I mentioned earlier.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: The reality is that we have to invest in staff. You cannot have smaller class sizes, better programs, more counsellors and more investment without paying for high quality staff. Even the federal government believes that skilled teachers should be paid more money. If members opposite believe we should pay our teachers less, I suggest they go out and tell teachers.

Mr GOLDSWORTHY (Kavel): Does the Premier think it is fair to cut funding to small schools at the rate of up to $1 000 per student? As the member for Morphett previously advised the house, the government has announced up to $30 000 in cuts to small schools. For some schools, this equates to $1 000 per child. School principals have stated in the media that the cuts may lead to loss of specialist teachers, loss of equipment upgrades and cancellations of excursions. The hours of school service officers for children with special needs may also be cut.

The Hon. J.D. LOMAX-SMITH: I think that the honourable member is gilding the lily somewhat, because only so many things can be cut in a $30 000 allowance. The reality is 38 per cent more funding than four years ago—smaller class sizes, more counsellors, more programs—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.D. LOMAX-SMITH: —and $76 million more in the forward budgets. The reality is that, where there is disadvantage and where there is regionality and the tyranny of distance, the investment is much higher than in average schools. The reality is more dollars—38 per cent more going to schools across the state and $76 million more in the forward budgets. You cannot get away from it. We invest in education, we invest in teachers and we invest in a vision for the future of our state.

Dr McFETRIDGE: Premier, how do you expect families with children at small schools to cover the cuts of $1 000 per student?

The Hon. J.D. LOMAX-SMITH: School funding, of course, goes on with 38 per cent more, on average, for each child. The reality is that the schools are still funded to their resource entitlement level. They are still funded for many hundreds of thousands of dollars. In fact, we are investing more dollars. If the schools are getting 38 per cent more per child across the state on average and if about $2 000 a year more is going into those schools, the reality is that that funding is available.

Mr GOLDSWORTHY: As she is taking these questions, I ask whether the Minister for Education and Children's Services is concerned that the $30 000 cuts to small schools will lead to a drift of students from those schools to private schools. The $30 000 cuts to schools equates to $1 000 per student at some schools. School principals are concerned that they will now lose students to private schools and that they will lose their specialist teachers.

The Hon. J.D. LOMAX-SMITH: I respond by saying to the honourable member that parents and school communities know that public education is safe in our hands. They know that we are a government that understands that the worst brain drain is young people not reaching their potential. We are talking a little less than $30 000 per capita. The reality is that we know we put 38 per cent more in, and we have invested $76 million in the forward estimates. In fact, every school is getting more money than when members opposite were in power.

Members interjecting:

The DEPUTY SPEAKER: Order!

WATERPROOFING THE SOUTH

The Hon. J.W. WEATHERILL (Minister for Families and Communities): I seek leave to incorporate a request of the Minister for Health by way of a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: The Minister for Health has asked me to inform the house that during the Estimates Committee B on 19 October he provided an answer in relation to the southern suburbs that contained incorrect figures around the Waterproofing the South initiative. Although later that day he provided correct figures during health estimates, the minister has asked that, for this southern suburbs question, members be referred to the answer he provided during the health estimates committee hearing of that day.

GRIEVANCE DEBATE

SCHOOLS, SMALL SCHOOLS PROGRAM

Mr VENNING (Schubert): I raise a very serious matter previously raised by the shadow minister and by the member for Kavel, namely, the cutting of funding from small schools, and I refer to those in my electorate.

An honourable member: It's outrageous.

Mr VENNING: It is absolutely unbelievable. The local schools that will lose their small schools grants payment in my electorate—the ones that we know of at the moment, anyway—are the Mount Pleasant Primary School, the Springton Primary School, the Palmer Primary School, the Light Pass Primary School and the Mount Torrens Primary School, and the names are still coming in. The last name was added only 10 minutes ago.

Members interjecting:

Mr VENNING: Twenty-one altogether; 21 small schools across the state. I think this is an absolute disgrace. It is insidious. This did not come out during the budget, did it? It sneaks out now, and I am absolutely horrified. Each of these schools has lost their full grants, their grants of $30 000 each. The Rann Labor government is really making life tough for these schools, but they do not realise that, whilst they are doing this, they are making life tough for individual students, and this is our future generation. All these schools have already budgeted for the $30 000 of grant money. Each year they spend the allocation on hiring additional school service officers, library refurbishments, facilities works, sports equipment and general areas of school curricula. These schools use this money very efficiently, and I have seen that first-hand. The money is spent directly to benefit the students.

With the axing of these grants, these students will be left without. The schools will have to reshuffle their finances and reprioritise their needs. Many of the schools are under the assumption that this is a ploy from the government to get them to close in the not-too-distant future, and that is a fact not lost on me. I am outraged in the way the government went about informing these schools that their funding had been axed. There was no prior indication or personal contact. Instead, the schools found out by receiving a fax. Talk about a disgrace.

These schools are the latest victims in the Rann Labor government's major budget cuts in education. Small schools in the country obviously do not rate with this government. These are the communities where the schools are most critical; small schools in little communities. You cut the funds, the standards fall, parents move the kids, the school numbers fall, and the government closes the school, and the community is shattered. Often it is the end of that community. It has happened before, and Labor does it ad nauseam. I am absolutely shattered that this has happened. I cannot believe the government turns around and just picks on schools like this.

An honourable member interjecting:

Mr VENNING: The member interjects. Why wasn't this information in the budget? Why has it come out now? It is $30 000 per school. It is not big bickies. I would like to invite the member to come and visit one of these schools. Let's pick Springton Primary School. Springton Primary School offers a fantastic education opportunity for its students. It offers a far bigger curriculum than most schools would, and the staff in that school go out of their way to give those students every opportunity. The staff in these schools work far more hours than the average teacher does in this state, because they do it for the kids, they do it for the families, and they do it for the communities.

They offer music. How many schools of this size, with 40 or 50 students, offer that sort of curriculum? They do it because they use all the resources they have at their command. What do you do? You turn around and cut the guts out of them by taking away $30 000. You do not even have the guts to front up and tell them: you send them a fax. We have known that these small schools have been under a cloud for some time. All I can say is that these small schools have existed in spite of that. They have battled on, supported by their staff, their parents and their communities. A lot of them used to vote for you.

I am quite horrified that it has come down to this—that, for the sake of a measly $30 000, you will pull the guts out of these schools. You cannot tell me that you do not know about it and that it is not part of your grand plan to get rid of these schools. I say to the people of Springton, Mount Pleasant, Mount Torrens, and all those other great communities: I will do all I can to ensure that your schools stay there and serve their students, their families and the communities of which they are a vital part.

WORLD TEACHERS DAY

Ms FOX (Bright): Before I begin, I would like to point out one tiny thing to the member for Schubert: your federal members in Canberra spend some 70 per cent of their education budget on 34 per cent of Australian students—the students who go to private schools. I ask him why it is that the 30 per cent that remains goes to public schools. That is an embarrassment. If the member for Schubert wants to talk about embarrassment, that is an embarrassment.

Mr Venning: What school did you go to?

The DEPUTY SPEAKER: Order!

Ms FOX: Because the member for Schubert asks, I am a proud alumni of Blackwood High School. Does that help him?

Mr Pisoni: Who pays your wages?

The DEPUTY SPEAKER: Order!

Ms FOX: As we all know, tomorrow is World Teachers Day. This is a day celebrated throughout Australia and initially commemorated the signing of the 1966 UNESCO ILO recommendation concerning the status of teachers. Later on, I will return to talking about the status of teachers, which I think will interest the member for Schubert. World Teachers Day has become an annual event that recognises the crucial role our teachers play in the lives of our children and our communities. It provides a chance for students, parents and the community in general to say 'thank you' to all teachers across the states in government and independent schools.

Worlds Teachers Day activities are also designed to raise the profile of the teaching profession and to inspire young people to consider teaching as a career—as I did, as the member for Morphett did, as the member for Morialta did, as the member for Little Para did, and as the member for Kaurna did. There are many former teachers on both sides of the house. I think that many members would join me in acknowledging the importance of recognising teachers and the work they do in leading and encouraging children in their learning and development. Better recognition of what it is that teachers do may help lift their status in the public eye.

As a former teacher, I often reflect upon the status of teachers. I think that, in many ways, teachers feel that they are among the least empowered of all the professions, which can in no way help their status in our society. It is incumbent upon us, as a state government, to listen to and talk to teachers. I must say that the Minister for Education has a very positive relationship with the AEU, which we celebrate. A primary school principal in the electorate of Bright recently said to me that, unlike doctors, lawyers or accountants, teachers are constantly being told what to do in schools, often

by a federal government that is notoriously out of touch with the teaching profession, for example, the insinuation that teachers in our fine state schools are in some way valueless. To tell a professional body, which has members in its hundreds of thousands, that it does not understand or teach values because it teaches in publicly funded institutions, is offensive and ignorant.

To impose reporting systems from Canberra, and other unwanted cumbersome programs, upon teachers in South Australia—all the while threatening to withdraw funding if Canberra's wishes are not carried out—is, frankly, disrespectful. Personally, I feel that we should celebrate teachers by acknowledging their professionalism and letting them get on with teaching, instead of weighing them down with Kafkaesque directives from above, which create a lot of paper, waste a lot of time and fail to acknowledge our precious pedagogical resources.

WORKCHOICES LEGISLATION

Mr PISONI (Unley): Due to the success of the federal government's WorkChoices legislation, Prime Minister John Howard visited Adelaide on 5 October for the signing of the one-millionth AWA agreement. A record number of 27 059 signed in September and, on average, 900 workers a day are now signing up. The one-millionth AWA was signed by Bob Raven, who teaches woodwork to disabled students in Adelaide's northern suburbs. Mr Raven said that he had felt under no pressure to sign an AWA, and he said that he was happy to do so because of the benefits. His employer said that the greater flexibility of AWAs gave obvious benefits to their staff and helped them to retain skills and dedicated workers in a high turnover industry. Happy staff, satisfied clients, delighted employers, a growing business—no wonder the unions are so unhappy. This is not good news for them at all; they are losing their influence over working Australians.

Ms Fox interjecting:

The DEPUTY SPEAKER: Order!

Mr PISONI: Despite unions scaremongering, there have not been widespread sackings, and jobs continue to be created at record levels across the nation. The proof of the pudding, of course, is in the eating, and the unions and Labor have the wrong pudding recipe.

In the 13 years of Labor under a union-dominated accord, real wages grew by only 2 per cent. With a Liberal government in Canberra and the steady progress of workplace, waterfront and tax reform, real wages have grown by 17 per cent. Labor left John Howard with unemployment at nearly 9 per cent. However, after 10 years of sound economic management, unemployment is at a record low of 4.9 per cent. Labor's answer to the flexibility, productivity and low unemployment is for Kim Beazley to abolish AWAs if he becomes prime minister.

Australian workers are leaving the union movement, sick of its increasing irrelevance and self-interest. That is why iron ore miner Rob Davies has one message for unions and the Labor Party: 'Keep your hands off my AWA.' He told *The West Australian* on 7 October that he remembered when unions ran rampant through the sector in the 1980s. I remind the house that we had a Labor government and union accord with Canberra at that time. He said:

> They are always striking over stupid little things for the sake of it.

He went on to say:

> I'm not a sheep, I'm a 49 year old and I have my own plan. I don't need a union telling me what to do.

SA Unions Secretary, Janet Giles, could not tell the staff of the Cancer Council what to do, either, so recently she was reduced to recruiting children to pad out her rent-a-crowd on the picket line outside the Cancer Council, where 94 per cent of the staff had signed AWA's.

Mr Bignell interjecting:

Mr PISONI: So desperate was Janet Giles to protest while the Prime Minister was in town, she targeted a charity—that is all she could find—whose AWA she had not even seen, member for Mawson. This protest was organised by Trades Hall for the benefit of Kim Beazley and nobody else—not the workers earning an honest living and doing the valuable work inside. Janet Giles says that she wants to protect workers from exploitation, but she exploits children and gets them out on the picket line. Why would children want to run around, go to the zoo, or the museum, or the movies—

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr PISONI:— during the holidays—

The DEPUTY SPEAKER: Order!

Mr PISONI: —when they can hang out with Aunty Janet—

The DEPUTY SPEAKER: Order! The member for Unley will sit down.

Mr PISONI: I could not hear you, Madam Deputy Speaker.

The DEPUTY SPEAKER: You weren't trying. The member for Unley.

Mr PISONI: Thank you, Madam Deputy Speaker. What a disgrace Janet Giles is! At least these children just looked bored, not terrified like the children of wharfies dragged onto the picket line during the waterside workers dispute in 1998. Whether bored or frightened, it is inappropriate for unions to use children as pawns in their quest to impose their values on others. The Cancer Council attempted to contact SA unions three times during the protest to find out what their problem was but, not surprisingly, they did not return the calls until the next day. Are Janet Giles and the SA unions really interested in the welfare of workers? I say no. In a recent—

The DEPUTY SPEAKER: Order! Member for Unley, your time has expired. The member for Morialta.

REFUGEE WEEK

Ms SIMMONS (Morialta): October has seen the celebration of Refugee Week. During Refugee Week there have been many events, including a soccer match, a photographic exhibition (which I was privileged to view at the Festival Centre), information sessions, an expo, a family fun day, banner painting, beading workshops and a conference. The month will finish with a two-day conference on health and well-being in a diverse society. The South Australian government has been pleased to be able to support several of these initiatives. I was very pleased to be able to attend a fantastic event last Saturday night organised by Dr Robert Deng and the committee of the Sudanese Community Association. It was a very enjoyable night.

Refugee Week is an opportunity to celebrate the courage and resilience of refugees. It is also a chance to find out how we as a community can create a safe, welcoming and inclusive environment for refugees. Thousands of South Australians are from a refugee background: some arrived

50 years ago, some 25 years ago, some five years ago, and many others less than five months ago.

A few days ago, as part of Refugee Week activities, there was a conference with the theme, 'When do I stop being a refugee?: The journey towards citizenship and community inclusivity.' When do refugees stop being refugees? Technically, the answer is: as soon as they get off the plane or as soon as they are granted a permanent protection visa. If what we really mean by the question is: when can they be declared settled and an integral part of society?—the answer can be as varied as the different backgrounds from which they come. Some people settle into their new life quickly, others take a little longer to find their feet, to feel able to fully participate in community life and to feel included.

The refugee experience is not wiped from a person's life once they arrive in Australia—as much as some people would like to forget some aspects of their journey. A refugee's experiences are an important part of who they are and who they have become. Recently, I was privileged to hear the stories of two of our esteemed Vietnamese citizens—Mr Hieu Van Le, the Commissioner for Multicultural and Ethnic Affairs, and Mr Tung Ngo, councillor for the City of Port Adelaide and Enfield—both of whom came here as refugees and have done so much to further this community.

Refugees ask for help, just like anyone would, in a strange land, a strange new culture, where the main language may be different to theirs. Thankfully, governments fund many organisations and there are many volunteers who provide information and referral services and social and cultural support for refugees. It is important that those who are working with refugee community organisations place an emphasis on building the capacity of these organisations so that they quickly become independent and self-reliant.

Perhaps the best measure of success of those supporting refugees is the time it takes for the refugee organisation to become genuinely independent and self-reliant. Refugees need to be given the opportunity to be independent and able to determine their own destiny. When they step off the plane, refugees are South Australians. They are free to make whatever choices they like—within the Australian legal system, of course—and to make a new life for themselves as they see fit. However, it would be irresponsible for health, education or employment agencies to ignore a refugee's background when providing services. A person may have escaped from a cruel regime or from some other disaster, but let us not deny that person's very real experiences.

At the same time, let us not think of people with a refugee background simply in terms of that background. Let us look forward to our shared future, shared challenges and shared opportunities. Refugees come with a will to survive and live with dignity in peace and safety. They have a determination to work hard and to make great sacrifices to ensure a better future. Along with the challenges they face, they carry a promise of great rewards for the communities they join, as well as for themselves.

South Australia is keen to resettle as many refugees and asylum seekers as possible. The government is working hard to make regional South Australia refugee and migrant friendly. We are working with the commonwealth government, local government, service providers and local communities in several regional areas—Murray Bridge, Mount Gambier and the Riverland—to support further refugee settlement.

Time expired.

SCHOOLS, AQUATICS PROGRAMS

The Hon. G.M. GUNN (Stuart): The first matter I want to raise in this grievance debate concerns an unfortunate article that appeared a few days ago in *The Advertiser* referring to the situation at Farrell Flat. When I read it I was concerned and, soon afterwards, I was contacted by the mayor of the Goyder council and by the councillor who lives in that area, expressing concern about the inaccuracy of the article. I advised them that they should write to the editor and take a number of other steps, which they have done. I have a copy of the letter which they wrote and I intend to put it on the public record in the next grievance debate.

The second matter I raise concerns the considerable debate about the aquatics program that is currently run by the education department. I have been approached by people from my constituency in Port Augusta who are involved in that program. I have discussed this matter today with the minister. I think it is important that we are all aware of what these programs do and we need to ensure that the people who are involved in them are given every opportunity to promote the good work they are doing and that, before any further decisions are made, all points of view are taken into account. I refer to a letter I received dated 25 October, which states:

> Further to our conversation yesterday, listed below is some information for you regarding the possible cutbacks to the aquatics budget. Taken from the last media release by Jane Lomax-Smith, 'The aquatics program will continue until at least the end of term 1 2007, but the department is examining the effectiveness of the general aquatic activities and their role in day to day schooling. While these water-based activities are fun, it needs to be considered whether they are essential skills that should be taught as part of the school curriculum.'
>
> In Port Augusta 2 000 students from this regional area access this program each year.

The letter continues:

> Outcomes for students who participate in the programs are: water safety knowledge (tides, rips, safety equipment, weather, carrying/lifting procedures); encouraging physical activity; focuses strongly on water safety that will be used as a life skill; skills learnt during aquatic activities can be incorporated into many curriculum areas upon returning to the classroom; develops particular leadership skills that are difficult to obtain in other curriculum areas; an effective learning tool in the skill of problem solving; provides inclusive education—an alternative to stagnation in the classroom; valuable tool to develop team building, social skills, problem solving and confidence that will be used throughout future schooling; activities provide opportunity for further study and career choices; provide alternative physical activity to students who may not possess the hand/eye coordination required for ball sports; analyses consequences of risk taking.

The letter continues:

> How these possible budget cuts will affect Port Augusta and the region: limit student exposure to all of above; loss of exposure to alternative career opportunities for students; loss of subject components to SACE students through the HPE band; loss of 10 casual jobs; economy of Port Augusta affected because schools use the centre for a three-day camp and buy the majority of their food in Port Augusta, as well as use other businesses—eg Wadlata, cinema.

There has been a considerable amount of concern expressed to me, and I hope the minister and her officers will carefully consider all the options before they cut back on this particular program. I am aware that governments do not have unlimited resources, and obviously I am aware that they have to keep them under continual scrutiny; however, I point out that many of these people come long distances from Port Augusta and it is an opportunity to interact with other students. I believe

it is a very important role, so I look forward to the minister's consideration.

The other matter I want to briefly mention is that it is clear from the minister's answer to me in question time that the Office of Consumer and Business Affairs has been closed in Port Augusta and people are expressing concern, but I have not actually seen much publicity about it. Normally the ministers and the government are keen on good news stories, but when these sorts of decisions are made not much publicity is given to them.

Time expired.

IRONS ENGINEERING

Ms BEDFORD (Florey): South Australia has experienced another example of the brave new world of industrial relations in Australia—more correctly, I should say that the 41 workers of Irons Engineering are learning first-hand how the new federal laws work. Irons' workers were officially made redundant yesterday as a result of the company being sold as an asset sale. The workers have been told that the company will continue to operate—and for that all of us are very grateful.

South Australia has a proud history of manufacturing excellence, sadly diminishing within my time in this place by the loss of jobs at large companies such as Actil, Clarks Shoes and most recently, of course, Electrolux, just to name a few. What is less welcome at Irons is the criteria under which the company will continue: not all workers there will be offered employment; the conditions for those lucky enough to be offered work will change; and entitlements up to yesterday are not assured—entitlements earned by a loyal and skilled workforce, some with 20 and some with 30 years of service. They will not get their annual leave, they will not get their long service leave, and they will not get any severance pay. No entitlements will be paid to these employees outside of any after liquidation, and we all know this usually takes over a year to come to hand.

Irons has been sold to a Mr Desmond Murphy of Melbourne, I am told. He also owns a company called Specifix Fasteners. Mr Murphy as quoted in today's *Advertiser* as saying that he plans to keep 35 of the 41 staff and will leave the company in South Australia, hoping to increase staff by chasing new defence and mining business while retaining Irons' share of the automotive business. Mr Murphy acknowledges Irons is 'a good solid engineering company, probably one of the best of its type in Australia.' I guess this means he has a bargain, ready-made to capitalise on the work of this government to establish a vibrant economy in this state through the attraction of new and bigger industries and, perhaps more importantly, on the back of the work of employees he now seeks to put on AWAs rather than retain their current award enterprise agreement.

The enterprise agreement will end when Mr Murphy takes over and it is believed that new agreements will take about a month to finalise, as Mr Murphy will be out of the country for three weeks following the sale. This will leave some workers unsure of their future—an all too familiar event at this time of year with Christmas approaching. This will put extra pressure on workers to accept conditions they might ordinarily hope to improve rather than see lost or eroded. These workers feel vulnerable and threatened, as they not only have to consider their future at Irons on AWAs, I believe that they also have to negotiate their future without union assistance. I am told Mr Murphy does not welcome union involvement and that he has shut down a Melbourne plant with 139 workers because they would not leave their union.

Limiting freedom of association to a union is, I believe, unlawful—even under the new industrial relations laws that are now part of every Australian's future unless we change the federal government. These laws will see Australian workers subject to what are widely recognised as some of the worst industrial relations laws in the world. There should be no coercion to sign AWAs; workers should also be able to seek collective agreements. Workers seek fairness; they know that their futures rely on vibrant and viable businesses. I think the goodwill of workers is always there—particularly when the chips are down for companies, and there have been many and recent examples of this in other industries as well as manufacturing (textile, clothing and footwear comes to mind, for one).

South Australia has many family businesses which know and value their workforce's loyalty and skills. We have to be smarter at identifying niche markets, such as the manufacture of Harley-Davidson bike wheels, and grow the skills of workers to ensure our manufacturing industries prosper and thrive here in South Australia. All workers' jobs will be subject to the same IR laws the Irons workers are now experiencing, and it is important that we all remain vigilant in ensuring workers' rights won over a long period are not eroded.

STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

The Hon. J.M. RANKINE (Minister for Consumer Affairs) obtained leave and introduced a bill for an act to amend the Conveyancers Act 1994; the Land Agents Act 1994; and the Land and Business (Sale and Conveyancing) Act 1994. Read a first time.

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

That this bill be now read a second time.

This bill implements the recommendation of a review of the real estate industry and the adequacy of the existing regulations of that industry. The review was commissioned by the Minister for Consumer Affairs in 2003 and prompted by an earlier private member's inquiry into regulation of the real estate industry by the member for Enfield, Mr John Rau. I acknowledge the work of the member for Enfield, who has been a strong advocate for reform and cooperation of the industry in developing these reforms. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The reforms contained in the Bill are wide-reaching and are largely supported by industry, which was closely involved in the development of the recommendations leading to this Bill.

The Bill addresses concerns in the community about practices including dummy bidding at auctions, over-quoting by agents to secure property listings and bait advertising of properties for prices well below the actual estimated selling price. Undisclosed conflicts of interest and other misleading or deceptive conduct by agents are also addressed by this Bill.

During the course of the review of regulation of the real estate industry agents asked for legislation to provide a clear set of guidelines as to agents' obligations. The reforms will establish clear standards for land agents as to what is lawful and ethical behaviour in the selling of real estate. However, this Bill is not intended to

derogate from or limit the fiduciary obligations owed by land agents under the general law, including to avoid conflicts of interest and account for benefits gained.

The measures are designed to be practical and enforceable solutions to the concerns of consumers about the lack of transparency of the real estate sale process, both from the vendors' and the purchasers' points of view.

The real estate industry in this State is regulated primarily by the *Land Agents Act 1994* and the *Land and Business (Sale and Conveyancing) Act 1994*, and both are amended by this Bill.

Land agents are involved directly with consumers in one of the most important and expensive transactions a consumer will ever enter into—the purchase of real estate. Agents receive large sums of money in the form of deposits and the contracts for the sale of land represent perhaps the most significant contracts consumers ever enter into. Further, the sale of land is a transaction that most consumers generally enter into only infrequently. Therefore, it is important that the legislation in place to protect consumers in their dealings with land agents is robust and effective, so that vendors and purchasers are confident that these most significant transactions are handled competently and ethically.

The issues of concern examined by the working party included over-quoting the value of properties to vendors to secure the listing of properties, bait advertising or under-quoting of estimated selling prices in real estate sale advertisements as well as dummy and vendor bidding during auctions.

The working party concluded there were also significant issues associated with the private treaty sale process, particularly where properties are not advertised for a price but with reference to a price guide and where multiple offers may be received by an agent.

There was consensus within the working party of the need to improve the regulation of ethical and professional conduct standards within the real estate industry. It was also agreed that auctioneers and sales representatives should have to be separately registered and that other measures are required to ensure that only appropriately qualified people operate within the industry.

The working party recognised the need to significantly improve the information set for consumers by means of mandatory consumer guides explaining their rights and responsibilities under sales agency agreements and auction processes.

Members of the working party were also in agreement that the legislation should specifically deal with conflicts of interest, especially in light of emerging trends in the industry such as agents becoming involved in property development and in the provision of financial and investment advice.

This Bill implements the following key measures, which were recommended by the working party:

· agents will be required to specify in the sales agency agreement their genuine estimate of the likely selling price of the property being sold. If the estimate is expressed as a range it must be expressed in figures with an upper limit that does not exceed 110% of the lower limit of the range (eg ranges of $200 000 to $220 000; $500 000 to $550 000 would be permitted). The agency agreement must also stipulate the price sought by or acceptable to the vendor.

· agents will be prohibited from making a representation (including in an advertisement or verbally) as to the likely selling price of a property (and where the representation is a range this applies to any amount in that range) that is less than the agent's estimated selling price or the vendor's bottom line (whichever is the higher). For example, where the agent's estimated selling price is $300 000 to $330 000 but the vendor is not prepared to accept less than $350 000, the agent must not suggest a selling price, or range that includes any amount, under $350 000. The representation of a likely selling price may be a range but the upper limit of the range may not exceed 110% of the lower limit of the range. This provision will not apply where a property is advertised for a specified price.

· offers to purchase residential property must, if possible, be made in writing and signed by the offeror, with agents required to submit all written offers to the vendor as soon as practicable after receipt and to retain the offers for a reasonable period to enable these to be inspected by the regulator in the event of a complaint;

· all bidders will need to be registered to bid at an auction, with registered bidders to be provided with a guide to the auction process and related information about the sale process;

· a specific offence of dummy bidding (defined as bidding on behalf of the vendor) is created. It will also be an offence for any person to make or procure a dummy bid as well as for an auctioneer to knowingly take or procure a dummy bid;

· only one vendor bid, made by the auctioneer and disclosed as a vendor bid, will be permitted at an auction of residential land;

· agents will be required to record the agreed reserve, and document any changes to the reserve, in writing prior to commencement of an auction and to keep a record of all bids made at auction, which identifies the vendor bid;

· the existing *Land and Business (Sale and Conveyancing) Act* offence of making a false representation is broadened to include misleading representations in a broader set of circumstances;

· sales agency agreements for the engagement of agents will be required to comply with requirements including to specify how the property is to be offered for sale, the duration of the agreement (which may be capped by Regulation), details of all services to be provided by the agent as well as the costs of those services and to disclose the nature, source and amount of any commission, rebate or discount expected to be received by the agent in respect of services provided by the agent (which must in turn be passed on to the vendor);

· the use of caveats to secure payment of agents' fees will be prohibited. Agents should be in the same position as other service providers when collecting debts;

· agents will be required to provide a guide to a vendor explaining the vendor's rights and obligations under the sales agency agreement and explaining the terms of the agreement;

· auctioneers will be separately accredited by registration and sales representatives and trainee sales representatives employed by agents will have to be registered and carry photographic registration cards. Agents and auctioneers will also be required to carry photographic registration cards;

· agents will be required to disclose to the vendor any actual or potential conflict of interest the agent has in connection with the sale of a property. This disclosure requirement is intended to include a requirement to disclose any relationship with a person to whom the agent has referred a client for services, including a financial adviser, mortgage broker or financier, valuer or legal practitioner. There will also be a statutory requirement to disclose any benefit received or expected to be received in connection with the referral or from any other person in connection with the sale. This is intended to encompass a benefit in the nature of being appointed as the agent of the purchaser in the later sale of property owned by the purchaser. For example, where an agent facilitates the sale of a property to a developer who intends to build units on the land and the agent has an expectation of receiving the listing of the units the agent will be required to disclose this expected benefit to the vendor;

· the current prohibition on agents or their employees purchasing land that they are commissioned to sell is extended to situations where the agent has not actually signed an agency agreement with the vendor, rather has appraised the property and made an offer to the vendor before entering into an agency agreement. This prohibition will not apply where the vendor has another land agent acting for him or her. Although a Ministerial exemption is currently provided for this prohibition, this is changed so that the approval of the Commissioner for Consumer Affairs is required if the agent or employee wishes to purchase the land. In practice, this exemption power has been devolved to the Commissioner and an independent valuation and informed consent of the vendor are required before an exemption is granted. The Bill will formalise this practice and set out on the face of the legislation the criteria for obtaining an approval;

· each place of business of an agent will have to be properly managed and supervised by a registered agent. This arises from concerns about regional agency offices being staffed solely by junior employees. To allow a measure of flexibility in the application of this requirement, regulations may specify what constitutes proper management and supervision.

Although the proposed reforms were developed in the context of metropolitan residential sales, industry representatives argued that the reforms may seriously impact on the ability of rural vendors and

rural agents to sell properties. The Bill addresses this by introducing the concept of "residential land". The definition of "residential land" has been developed with the aim of excluding most farming properties. Prohibitions on dummy bidding and other unfair practices will apply to all land, but advertising requirements will remain as they currently are, and multiple disclosed vendor bids will still be allowed, for properties that do not fall within the definition.

The Bill also addresses a number of issues drawn to the attention of the Government through the consultation process, as follows:

- various penalties are increased to reflect the seriousness of those offences;
- prohibition of collusive practices at auctions. This prohibition forms part of the NSW auction reforms and is included in these reforms at the request of industry members as a cautionary measure;
- to support new misleading advertising provisions, agents (including franchisees) will be required to quote registration numbers in advertising;
- although the *Land Agents Act* contains a general defence for unintentional acts, a mirror provision has been inserted into the *Land and Business (Sale and Conveyancing) Act*, where many of the new offences are created.

In addition the Bill incorporates a number of other amendments that have arisen separately to the real estate industry review and are considered appropriate for inclusion in this Bill:

- agents will be required to provide specified information or warnings to any person to whom they may provide investment or financial advice. This follows from an Australian Securities and Investments Commission (ASIC) report into the financial advising activities of real estate agents and the provision of property investment advice generally. That report recommended that where agents provide general advice about investing in real estate as an incidental part of acting as a land agent, they should be required to give a warning to the recipient of the advice that the advice is general only in nature and that independent advice should be sought as to the suitability of the investment in light of the recipient's particular circumstances;
- amendments to the *Land Agents Act* and *Conveyancers Act* to implement the recommendations of the Economic and Finance Committee's enquiry into the Agents Indemnity Fund. The amendments are designed to make the claims process for those who have suffered a fiduciary default at the hands of a land agent or conveyancer more transparent and easier;
- provision for the conciliation of disputes and advice to consumers to be paid for from the Agents Indemnity Fund is being added at the request of OCBA;
- the requirement that agents' trust accounts be audited by a registered company auditor is relaxed to enable alternative oversight requirements to be prescribed in circumstances such as where registered company auditors are not available in rural areas;
- the definition of 'small business' in the *Land and Business (Sale and Conveyancing) Act* (which attracts certain additional disclosure and cooling off rights) is amended to make it clear that the value of stock on hand is to be excluded in calculating the value of the business. The clarification is supportive of small business because it ensures that businesses gain the protection of the Act if valued under $200 000 (exclusive of stock);
- the laws in relation to the practice of "wrapping", or sale of land by instalment, are tightened to ensure that purchasers in rent-to-buy schemes are protected;
- a fit and proper person test is added to the eligibility criteria for registration of agents and sales representatives as well as conveyancers. This is in addition to the existing prescribed disentitling offences. This measure is consistent with the overall aim of the reforms to increase the standards for those working in the real estate industry. It is also consistent with other licensing legislation, for example, for second-hand vehicle dealers and security agents;
- agents will be required to give all prospective purchasers of property an information notice to assist them to discover whether there are features of the property that may adversely affect their enjoyment or safety. The content of the notice will be prescribed by regulation but at this stage it is intended that the notice include information about:
  - how to detect the presence of asbestos in residential buildings and where to find further information about what to do if asbestos is found;
  - how to detect any structural problems, termite or other pest infestation, salt damp or illegal building work;
  - how to determine whether the property is close to a live music venue;
  - how to determine whether the property has a septic tank or is close to high tension power lines and any consequent restrictions or obligations;
  - how to determine whether hard-wired smoke alarms have been installed.

The notice is intended to be in the form of a generic checklist to alert purchasers about matters that they may wish to take into account in assessing the suitability of a property and direct them to sources of further information about those matters.

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 *Conveyancers Act 1994*

4—Amendment of section 7—Entitlement to be registered

This clause includes as an additional criterion for registration for a conveyancer (and, in the case of a conveyancer company, for each director of the company) that of being a fit and proper person. These provisions replace the fit and proper provisions currently in section 45(1)(d)(ii) and (iii) (to be removed by clause 9).

5—Amendment of section 14—Interpretation of Part 4

The opportunity is taken to update the outdated reference to "*Corporations Law*" in the definition of ***auditor*** to "*Corporations Act 2001* of the Commonwealth".

6—Amendment of section 31—Indemnity fund

This clause makes minor drafting changes to section 31(1)(b) and also sets out the following additional purposes to which the indemnity fund may be applied:

- the costs of investigating compliance with the Act or possible misconduct of conveyancers;
- the costs of conciliating disputes relating to the activities of conveyancers;
- the costs of disciplinary proceedings under Part 5.

7—Amendment of section 32—Claims on indemnity fund

This clause enables a person to claim (in addition to actual pecuniary loss) compensation for reasonable legal expenses incurred in taking action to recover the loss less the amount that the person has received or may be expected to recover in reduction of the loss.

8—Amendment of section 34—Establishment and determination of claims

This clause introduces amendments equivalent to those proposed to be made to the *Land Agents Act 1994* by this Act. Subclause (2) gives the Commissioner the power to seek further information from claimants, verified, if necessary, by statutory declaration. The clause also requires the Commissioner to take certain new steps in the complaints process. Once the Commissioner has received a complaint, the Commissioner may—

- require the claimant to take specified action to recover the loss (in which case determination of the claim is postponed);
- determine the claim and if appropriate pay compensation;
- require the claimant to make contractual undertakings as to the assistance that the claimant must give the Commissioner in any action taken by the Commissioner to recover the loss.

In determining whether to require the claimant to take specified action to recover the loss, and what should constitute the specified action, the Commissioner must take into account the size of the claim, the complexity of the case, the claimant's financial circumstances, mental or physical health and any other relevant factors.

The provision also requires the Commissioner to keep the claimant informed of the progress of the claim in accordance with the regulations.

9—Amendment of section 45—Cause for disciplinary action

This clause amends section 45(1)(d) to match the amendments made by clause 4 with the effect that conveyancers must be fit and proper persons in order to be registered, not just after registration. (There will still be cause for disciplinary action under section 45 if events have occurred after registration such that a conveyancer is not a fit and proper person.)

Part 3—Amendment of *Land Agents Act 1994*

10—Amendment of section 3—Interpretation

This clause provides for definitions in the principal Act that reflect the changes made to that Act. In particular, sales representatives must, under the proposed reforms, be registered, as must agents or sales representatives who conduct auctions and so the definitions have been adjusted accordingly.

11—Amendment of section 6—Agents to be registered

This clause clarifies that an agent must not carry on business as an agent unless registered under the Act as an agent (as distinct from as a sales representative).

12—Insertion of sections 6A and 6B

6A—Sales representatives to be registered

Section 6A(1) requires sales representatives to be registered under the Act with failure to do so an offence attracting a maximum penalty of $5 000. This section also makes it an offence for an agent to employ a sales representative who is not registered under the Act with the maximum penalty for contravening the provision being $20 000.

6B—Auctioneers to be registered

Section 6B requires persons who conduct auctions (being either agents or sales representatives) to be registered as auctioneers. Failure to be registered as required attracts a maximum penalty of $5 000. This section also makes it an offence for an agent to employ an auctioneer who is not registered under the Act with the maximum penalty for contravening the provision being $20 000.

13—Amendment of section 7—Application for registration

This clause inserts new subsection (2a) in section 7. The subsection provides that proof of registration will include a registration card bearing a photograph of the registered person, and enables the Commissioner to require applicants for registration to have their photo taken or to submit such a photograph as part of the application process.

14—Amendment of section 8—Entitlement to be registered as agent

This clause includes as an additional criterion for registration for an agent (including, in the case of an agent body corporate—each director) that of being a fit and proper person. These provisions replace the fit and proper provisions currently in section 43(1)(e)(ii) and (iii) (to be removed by clause 24).

15—Substitution of section 8A

This clause substitutes section 8A with sections 8A, 8B, 8C, 8D and 8E.

8A—Entitlement to be registered as sales representative

Section 8A sets out what is required for a person to be entitled to be registered as a sales representative, namely, the person must—

- have the qualifications required by the regulations or, if the regulations allow, the qualifications considered appropriate by the Commissioner (for example, equivalent qualifications from interstate);
- satisfy requirements relating to the person's moral fitness to be registered as a sales representative.

8B—Entitlement to be registered as sales representative subject to conditions relating to training and supervision

Section 8B provides that if a person does not have the qualifications required by section 8A but otherwise satisfies the requirements of section 8A, the person may nevertheless be registered subject to conditions that the person undertake training (unless the person has previously failed to comply with such a condition). There is also a requirement that the person be supervised as specified in the regulations, with failure by an agent to properly supervise the person being an offence attracting a maximum penalty of $5 000. Subsection (5) enables the Commissioner to cancel the registration of a person registered under the section.

8C—Entitlement to be registered as auctioneer

Section 8C sets out what is required for a person to be registered as an auctioneer, namely, the person must—

- be registered as an agent or sales representative under the Act; and
- have the qualifications required by the regulations or, if the regulations allow, the qualifications considered appropriate by the Commissioner (for example, equivalent qualifications from interstate).

8D—Appeals

This section is the same as section 8A of the current Act and is relocated to avoid difficulties with renumbering of the sections.

8E—Power of Commissioner to require photograph and information

This clause inserts section 8E which gives the Commissioner the power to require, periodically, photographs and certain information from persons registered under the Act. This provision enables the Commissioner to ensure that persons continue to be properly registered and carry up-to-date proof of that registration.

16—Amendment of section 9—Duration of registration and annual fee and return

This clause amends section 9 to reflect the fact that registration under the Act will no longer refer only to agents, but also to sales representatives and auctioneers. Previous references to "registered agents" will now be to "registered persons".

17—Substitution of section 11

This clause removes section 11 (the provisions of which have been amended and relocated to section 8A) and replaces it with new sections 11, 11A and 11B.

11—Each of agent's places of business to be properly managed and supervised

Section 11 requires registered agents to ensure that each of their places of business are properly managed and supervised by a registered agent who is a natural person. The section is intended to address the problems associated with regional agency offices being staffed solely by junior people. Failure to comply with the provision is an offence attracting a maximum penalty of $20 000.

11A—Regulations relating to proper management and supervision

Section 11A allows for the regulations under the Act to set out what practices are required for the proper management or supervision of businesses or places of business under sections 10 and 11.

11B—Registration card to be carried or displayed

Section 11B requires natural persons registered under the Act to carry their registration cards for production on request by authorised officers or persons with whom they have dealings. Failure to do so is an offence attracting a maximum penalty of $1 250 or an expiation fee of $160.

18—Amendment of section 12—Interpretation of Part 3

This clause amends the definition of ***auditor*** to include a person who meets the requirements prescribed by regulation. The opportunity is also taken to update the outdated reference to "*Corporations Law*" to "*Corporations Act 2001* of the Commonwealth".

19—Amendment of section 22—Audit of trust accounts

This clause includes a requirement for the auditing of trust accounts to be carried out in accordance with the regulations.

20—Amendment of section 29—Indemnity fund

This clause makes a minor drafting change to section 29(3)(c) and also sets out the following additional purposes to which the indemnity fund may be applied:

- the costs of investigating compliance with the Act or possible misconduct of agents or sales representatives;
- the costs of conciliating disputes relating to the activities of agents or sales representatives;
- the costs of disciplinary proceedings under Part 4.

21—Amendment of section 30—Claims on indemnity fund

This clause enables a person to claim, in addition to actual pecuniary loss, compensation for reasonable legal expenses incurred in taking action to recover the loss less the amount that the person has received or may be expected to recover in reduction of the loss.

22—Amendment of section 32—Establishment and determination of claims

Proposed section 32(1a) gives the Commissioner the power to seek further information from claimants, verified, if necessary, by statutory declaration. The clause also requires the Commissioner to take certain new steps in the complaints process. Once the Commissioner has received a complaint, the Commissioner may—

- require the claimant to take specified action to recover the loss (in which case determination of the claim is postponed);
- determine the claim and if appropriate pay compensation;
- require the claimant to make contractual undertakings as to the assistance that the claimant must give the Commissioner in any action taken by the Commissioner to recover the loss.

In determining whether to require the claimant to take specified action to recover the loss, and what should constitute the specified action, the Commissioner must take into account the size of the claim, the complexity of the case, the claimant's financial circumstances, mental or physical health and any other relevant factors.

The provision also requires the Commissioner to keep the claimant informed of the progress of the claim in accordance with the regulations as well as giving the parties written notice of the determination.

23—Amendment of section 42—Interpretation of Part 4

This clause makes minor drafting changes to the definition of ***agent*** and amends the definition of ***sales representative*** to reflect the fact that sales representatives must now be registered under the Act.

24—Substitution of section 43

43—Cause for disciplinary action against agents or sales representatives

This clause amends section 43 with the effect of applying the disciplinary provisions to registered sales representatives as well as registered agents.

The amendments also match the amendments made by clauses 13, 14 and 15 with the effect that agents and sales representatives must be fit and proper persons in order to be registered, not just after registration. (There will still be cause for disciplinary action under section 43 if events have occurred after registration such that the person is not a fit and proper person to be registered.)

25—Amendment of section 47—Disciplinary action

This clause amends section 47 reflecting that the disciplinary provisions now apply equally to sales representatives as to agents.

26—Insertion of section 48A

48A—Advertisements to include registration number of agent

This clause sets out new requirements for the publishing of advertisements by agents, namely the inclusion alongside the agent's name or contact details of the agent's registration number preceded by the letters "RLA", indicating that the agent is a registered land agent. Failure to comply with this provision is an offence attracting a maximum penalty of $2 500 or an expiation fee of $210.

27—Amendment of section 52—Register

This clause amends section 52 with the effect that a register must now be kept of all persons (not just agents) registered under the Act including details of disciplinary action taken, and notes of assurance accepted by the Commissioner under the *Fair Trading Act 1987*, in relation to such persons.

28—Amendment of section 62—Evidence

This clause amends section 62 reflecting the application of this section to all persons registered under the Act, not just agents as was previously the case.

29—Amendment of section 63—Service of documents

This clause amends section 63 reflecting the application of this section to all persons registered under the Act, not just agents as was previously the case.

30—Amendment of section 65—Regulations

Subclause (1) of this clause enables the regulations now to require any persons registered under the Act (including registered sales representatives and registered auctioneers) to comply with codes of conduct.

Subclauses (2) and (3) make minor drafting changes to section 65 ensuring that certain regulations may apply to an agent whether or not properly registered.

Part 4—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

31—Amendment of section 3—Interpretation

This clause inserts new definitions that reflect the amendments made to the principal Act and includes new definitions of ***auction record***, ***authorised officer***, ***bidders register***, ***commission***, ***place of residence***, ***residential land***, ***sales agency agreement*** and ***sales representative***. The clause also amends the definitions of ***purchaser*** and ***vendor*** to now include a person authorised to act on behalf of a purchaser and a person authorised to act on behalf of a vendor, respectively.

32—Amendment of section 4—Meaning of small business

This clause provides that in determining whether a business is a small business for the purposes of the Act according to the monetary parameters set out in the Act, the value of the stock-in-trade is to be disregarded.

33—Amendment of section 5—Cooling-off

This clause makes incidental changes to section 5 reflective of the proposed expanded definition of ***vendor*** which includes a vendor's agent. The term "certified mail" is replaced with "registered mail" to reflect current post office practice.

34—Amendment of section 6—Abolition of instalment purchase or rental purchase arrangements

This clause makes certain rental purchase contracts voidable and specifies that payment made by a person under the contract does not constitute affirmation of the contract. If such a contract is avoided, the person is entitled to recover amounts paid under the contract over and above fair market rent.

35—Amendment of section 7—Particulars to be supplied to purchaser of land before settlement

This clause makes minor drafting improvements consequential on the new definitions of vendor and purchaser (see clause 31). The clause removes the words "on behalf of" the vendor. The effect of this clause is to put beyond doubt that section 7 statements can be signed by or on behalf of the vendor and served on the purchaser or the purchaser's agent. Similar improvements have been made elsewhere in the Bill, for example, by clause 33 (amendment of section 5(5)), clause 36 (amendment of section 8(1)), clause 37 (amendment of section 9) and clause 42 (amendment of section 19). The clause also substitutes section 7(1)(b)(ii), with a provision that requires a vendor of land who acquired a relevant interest in the land within 12 months before the date of the contract of sale to disclose in the section 7 statement all transactions relating to the acquisition of the interest occurring within the 12 month period. New subsection (5) defines ***acquired an interest in land*** to mean "obtained title to the land, obtained an option to purchase the land, entered into a contract to purchase the land or obtained an interest in the land of a category prescribed by regulation".

36—Amendment of section 8—Particulars to be supplied to purchaser of small business before settlement

This clause makes incidental changes to section 8 reflective of the proposed expanded definition of ***vendor*** which includes a vendor's agent.

37—Amendment of section 9—Verification of vendor's statement

This clause sets out the following additional requirements that an agent acting on behalf of the vendor or, in the absence of a vendor's agent, an agent acting on behalf of the purchaser must ensure are satisfied:

- that enquiries prescribed by regulation are made; and
- that immediately after the signing of the certificate in relation to the completeness and accuracy of particulars relating to land—a copy of the certificate is given to the vendor.

38—Amendment of section 13—False certificate

This clause imposes a maximum penalty of $20 000 or imprisonment for 1 year for knowingly giving a false certificate under Part 2.

39—Insertion of section 13A

13A—Prescribed notice to be given to purchaser

This clause inserts new section 13A which requires a vendor of residential land to take all reasonable steps to deliver the prescribed notice to a purchaser when the purchaser is present on the land at the invitation of the vendor in order to inspect the land prior to its sale.

The provision further requires the vendor to attach the prescribed notice to the vendor's statement when served on a purchaser, and an auctioneer to attach the prescribed notice to the vendor's statement when making the statement available for perusal by the public before the auction.

A ***prescribed notice*** is defined to mean a notice, in the form prescribed by regulation, containing information of the kind required by regulation relating to matters concerning land that might adversely affect—

- a purchaser's enjoyment of the land; or
- the safety of persons on the land; or
- the value of the land.

40—Amendment of section 14—Offence to contravene Part

This clause imposes an increased maximum penalty amount of $10 000 for contravention of a provision of Part 2 of the principal Act other than section 13 (which now carries the penalty referred to at clause 38 above).

41—Amendment of section 17—Service of vendor's statement etc

The term "certified mail" is replaced with "registered mail" to reflect the current terminology of the post office.

42—Amendment of section 19—Inducement to buy subdivided land

This clause makes an incidental change to section 19 reflective of the proposed expanded definition of ***vendor*** which includes a vendor's agent.

43—Substitution of Part 4

This clause substitutes Part 4 of the principal Act with new Parts 4 and 4A.

Part 4—Special requirements relating to agents and sales representatives

The heading of Part 4 reflects the proposed broader application of Part 4, namely to agents and sales representatives, not just agents.

20—Authority to act as agent

Section 20 requires agents to be authorised to act on behalf of vendors in the sale of residential land by means of a sales agency agreement. The section goes on to specify what must be in such an agreement, namely:

- the agent's genuine estimate of the selling price expressed without any qualifying words either as a single figure or as a price range with an upper limit not exceeding 110 per cent of the lower limit; and
- the selling price sought by or acceptable to the vendor expressed without any qualifying words as a single figure; and
- the manner of sale (eg by auction, private treaty or tender); and
- the duration of the agreement (which may be capped by regulation); and
- the rights of the vendor to terminate the agreement; and
- the services to be provided by the agent or a third person, the cost and the time for payment of those services; and
- the nature, source and amount of any rebate, discount, refund or other benefit expected by the agent from a third person for such services; and
- whether the agreement is a sole agency agreement; and
- whether the agent has authority to accept an offer for the land on behalf of the vendor.

The agreement must be dated and signed by the vendor and the agent and must comply with the regulations.

Failure by the agent to comply with any of the requirements of section 20(1) is an offence attracting a maximum penalty of $5 000.

Section 20(2) makes it an offence attracting a maximum penalty of $5 000 and an expiation fee of $315 for an agent to make a sales agency agreement without first supplying the vendor with a written guide in the form approved by the Commissioner explaining the vendor's rights and obligations under such an agreement.

Section 20(3) provides that an agent must not act for a vendor in the sale of non-residential land or a business or a purchaser in the sale of land or a business without being given authority to that effect by instrument in writing signed by the vendor or purchaser. The maximum penalty is $5 000.

Section 20(4) provides for formal requirements relating to the giving by agents to persons for whom they are acting of copies of agreements or instruments, with a maximum penalty of $5 000 or an expiation fee of $315 for contravention of that subsection.

Section 20(5) provides that matters specified or agreed in a sales agency agreement may not be varied unless the variation is in writing and dated and signed by the parties to the agreement.

Section 20(6) provides for formal requirements relating to the giving by agents to persons for whom they are acting of copies of variations to agreements or instruments, with a maximum penalty of $5 000 or an expiation fee of $315 for contravention of that subsection.

Section 20(7) makes it unlawful for an agent to demand, receive or retain commission or expenses if the agent has contravened a requirement of section 20 in acting for a vendor or purchaser. The maximum penalty for contravening this subsection is $5 000. Section 20(8) enables a vendor or purchaser to recover those expenses from an agent in those circumstances.

Section 20(9) provides that signed copies of sales agency agreements (including variations) and instruments under subsection (3) must be kept by the agent.

21—Requirements relating to offers to purchase residential land

Section 21(1) sets out obligations on agents relating to offers for residential land made by prospective purchasers, namely:

- all reasonable steps must be taken to have the offer recorded in writing in accordance with the regulations and signed by the offeror; and
- the offeror must, if the regulations so require, be given a notice in writing containing the information prescribed by regulation before signing the offer; and
- a copy of the signed offer must be given to the vendor within 48 hours or later if agreed with the vendor; and
- details of the offer may only be disclosed to the vendor or, on request, an authorised officer; and
- a copy of the signed offer must be kept by the agent.

Contravention of this section attracts a maximum penalty of $5 000 or an expiation fee of $315.

Section 21(2) applies similar provisions and the same penalty as in subsection (1) but to sales representatives. If an offer is communicated to a sales representative, it would also be taken to be communicated to the agent employing the sales representative, and so subsections (1) and (2) would apply simultaneously.

Section 21(3) clarifies subsections (1)(d) and (2)(d) (which specify that disclosure of the offer is restricted to the vendor or an authorised officer). Subsection (3) provides that nothing in the section prevents disclosure to persons engaged in the business of the agent—this disclosure being, in fact, part of the communication of the offer to the agent.

Section 21(4) requires a vendor who has received a copy of a signed offer from an agent or sales representative to acknowledge the receipt in writing as soon as practicable if so requested by the agent or sales representative with a maximum penalty of $1 250 for failing to do so.

Section 21(5) requires the agent or sales representative, before taking any steps on behalf of the vendor towards acceptance by the vendor of the offer for the vendor's residential land to ensure that the vendor has received copies of all written offers received by the agent as well as notice of any unwritten offers. Failure to do so is an offence with a maximum penalty of $5 000.

Section 21(6) is a regulation making power, enabling the making of regulations to modify the section where the agent has authority to accept an offer on behalf of the vendor.

Section 21(7) provides that contravention of section 21 does not render an offer or a contract for the sale of the land invalid.

Section 21(8), by defining an ***offer*** as not including a bid in an auction, clarifies that this section does not apply to bids made at auction.

22—Person signing document to be given copy

Section 22 requires agents and sales representatives to provide copies of certain offers, contracts or agreements to the person who has signed such an offer, contract or agreement. Contravention of this section attracts a maximum penalty of $5 000 or an expiation fee of $315.

23—Agent not to receive commission if contract avoided or rescinded

Section 23 provides that agents are not entitled to commission if a contract for the sale or purchase of land or a business is rescinded or avoided under the Act (except in certain specified circumstances). The section is based on current section 22 of the principal Act. Contravention of the provision attracts a maximum penalty of $5 000.

Any commission received or retained in contravention of the section may be recovered as a debt by the person who paid it.

24—Agent not to lodge caveat for sums owing by client

Section 24 makes it an offence attracting a maximum penalty of $5 000 if an agent secures payment of a debt by means of a caveat.

24A—Representations as to likely selling price in marketing residential land

Section 24A(1) clarifies expressions used in section 24(2) and is placed first in the section as it contains terms that must be understood before sense can be made of subsection (2). For example, it defines the circumstances in which a representation is made in marketing a person's land and it sets out what does and does not constitute a "representation as to a likely price or likely price range". It also defines ***prescribed minimum advertising price***, namely, the amount that is the greater of—

- the agent's estimate of the selling price as expressed in the sales agency agreement as a single figure at the time of the representation, or, if that estimate is expressed in the agreement at that time as a price range, the lower limit of that range; or
- the selling price sought by, or acceptable to, the vendor as expressed in the sales agency agreement at the time of the representation.

Section 24A(2) makes it unlawful for an agent or sales representative to represent (whether in a published advertisement or orally or in writing to prospective purchasers) the likely selling price of residential land as being a price less than the prescribed minimum advertising price or a price range extending below the prescribed minimum advertising price or in respect of which the upper limit exceeds 110 per cent of the lower limit.

The penalty for contravening section 24A(2) is $10 000.

24B—Financial and investment advice

Section 24B enables the making of regulations that require agents or sales representatives who provide financial or investment advice to persons in connection with the sale or purchase of land or a business to provide the persons with specified information or warnings. Failure to comply with such regulations is an offence attracting a maximum penalty of $10 000.

24C—Agent to disclose certain benefits connected with sale or purchase

Section 24C provides that the agent acting in the sale or purchase of land or a business must disclose to his or her client:

- the nature, source and amount (or estimated amount or value) of any benefit the agent receives or expects to receive from a third person to whom the agent has referred the client, or with whom the agent has contracted, for the provision of services associated with the sale or purchase;
- the nature, source and amount (or estimated amount or value) of any other benefit any person receives or expects to receive in connection with the sale or purchase.

Failure to so disclose is an offence attracting a maximum penalty of $20 000.

Section 24C(3) sets out the kinds of benefits not requiring disclosure under the section. These are:

- a benefit disclosed in a sales agency agreement with the client;
- a benefit received or expected to be received by the agent from the client;
- a benefit received or expected to be received by the vendor or purchaser;
- a benefit related to the provision of services to the client that have been contracted for by the agent unless the agent has made, or is to make, a separate charge to the client in respect of the cost of the services;
- a benefit while the agent remains unaware of the benefit (but in any proceedings against the agent, the burden will lie on the agent to prove that the agent was not, at the material time, aware of the benefit);
- a benefit that the agent or another person receives if the agent has disclosed, in accordance with this section, that the agent or other person expected to receive the benefit.

Section 24C(4) specifies the manner and form in which disclosure under subsection (2) is required, namely immediately and in the form approved by the Commissioner.

Section 24C(5) explains how to determine the value of a non-monetary benefit and a benefit in relation to multiple sale or purchase transactions, for example, where an agent receives a discount for multiple newspaper advertisements.

Section 24C(6) defines the following terms used in the section ***agent***, ***benefit***, ***client***, ***purchaser's agent*** and ***vendor's agent***. Significantly, the definition of ***client*** is "the person for whom the agent is or has been acting" which means that even when the agent ceases to be the person's agent, the disclosure provisions continue to apply.

24D—Agent not to retain benefits in respect of services associated with sale or purchase of residential land

This section prohibits agents acting in the sale or purchase of residential land from charging a client an amount for expenses that is more than that paid or payable by the agent for those expenses. Contravention of this section is an offence attracting a maximum penalty of $20 000.

Section 24D(3) provides that in determining the amount paid or payable by the agent for expenses, any benefits received or receivable by the agent in respect of the expenses (other than a benefit that is contingent on the happening of an event that has not yet occurred) must be taken into account. Section 24D(4) enables an agent to make an estimate of the amount of the expenses in certain circumstances but, under subsection (5), if the agent discovers that he or she has overestimated the amount, the agent must immediately reimburse the client, with failure to do so an offence attracting a maximum penalty of $20 000.

Section 24D(6) also prohibits an agent acting in the sale or purchase of residential land from retaining benefits in the following circumstances:

- the agent refers the client to a third person for the provision of services associated with the sale or purchase of the land or contracts with a third person for the provision of services associated with the sale or purchase of the land that will be separately charged for by the agent; and
- the agent receives a benefit from the third person as a result of referring the client to the third person or contracting with the third person.

Contravention of section 24D(6) is an offence attracting a maximum penalty of $20 000.

Section 24D(7) gives a client a right of recovery of benefits retained by an agent in contravention of subsections (5) or (6).

Section 24D(8) mirrors section 24C(5) (above). It explains how to determine the value of a non-monetary benefit and a benefit in relation to multiple sale or purchase transactions, for example, where an agent receives a discount for multiple newspaper advertisements.

Section 24D(9) contains definitions of terms used in the section. These definitions are the same as those at section 24C(6) with the addition of ***expenses*** defined as "outgoings or proposed outgoings".

24E—Agent not to act for both purchaser and vendor of land or business

Section 24E provides that an agent must not act simultaneously for both purchaser and vendor of land or a business or enter into agreements that will or can result in the agent acting simultaneously for the vendor and purchaser. It is important to bear in mind in this section that "agent" refers both to natural persons as well bodies corporate. Thus a body corporate agent may be in breach of this provision if one agent in the business acted for the purchaser and another agent in the business acted for the vendor of the same land at the same time. Contravention of section 24E(1) is an offence attracting a maximum penalty of $20 000.

Section 24E(2) prohibits a person from entering into agreements to act as agent in the sale or purchase of land or a business if the performance of services by the person under the agreements will or can result in the person acting as agent on behalf of both the vendor and the purchaser of the same land or business at the same time. Once again, contravention of the subsection is an offence attracting a maximum penalty of $20 000.

Section 24E(3) sets out a set of circumstances that are deemed to constitute a contravention of subsection (1). These are where—

- the sale of land or a business is negotiated by the agent on behalf of a person; and
- the purchase of the land or business is made subject to the sale of some other land or business by the purchaser; and
- the agent acts on behalf of the purchaser in the sale of the other land or business.

However, under section 24E(4), an agent will not be deemed to have contravened subsection (1) by virtue of this set of circumstances in if the agent gives the purchaser a warning notice (being a notice in the form approved by the Commissioner) before the purchaser authorises the agent to act on behalf of the purchaser and the purchaser acknowledges receipt of the form in writing on a copy of the form.

24F—Restriction on obtaining beneficial interest where agent authorised to sell or appraises property

Section 24F prohibits an agent or a sales representative employed by an agent from obtaining a beneficial interest in land or a business that the agent is authorised to sell (subsections (1) and (2)) or has appraised (subsection (3)). Contravention of this section attracts a maximum penalty of $20 000 or imprisonment for 1 year. The section further describes what does and does not constitute the obtaining of a beneficial interest in land or a business or a contravention of the section, for example, it is not considered a contravention of subsection (3) if another agent is acting on behalf of the vendor in the sale. Nor will it be a contravention of the section if the person has obtained the prior approval of the Commissioner to obtain a beneficial interest. Under subsection (6) a person contravenes the section if an associate of the person (defined at subsection 11) obtains a beneficial interest in the land or business. Subsection (7) specifies some of the acts that will constitute the obtaining of a beneficial interest. These are:

- purchasing land or a business;
- obtaining an option to purchase land or a business;
- being granted a general power of appointment in respect of land or a business.

If a court convicts an agent or sales representative of an offence under the section, it may order the person to pay to the vendor any profits made or likely to be made from a dealing with the land or business.

Section 24F(9) makes it unlawful for an agent to demand, receive or retain commission or expenses if the agent has contravened a requirement of the section in acting for a vendor. The maximum penalty for contravention of subsection (9) is $5 000. Section 24F(10) enables a vendor to recover commission or expenses retained by the agent in those circumstances as a debt. Section 24F(11) includes the following terms used in the section: ***appraise***, ***associate beneficiary***, ***putative spouse***, ***relative***, ***relevant interest*** and ***spouse***.

24G—Agent not to pay commission except to officers or employees or another agent

Section 24G prohibits agents from paying the whole or part of the commission to which they are entitled to anyone other than an officer or employee of the agent or a registered agent. Contravention of this section is an offence attracting a maximum penalty of $5 000.

Part 4A—Auctions

Part 4A entitled "Auctions" is a new Part that deals with the conduct of auctions.

24H—Standard conditions for auctions of residential land

Section 24H clarifies that the standard conditions prescribed for auctions by the regulations apply as contractual conditions to all auctions of residential land conducted by agents.

24I—Preliminary actions and records required for auctions of residential land

Section 24I sets out the requirements that the ***responsible agent*** (defined in subsection (5)) must ensure are satisfied in relation to an auction for the sale of residential land. Those requirements are:

- the standard terms and conditions of auction must be displayed at the auction at least 30 minutes before the auction is due to commence and audibly announced by the auctioneer immediately before the auction;
- an auction record must be made before the commencement of the auction consisting of a record of the reserve price (including any changes made to that price before the commencement of the auction), a bidder's register and any other details required by the regulations;
- if a bid is to be allowed by a person who was not registered in the bidders register before the commencement of the auction, the auction must be interrupted and the person's details entered in the bidders register;
- the identity of bidders must be verified in accordance with the regulations, and if the bidder is to bid on behalf of another person, the other person's identity must be similarly verified, as must be the person's authority to bid on behalf of that person;
- each person registered in the bidder's register must, when the person's details are being taken for entry in the register, be supplied with a written guide in the form approved by the Commissioner relating to the sale of residential land by auction;
- any change in the reserve price made during the auction must be entered in the auction record;
- the following details are to be recorded in the auction record immediately on their happening:
  - (a) a change in the reserve price;
  - (b) the amount of each bid and the identifying number allocated to the bidder;
  - (c) the vendor bids made by the auctioneer;
  - (d) other matters required by the regulations.

Failure to comply with any of these requirements is an offence attracting a maximum penalty of $10 000.

Subsection (2) makes the deliberate falsification of auction records (whether by agents, sales representatives or others) an offence attracting a maximum penalty of $10 000.

Subsection (3) prohibits disclosure of information in an auction record except as authorised under Part 4A or as required by an authorised officer. Contravention of this subsection is an offence attracting a maximum penalty of $10 000.

Subsection (4) provides that a contravention of the section does not affect the validity of a bid or a contract for the sale of the land.

Subsection (5) defines ***responsible agent*** as the agent who has entered into the sales agency agreement with the vendor for the sale of land (regardless of whether another agent is to be the auctioneer).

24J—Registered bidders only at auctions of residential land

Section 24J(1) prohibits the taking of bids by auctioneers not in possession of the bidder's register and from any person other than a registered bidder displaying an identifying number recorded in respect of the person in the bidder's register. This subsection also requires the auctioneer, when taking the bid, to audibly announce the bid as having been taken from a bidder with that person's identifying number.

Contravention of, or failure to comply with the subsection is an offence attracting a maximum penalty of $10 000.

Subsection (2) relieves an auctioneer who refuses to take a bid from a person because of subsection (1) of any liability to any person as a result of such refusal.

Subsection (3) provides that the taking of bids in contravention of the section does not affect the validity of the bid or a contract for the sale of the land.

24K—Collusive practices at auctions of land or businesses

Section 24K(1) prohibits a person from inducing or attempting to induce, by collusive practice (defined at subsection (4)), another person to abstain from bidding or limiting his or her bidding at an auction or to do anything that may prevent free and open competition at the auction of land or a business. Contravention of the subsection is an offence attracting a maximum penalty of $20 000. Subsection (2) prohibits a person from abstaining from bidding or limiting his or her bidding at an auction or doing anything that may prevent free and open competition at the auction of land or a business as a result of a collusive practice. Contravention of this subsection is also an offence attracting a maximum penalty of $20 000.

Subsection (3) requires an auctioneer of land or a business to give notice, in accordance with the regulations, of the main parts of section 24K (warning against collusive practices) before the auction. Failure to do so is an offence attracting a maximum penalty of $5 000.

Subsection (4) defines ***collusive practice*** as including an agreement, arrangement or understanding under which one person will, on being the successful bidder at an auction of land or a business (and whether or not subject to other conditions), allow another person to take over as purchaser of the land or business through the auctioneer at the auction price.

24L—Dummy bidding prohibited at auctions of land or businesses

Section 24L provides for restrictions on dummy bidding (except as permitted by section 24M) at auctions of land or business, including a prohibition on:

- the making of vendor bids by a vendor;
- persons knowingly making vendor bids on behalf of a vendor;
- procuring another person to make a vendor bid contrary to the section;
- the taking by an auctioneer of a bid known by the auctioneer to be made by the vendor or on behalf of the vendor;
- the purported taking by an auctioneer of a bid when in fact no bid is being made.

Contravention of this section is an offence attracting a maximum penalty of $20 000.

Subsection (9) defines ***vendor*** as:

- a mortgagee or other holder of a security interest in respect of the land or business; and
- a person of a class prescribed by regulation.

24M—When vendor bid by auctioneer permitted

Section 24M provides for the lawful taking by an auctioneer of a single vendor bid at an auction of residential land or one or more vendor bids at an auction of land (other than residential land) or a business provided that the conditions under which the auction is conducted permit such a bid or bids, that the members of the public attending the auction have been told of that fact, that the bid is identified by the auctioneer as a "vendor bid" and that the vendor bid is less than the reserve price.

24N—Last vendor bid must be identified if property passed in

Section 24N applies where the property is passed in and the last bid was a vendor bid. In making any statement while marketing the property after the auction, the amount of the last bid must not be stated without also stating that the bid was a vendor bid. Contravention of this section is an offence attracting a maximum penalty of $10 000. The section also requires persons advising other persons of the last bid for the purposes of publishing the bid, and persons responsible for publishing such information to disclose the bid as being a vendor bid, the maximum penalty for contravention of which is $10 000. Certain defences apply at subsection (6), namely if the person making the statement or publishing the amount was not at the auction or relied on a statement by a person who purported to know what happened at the auction.

44—Amendment of section 26—Interpretation of Part 5

The opportunity is taken to delete the outdated reference in section 26(1) to "*Corporations Law*" to "*Corporations Act 2001* of the Commonwealth".

45—Amendment of section 27—Preparation of conveyancing instrument for fee or reward

This clause increases the current maximum penalty of $2 500 to $5 000 bringing it into line with penalty levels proposed by this Bill.

46—Amendment of section 28—Preparation of conveyancing instrument by agent or related person

This clause increases the current maximum penalty of $2 500 to $5 000 bringing it into line with penalty levels proposed by this Bill.

47—Amendment of section 29—Procuring or referring conveyancing business

This clause increases the current maximum penalty of $2 500 to $5 000 bringing it into line with penalty levels proposed by this Bill.

48—Amendment of section 30—Conveyancer not to act for both parties unless authorised by regulations

This clause increases the current maximum penalty for an offence against this section from $2 500 to $5 000 bringing it into line with penalty levels proposed by this Bill.

49—Amendment of section 33—No exclusion etc of rights conferred or conditions implied or applied by Act

This clause is related to new section 24H which has the effect of applying the standard conditions for auctions (contained in the regulations) as contractual conditions. Section 33 of the principal Act renders void any purported exclusion, limitation, modification or waiver of a right conferred, or contractual condition implied (and now "or applied") by the Act. The effect of adding the words "or applied" means that now the standard conditions for auctions contained in the regulations, being contractual conditions applied by the Act, will not be able to be excluded, limited, modified or waived.

50—Amendment of section 36—False or misleading representation

This clause substitutes current section 36(1) with a broader provision that protects not only prospective purchasers (as is currently the case) but vendors as well. A person commits an offence if he or she makes a false or misleading representation for the purpose of inducing another person to sell or purchase land or a business, securing an agency or entering into any contract or arrangement in connection with such a sale or purchase. The current maximum monetary penalty is also increased—from $5 000 to $20 000.

51—Insertion of sections 37, 37A and 37B

This clause inserts sections 37, 37A and 37B.

37—Signing on behalf of agent

Section 37 provides that if a document is required or authorised by the Act to be signed by an agent, the document may be signed by a person authorised to act on behalf of the agent.

37A—Keeping of records

Section 37A deals with the keeping of records and will apply wherever Part 4 or 4A requires an agent to keep a document or record. The section requires any such documents or records to be kept at a place of business of the agent in the State for 5 years and to be readily available for inspection at all reasonable times by an authorised officer. The maximum penalty for failure to comply with the section is $5 000. Section 37A(2) allows for the keeping of documents or records in electronic form, subject to the regulations.

Subsection (3) defines ***record*** as including a register.

37B—General defence

Section 37B provides a general defence to any charge of an offence against the Act other than Part 2. The defence is available if the defendant can prove that the offence was not committed intentionally and did not result from his or her failure to take reasonable care to avoid committing the offence.

52—Amendment of section 41—Regulations

This clause inserts new paragraph (aa) at section 41(2) which is a regulation making power, enabling the making of regulations to provide for a method of service (including

service by electronic transmission) of a notice or document that is required or authorised to be served under the Act.

New paragraph (ab) is also inserted, allowing the making of regulations fixing fees in respect of any matter under the Act and providing for the payment, recovery or waiver of those fees.

The clause also enables the regulations to impose a maximum penalty of $5 000 and an expiation fee of $315 enabling penalties under the regulations to be brought into line with penalty levels proposed by this Bill.

Mrs PENFOLD secured the adjournment of the debate.

STANDING ORDERS SUSPENSION

The Hon. K.O. FOLEY (Deputy Premier): I move:

That standing orders be so far suspended as to enable the introduction of three bills without notice.

The DEPUTY SPEAKER: I have counted the house and, as an absolute majority of the whole number of members of the house is not present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

PUBLIC FINANCE AND AUDIT (AUDITOR-GENERAL RETIREMENT AGE) AMENDMENT BILL

The Hon. K.O. FOLEY (Treasurer) obtained leave and introduced a bill for an act to amend the Public Finance and Audit Act 1987. Read a first time.

The Hon. K.O. FOLEY: I move:

That this bill be now read a second time.

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

Leave granted.

The Auditor-General is appointed by the Governor under the Public Finance and Audit Act 1987. The office of Auditor-General is independent of politics and operates to ensure that the public finances of South Australia are used appropriately and to the best possible benefit of the state. Clearly, the role of Auditor-General is a significant instrument of democratic accountability and transparency. The role is essential to effective governance.

This bill raises the retirement age for the position from 65 to 70 years so that occupants of the office of Auditor-General can continue to make their valuable contribution to the people of South Australia. 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 *Public Finance and Audit Act 1987*

4—Amendment of section 27—Vacation of office of Auditor-General

The proposed amendment increases the age at which the office of the Auditor-General becomes vacant from when the Auditor-General reaches 65 years to 70 years.

Ms CHAPMAN secured the adjournment of the debate.

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Equal Opportunity Act 1984 and to make related amendments to the Civil Liability Act 1936 and the Racial Vilification Act 1996. Read a first time.

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

That this bill be now read a second time.

The Equal Opportunity Act is now more than 20 years old and, by today's standards, its coverage is inadequate. The need to extend it has been apparent for years. It was more than 12 years ago that the Liberal government of the day commissioned Mr Brian Martin QC, as he then was, to review it . Mr Martin consulted extensively and made a report recommending many amendments. The government then consulted further on the report and, more than six years later, introduced an amending bill. That bill had not, however, passed even one house of parliament when the parliament was prorogued for the 2002 election. It was the election policy of the government at that election to modernise the Equal Opportunity Act to ensure comprehensive protection of South Australians against unjustified discrimination. That is the purpose of this bill.

The government published, in 2003, a framework paper outlining our intentions and posing questions for public comment. More than 1 000 people replied, including trade unions, representatives of business, disability advocacy groups, carers' groups, churches, government agencies, cultural associations, women's groups and others. It was hardly surprising to find a diversity of opinion about what the law should be. Interests compete and judgments vary. The government is grateful to everyone who took the trouble to contribute, and it has taken account of all submissions.

Equal opportunity law exists to allow all South Australians to take part equally in society. Everyone should have equal opportunity in the fields of work, education, qualifications, access to goods and services, lodging, landholding and membership of associations. No one should be excluded from taking part in society because of prejudices. No-one should be harassed or victimised in the exercise of these rights.

This government is pledged to these values and so proposes some important expansions of the present law. At the same time, the government is mindful that the law must set standards that are fair and reasonable. It must avoid imposing unjustifiable hardship on anyone. It must be mutual as between the parties to a complaint. It must provide proper exceptions where there is some overriding consideration, such as occupational health and safety or the protection of children. Both these points of view were expressed in the comments about the framework paper, and, in framing this bill, the government has tried to find a fair balance between them. The bill proposes many changes to our present act which will take some time to outline. I seek leave to have the balance of my remarks inserted into *Hansard* without my reading them.

Leave granted.

The Bill would expand the Act's present protection against disability discrimination. Martin recommended that our Act should mirror the definition of disability in the Commonwealth *Disability Discrimination Act*. This Bill follows that recommendation. Members will realise that the *Disability Discrimination Act* already applies in South Australia. South Australian employers, traders, schools and others are already obliged to avoid disability discrimination as it is defined in that Act. This amendment therefore adds no new obligations but will mean that there is now also a remedy in the South Australian Equal Opportunity Commission. As a result of the amendment, there will be a remedy with our Equal Opportunity Commission for some conditions not now covered by the Act. First, our Act will now cover discrimination on the ground of mental illness just as it has always covered physical illness. Mental illness is not the sufferer's fault, it is not shameful and there is no justification for treating sufferers unfavourably. To do so only adds to the burden on these people and their families.

The Act will also cover non-symptomatic physical conditions, such as being infected with a virus. The Act will, therefore, now protect people infected with the HIV virus, for example. A person should not be treated unfavourably because he or she is infected with a disease, even one that is greatly feared. At the same time, this law should not hamper the actions necessary to prevent the spread of any illness. As is the case in Commonwealth law, therefore, the Bill creates a defence for reasonable measures to stop the spread of an infectious disease.

The Act will now also clearly cover learning disabilities, even where they are not traceable to intellectual disability, an important addition in the context of education.

The Bill also matches the effect of s. 23 of the Commonwealth *Disability Discrimination Act* about access for disabled people to premises. Once again, because of the *Disability Discrimination Act*, most South Australian offices, shops, restaurants and other premises open to the public must already be accessible to disabled people, unless to give such access would impose unjustifiable hardship. Much has been achieved in recent years towards making such access a matter of course. Again, because the provision in this Bill is similar in scope to the Commonwealth provision, this amendment will not add any new burden on South Australian employers or service providers but will give disabled South Australians a remedy in their own Equal Opportunity Commission, rather than having to look to the Sydney-based Human Rights and Equal Opportunity Commission.

Members will notice that, throughout these provisions, the Bill proposes to change the language of the Act from 'impairment' to 'disability'. This is consistent with the language of the Commonwealth legislation and with modern usage.

The Bill would also extend the coverage of the Act to carers. It is, perhaps, only in recent years that society has woken to the immense contribution made by carers. There are the adults who take frail elderly parents into their homes and try to fit in the provision of care around the demands of work and of their own children. There is the husband or wife who becomes the main carer for a spouse who develops a debilitating disease. There are the grandparents who, at a time when they expected to be finally at leisure, find themselves caring for their grandchildren because the parents are unable to do so. Caring responsibilities can arise for both sexes and at any time of life. Many of us will, at some time in our lives, be called upon to care for someone or, perhaps, be in need of care ourselves. That should not change our legal right to take part in society. The Bill, therefore, proposes that it should be unlawful to discriminate against a person on the ground of his or her caring responsibilities.

Members will see that the definition of 'caring responsibilities' is wide, and wider than the Commonwealth definition. It is not limited to family members or those who live in the same household although, in practice, that is where these obligations will most often arise. The definition is deliberately broader than that. We live in a multi-cultural society. It is important to recognise the obligations that can arise, for example, from Aboriginal kinship or from other extended family arrangements. It is important also to protect a genuine responsibility to provide care for another person, whatever the relationship, because the contribution of carers to our society is so important.

The Martin report acknowledged that the Act should cover caring responsibilities. Martin proposed, however, that coverage be limited, initially, to direct discrimination. That would arise where, for instance, an employer declines to hire or to promote a person because of a caring responsibility. In practice, however, such discrimination is unlikely. The real problem is indirect discrimination, that is, the setting of unreasonable requirements that are especially difficult for people with caring responsibilities to meet. The Bill proposes to cover both direct and indirect discrimination on the ground of caring responsibilities. In this respect it will be wider than the Commonwealth law.

As is usual in indirect discrimination provisions, however, the setting of a reasonable requirement will not break the law. If the requirement is reasonable, the respondent has done no wrong and the carer cannot complain. It is where the requirement is unreasonable that the complaint is well-founded and a remedy is appropriate. For this reason, the Government does not believe business has anything to fear from this amendment. The Bill does not entitle carers to special treatment. It does not mean that employers cannot require shift work or weekend work or travel away from home. It does not mean that carers must be allowed to leave work early to collect children from school or that they are entitled to take leave at school holiday times. It simply means that employers must have sensible reasons for the requirements they set. An employer can comply with this law, then, by acting reasonably.

In conjunction with the coverage of caring responsibilities, the Bill also improves protection for nursing mothers. It proposes that it should be unlawful to discriminate in the provision of education services against a breastfeeding mother. It further proposes that is be unlawful to discriminate against a person in the field of providing goods and services on the ground that he or she is associated with a child, that is breast feeding or bottle feeding an infant or accompanied by a child

For indirect discrimination in general, the Bill proposes to change the burden of proof. At present, the complainant bears the burden of proving that the requirement was unreasonable. Instead, the respondent will need to prove that it was reasonable. Martin was inclined to think that this should be done, subject to consultation. As explained earlier, consultation has taken place in the form of the framework paper process. The Government does not believe that this change will unfairly burden employers or other respondents. Since the respondent has imposed the requirement, he or she must know the reason for. It is not onerous to disclose that reason.

The Bill also proposes to create equal-opportunity remedies for racial victimisation. Racial victimisation means a public act that incites hatred, serious contempt or severe ridicule for a person or group on the ground of race. At the moment, the remedy is either to apply for damages when a defendant is convicted of the crime of racial vilification or to sue the person for damages under the *Civil Liability Act*. The Bill would provide another option by way of complaint under this Act. That leads the parties to conciliation. Experience shows that most equal-opportunity complaints are resolved that way. Not only does this settle the dispute but it also educates the parties about their rights and duties. It can produce helpful changes in systems and procedures. Moreover, the remedies available in this jurisdiction are not limited to punishments and monetary payments. The parties can agree upon, or the Tribunal can order, any remedy that will redress the loss or damage. This might be an apology. It might be a service. It might be a change in the respondent's policies or practices. The Government thinks that the law should offer this remedy as an alternative to the legal actions now available. Needless to say, the complainant will need to elect between the equal-opportunity and the civil remedy. The election will take place after the conciliation process is complete, if that has not resolved the matter.

In the case of racial victimisation, this is simply an alternative. It may be, to some people, less intimidating than the court process. It might also be less expensive. If, however, a person or group prefers to use the existing remedies, they remain available.

The Bill would also create an equal-opportunity remedy for victimisation on all other grounds covered by the Act. This will include, for instance, victimisation on the ground of sexuality or disability. Fomenting public hatred against anyone, or any group of people, on the ground of race, age, sexuality or disability is wrong and should be unlawful. The definition of victimisation, here also, is drawn from the *Civil Liability Act*. It requires a public act. The act must, objectively, incite hatred, serious contempt, or severe ridicule. Defences are provided for privileged material, publication of fair reports and reasonable acts in good faith in the public interest. Thus, the provisions seek to strike a fair balance between the public interest in free speech and the public interest in protecting vulnerable minorities.

As recommended by Martin, the Bill would also extend the Act to cover discrimination against independent contractors. Changes in the workplace have meant that many people are now engaged under contracts for services rather than contracts of employment. There is no justification for discrimination against these contractors where it would be unlawful to discriminate against an employee. The Bill therefore extends the coverage of the Act so that, in hiring an independent contractor, discrimination on the grounds of sex, race, age, disability and so on will be unlawful.

The present law exempts the case where a person is employed in a private household. For instance, one can discriminate in hiring a nanny for one's children. In the Bill, this exemption is reflected in an exemption where a person is employed or engaged for purposes not connected with the employer's or principal's business. That will cover employing staff or engaging independent contractors in one's home, for example, engaging a music tutor or a babysitter, for non-business purposes. It will also cover employment or engagement outside the home, as long as it is not for a business purpose. An example might be engaging a person to teach one to play tennis. The Bill does not, however, permit discrimination when engaging the

services of contract workers through an intermediary. This is because the intermediary, as an employer or principal, may not discriminate in hiring its staff, even if they are to provide services in a person's home. Likewise, the Bill would mean that if a person runs a business from his or her home, so that he or she employs staff of the business at the home premises, there can be no discrimination in that employment.

The Bill also proposes to add to the Act new grounds of discrimination. Only one of these derives from the Martin report. This is the ground of identity of spouse. The Government thinks it unfair that anyone should be treated unfavourably by others because of the identity of that person's spouse. For example, it would be wrong if the husband or wife of any Member here were to be refused service in a shop because the shopkeeper disliked the Member. Martin said that 'in principle, it is generally unfair to discriminate against a person because of the identity of that person's previous or current spouse'. In general, the identity of a person's spouse is irrelevant to that person's participation in society, for example, their suitability for a particular job or their eligibility to enter a particular course of study. There are, however, exceptions. Martin said that 'there may be circumstances, however, where that discrimination is not unreasonable because of the occupation of the spouse.' The Bill would therefore permit such discrimination where it is reasonably necessary to protect confidentiality, to avoid a conflict of interest or nepotism or for the health or safety of any person. As an example, a woman should not, in general, be treated unfavourably because she is the wife of a convicted pederast. If, however, she were to apply for approval to run family day-care in her home, the risk posed to children by the presence of the husband could be lawfully taken into account.

Another new ground is discrimination based on a person's profession, trade or other lawful occupation. It will apply to access to education, goods, services, land and lodging. Although this is a new ground and does not arise out of the Martin recommendations, the Government believes it makes sense. One should not be denied equal participation in society just because one has an unpopular job. Many lawful and necessary jobs attract hostility from some quarters and carry an increased risk of unfavourable treatment. The work of police, corrections officers, store detectives, debt collectors and government or council inspectors might be examples. A person should not be treated unfavourably in areas such as lodging, access to goods and services, or education, just because the person has, or once had, such an occupation. The Bill would extend the Act to make such discrimination unlawful. Needless to say, this proposed new ground is limited to lawful occupations. It will not, for example, assist a person who makes his living as a drug dealer.

The Bill also proposes to cover discrimination on the ground of area of residence. That is, a person should not be treated unfavourably because he comes from a particular town, suburb or region. This new ground is limited to the field of work. It means that an employer cannot refuse to hire a worker, or subject him to any detriment, because of where he lives or has lived. This is to give equal opportunity to candidates for a job, even if they come from suburbs or regions that some people look down on. It is all too easy to label people and to write them off because they come from a poorer area or an area that has a reputation for social problems. Those who think this type of discrimination trivial have obviously not encountered it. No-one should be judged, either favourably or unfavourably, on his address or his local origin. The person is entitled to be assessed on merit. This does not, of course, excuse a worker from the ordinary requirements of the job, such as being on time, nor does it entitle a worker to any special treatment, such as an early minute. As long as the worker is treated the same as other workers, there is no discrimination.

The Bill also proposes to cover discrimination on the ground that a person, for religious reasons, wears particular dress or adornments or presents a particular appearance. Examples include the hijab worn by Muslim women, the turban worn by Sikh men or the cross worn by some Christians. It could include any kind of dress, adornment or other features of a person's appearance that are required by or symbolic of the religion. The Bill proposes that it should be unlawful to discriminate against a person on this ground in the fields of employment and education. Exceptions are made, naturally enough, for genuine safety reasons or inability to perform the inherent requirements of the job. This is not to introduce the ground of religious discrimination in general. The Government in 2002 consulted on this idea and learned that many South Australians strenuously oppose it. We decided not to do it. The purpose of the present amendment is simply to ensure that people who dress or present themselves in a particular way for religious reasons are not debarred from participating in school or work activities. We pride ourselves on being a multi-cultural society. We do not expect people to give up their cultural or religious identity to become South Australians.

The Bill also proposes to extend the Act to cover discrimination on the ground of past and presumed characteristics, as recommended by Martin. Wherever the Act makes it unlawful to discriminate on the ground of a characteristic that the person now has, the Bill proposes that it should also be unlawful to discriminate because the person had that characteristic in the past, or because the person is mistakenly thought to have the characteristic. Future characteristics are also covered where applicable. For example, discrimination on the ground of a disability that may exist in the future is covered, as it is in Commonwealth law.

The Bill would also extend the Act to cover discrimination against a person based on the characteristics of his or her associates. This refers to characteristics covered by the Act, such as age, disability and so on. If it is unlawful to discriminate against a person because of his disability, it should also be unlawful to discriminate against a person because he is accompanied by, or associates with, someone who has a disability. Otherwise, the Act can be circumvented. The Act already covers such discrimination when it occurs on the ground of race, and it makes sense, as Martin argued, that it should cover other grounds.

This does not mean that *no* characteristics of an associate can be considered. There are many Acts, for example, where the character of a person's associates will be taken into account in assessing the person's suitability to hold a licence or some other privilege. These amendments do not affect such provisions. They refer to characteristics covered by the *Equal Opportunity Act*. Again, this was recommended by Martin and is, in the Government's view, only common sense.

The Bill would change the sex-discrimination provisions of the Act in three ways. First, the Bill would delete references to 'transexuality' and refer instead to 'chosen gender. In the case of a transgender person, this refers to his or her self-identification as a member of the sex opposite to his or her biological sex. 'Chosen gender identity' also covers people with intersex conditions. These are medical conditions in which a person is born with a physical or chromosomal makeup that does not exactly fit either the usual male or female pattern. In that case, the person's chosen gender is his or her self-identification as a member of one or the other sex. In either case, the effect of the Bill is that a person must not be treated unfavourably in the fields to which the Act applies because of the person's gender, even if that gender might not appear to others to match the person's sex. This was thought clearer than the present Act, which speaks of 'transexuality', that is, assuming characteristics of the other sex. It also removes any doubt about whether the Act covers intersex conditions.

Second, the Bill extends the coverage of the Act to 'potential pregnancy', that is, the possibility that a woman might become pregnant. It can be argued that this is already covered because it is a characteristic of women in general, but express reference avoids doubt. The provision is similar in substance to the Commonwealth law.

Third, the Bill removes discrimination on the ground of marital status from the sex-discrimination provisions and covers it later, in Part 5B, where other matters such as identity of spouse and caring responsibilities are covered. This is a rearrangement, without change to the substance of the protection.

On the topic of sexuality discrimination, I point out that the Bill would change the present law about the rights of religious institutions to discriminate on the ground of sexuality. By section 50(2), the present law provides an exemption for an institution that is run in accordance with the precepts of a religion. Such an institution can discriminate in its administration on the ground of sexuality, if the discrimination is founded on the precepts of the religion.

At present, this exemption is used chiefly by religious schools to avoid hiring homosexual staff. Indeed, the Government's consultation on the Bill did not disclose any other use of this exemption. The wording of the exemption, however, appears broad enough to allow many other uses. For instance, it could allow a religious school to expel a homosexual student or to restrict that student's participation in school activities. A church-run hospital could use it to refuse to employ a homosexual doctor or nurse. An aged-care home associated with a church could use it to refuse places to homosexual applicants for lodging. The Government has seen no evidence that any such institutions use or wish to use the exemption in these ways. It is

clearly wanted for one thing only: to stop homosexuals teaching in religious schools.

The Government gave much thought to whether such an exemption should be allowed to continue. Our law says that discrimination on the ground of sexuality is wrong. Moreover, religious schools receive public funding. An argument can be made that those who accept public funding should comply with the standards set by the public through legislation. At the same time, the Government acknowledges that independent schools make a great contribution to the education and pastoral care of South Australia's children. This contribution is possible, in part, because of the commitment of the school community to its faith. The Government accepts that some South Australians are taught by their religion, and sincerely believe, that homosexuals should not teach in schools. In general, the State ought not to interfere in the practice of religion and ought not to compel any person to act against his conscience.

Consequently, the Bill proposes to limit this exception to the only thing for which it is known to be used. It would not be available to all institutions run on religious principles, but would be limited to schools. It would not apply to the treatment of students but only the hiring of staff. Further, the Bill proposes that these schools should publicly disclose this policy. That way, both parents and prospective staff will know where the school stands. The Bill would require the school to lodge a copy of its policy with the Equal Opportunity Commissioner, who would make it available for public inspection.

We are doing this out of respect for religious freedom. I wish to emphasize that the Government does not believe that homosexual people pose any greater threat to children than do heterosexual people. The threat to children comes from pederasts.

The Bill would also abolish the present exemption that allows associations (other than trade unions and employer groups) to discriminate on the ground of sexuality. Associations include charities, service clubs, sports clubs, cultural groups, environmental organizations, political parties and others. This exemption, then, has the potential to exclude homosexual people from participation in many aspects of public life. In general, there is no justification for such a rule. It is a baseless restriction on the rights of homosexual people.

Some commentators, however, expressed special concern for religious associations. It was argued that these should be able to exclude people in accordance with the tenets of the religion. Accordingly, the Bill would make a limited exception for associations administered in accordance with the precepts of a religion.

The Bill also reduces two other current exceptions relating to sexuality. The Act at present provides, by s. 33(2), that a partnership of five people, or fewer, can refuse a person partnership on the ground of sexuality. This will apply to many small firms, such as law firms or accounting practices, that trade as partnerships rather than companies. The Government sees no reason why a person, who could not be refused employment at the firm on the ground of sexuality, should be precluded from partnership on that ground.

The other example concerns lodging. The Act presently provides, by s. 40(3), that a person can discriminate on the grounds of sex, sexuality, pregnancy and marital status in the provision of lodging, if it is lodging where the provider or his family reside and no more than six other persons are given lodging on the premises. The Government thinks this exception too wide. Doubtless, people should be free to decide who they will take in as guests in their own homes. It is another thing to say that they can exclude people from commercial lodging, on the ground of sex, sexuality or pregnancy. The Bill would amend this section to make clear that it is only lodging in one's own home that is intended.

The Bill makes some changes to the law about sexual harassment. First, it proposes to adopt the Commonwealth definition in s. 28A of the *Sex Discrimination Act*. Comment on the framework paper suggested that it would be helpful to employers if the State and Commonwealth laws matched on this point. It is clear that they are both aimed at the same conduct. It is therefore helpful if they use the same words, so that employers do not have to try to conform to two different rules at once. Second, the Bill extends the coverage of the Act to the various relationships listed by Martin as requiring coverage. In particular, it extends the Act to harassment of the providers of goods, services and lodging, just as it now covers harassment by those providers.

Third, the Bill changes the present rules about vicarious liability for sexual harassment. At present, although in Commonwealth law, employers are vicariously liable, they are not so in State law. An employer can only be vicariously liable for sexual harassment if the employer authorised, instructed or connived at the harassment. Needless to say, that almost never happens. As Martin observed, this exclusion 'cuts a huge swathe through the number of cases for which an employer could be found vicariously liable'. Martin said that it was important to provide an incentive for employers to create an environment free of sexual harassment. It may be true to say that an employer ought not, automatically, to be held responsible for sexual harassment in which he had no part. It is equally true, nevertheless, that a workplace will be what the employer allows it to be. The law can reasonably expect employers to create workplaces in which men and women can work together without fear of harassment of this kind.

That is already the effect of the Commonwealth law. The *Sex Discrimination Act* applies to private-sector employers in South Australia. It creates vicarious liability for sexual harassment, subject to a defence. There is no liability if the employer shows that he or she took all reasonable steps to prevent the employee from doing the acts complained of. Martin recommended a similar approach in State law.

The Bill, therefore, creates vicarious liability unless the employer has taken reasonable steps to prevent the harassment. The employer is free to decide what those steps should be. As long as they are reasonable, there is no vicarious liability. The Bill goes further, however, and provides one certain way of establishing the defence. The employer must have in force an appropriate policy and must take reasonable steps to carry it out. That includes reasonable steps to make it known to the staff and prompt action if a complaint is made. As long as the employer does these things, he avoids vicarious liability. He may, however, avoid it by other reasonable steps. Once again, this should not add appreciably to the obligations that now fall on South Australian employers under Commonwealth law.

Further, the Bill covers sexual harassment in schools. Martin thought that senior students, those aged 16 and over, should be liable for sexual harassment of their fellow-students or the staff. The Bill goes further and would apply this rule to *all* secondary students. Members will recall that the age of criminal responsibility is 10 years. The Government thinks that by the time a child reaches secondary school, usually about age 12 or 13, he or she is old enough to understand what sexual harassment is. It is, then, fair to hold him or her responsible for such an act.

The Bill thus provides that a high-school student who is sexually harassed by another can complain to the Equal Opportunity Commission. There is, however, a requirement that the student first use whatever conciliation process may be provided by the school. It may well be that the matter can be sorted out in the school without recourse to the Equal Opportunity Commission. So much the better for everyone.

If, however, the school conciliation process does not succeed, or the complainant can demonstrate to the Commissioner that the school process should not be used, a complaint can be made to the Equal Opportunity Commission. This will lead to a conciliation process run by the Commissioner and, if that fails, to the matter's being heard by the Tribunal. This shows that the law regards this conduct, even by children, as serious. Sexual harassment in school can make life miserable for the victim. It can disrupt his or her studies or even force him or her out of the school. The harm it does is at least as serious in its way as some of the offending that brings young people before the Youth Court. It is not an over-reaction to take these matters to the Commission and the Tribunal. It is an appropriate response to the gravity of the behaviour.

That is not to say that the full force of the Act should be visited on children as it is on adults. Martin made clear that children, even those who may have breached the Act, need special protection. He recommended that the parties' names should be protected from publication and that the Tribunal not be able to order a child to pay monetary compensation. The Bill adopts that recommendation.

The Bill also covers harassment of teachers by students. This is treated similarly, except that there is no requirement to use the conciliation process offered by the school in that case. The school could not be neutral in a matter involving its employee.

The Bill does not go so far as to hold the school responsible for the behaviour of its students, nor does it propose a remedy against the school because sexual harassment has occurred. It does, however, require that a school adopt a policy against sexual harassment. The Commissioner for Equal Opportunity plans to work with schools to help them meet that obligation.

The Bill also provides for representative complaints by persons who are not, themselves, aggrieved. At present, the law allows representative complaints to be made only by one aggrieved person

on behalf of others or by a person on behalf of an intellectually-disabled person. Martin thought that the weight of argument supported the introduction of representative complaints. Under the Bill, an entity such as a trade union or other association would be able to make a complaint on behalf of a group of aggrieved persons, for example, the members of the association or the employees in a particular workplace. This will enable a complaint to be made, for example, where no individual is prepared to take on the company but the union will do so. A person cannot, however, be represented without his or her consent and whoever consents to be represented is bound by the result.

The present time limit of six months to lodge a complaint is extended by the Bill to 12 months. This is similar to other Australian jurisdictions and is as recommended by Martin. The Bill goes beyond what Martin recommended, however, in that it also allows extensions beyond the usual 12-month limit. The Commissioner can grant the extension. He or she must be satisfied that there is good reason why the complaint was not made in time and that an extension would be just and equitable in all the circumstances. Any prejudice to the respondent can therefore be taken into account. If an extension is refused, the Tribunal can review that decision.

The Bill also changes the role of the Commissioner in some important respects. Martin observed that the present law gives rise to a conflict in the Commissioner's role. On the one hand, she is to conciliate between the complainant and the respondent. Conciliation requires neutrality. The conciliator cannot take either party's side. On the other hand, if conciliation fails, then, unless the complaint is declined, the Commissioner must act as advocate for the complainant before the Tribunal. Martin said that this 'clearly creates both a significant conflict of interest and the perception of conflict between the role of the Commissioner as an impartial investigator and conciliator and the subsequent role of assisting one party if conciliation fails'. Martin said that there were 'powerful reasons of principle and practicality for repealing s. 95(8)(a)'. This Bill would do that.

Martin also said, however, that this should not result in any disadvantage to complainants who might not be able to represent themselves, or to afford legal representation, before the Tribunal. He thought that similar assistance should be provided by other means. The Government agrees. For this reason, the Bill would amend the Act so that a duty falls on the Minister to see that legal representation is provided to the complainant. The Government proposes to fund the Legal Services Commission to deliver this representation. The Commission is experienced in providing legal representation to South Australians in a wide range of matters and has offered to take on this new responsibility, if funded to do so, at least for a trial period of 12 months. It has agreed that the means test will not apply in these cases. The Government hopes that this will provide an avenue of representation for complainants in future.

Further, in the interests of neutrality, Martin thought that the Commissioner's power of investigating a complaint should be limited by law. The Bill would limit this power to investigating for the purpose deciding whether the complaint should be accepted and, if so, conciliating it. There is no need for it to be a wider investigation because, once conciliation is completed, the Commissioner's role is at an end. If the parties cannot agree, the task of fact-finding falls to the Tribunal, not the Commissioner, Within these limits, however, the Bill would permit the Commissioner to require documents from any person, not just the respondent. After all, the complainant or a third party may hold relevant papers. The Bill would, however, protect records of counselling or therapy and also notes of a party's advocate. The privilege against self-incrimination and legal-professional privilege are also preserved. Once a document is produced, unless it is confidential, the Commissioner can, in her discretion, show it to the parties in the conciliation.

The Bill also proposes to expand the Commissioner's powers to decline a complaint. In addition to the present power to decline complaints that are frivolous, vexatious or lacking in substance, the Commissioner will also be able to decline a complaint if contact with the complainant is lost. A complaint can also be declined if the complainant ceases to pursue it. This amendment will enable the Commissioner to close the file. If, however, the complainant, within 12 months of lodgement, asks the Commissioner to reinstate the complaint, the Commissioner may do so.

Further, the Commissioner will be able to decline a complaint before it reaches the Tribunal, on the ground that representation should not be provided at public expense, either because there is no reasonable prospect of an order in the complainant's favour or because the complainant has no reasonable prospect of bettering an offer already made in conciliation. This will not prevent the complainant taking the matter to the Tribunal. That is his or her right. It will mean, however, that representation is not provided at public expense. Public money should not be used to fund complaints that cannot succeed or to pursue remedies that will not be granted.

The conciliation powers are elaborated to make clear that the Commissioner can conciliate without bringing the parties into direct contact, an authority that might be useful when emotions run high. The Commissioner can also, where different complaints against the one respondent raise similar questions of fact or law, arrange to conciliate them jointly. Also, the Commissioner will be able to compel the complainant, as well as the respondent, to attend conciliation.

For matters that do not resolve by conciliation, the Bill also proposes that the Commissioner should be able, with the leave of the Tribunal, to appear before the Tribunal to assist it in appropriate cases. As the Commissioner will not be representing complainants, the way is open for her to make submissions to the Tribunal on the application of the Act. It is not intended that the Commissioner should act as advocate for either party and this will not be the representation of the complainant by the back door. Rather, it will be a help to the Tribunal, for example, where there is legal argument about the interpretation of the Act. It is not an authority one would expect to see used often, but there will be some cases where it is valuable.

The Bill also amends section 10 of the Act to reinforce the independence of the Commissioner. On the one hand, the Commissioner is, and should be, responsible to the Minister for the general administration of the Act and, in that sense, is under the general direction and control of the Minister. Sub-section (2) is reworded, however, to make clear that this does not entitle the Minister to direct how a particular complaint is to be handled, nor to require the Commissioner to disclose information identifying a party to proceedings.

The Bill would give the Commissioner an important new authority. It proposes that the Commissioner should be able to investigate suspected unlawful conduct, even if there is no complaint. Under the Act at present, the Commissioner can start an investigation only with the approval of the Minister and a reference from the Tribunal. In practice, no such investigation has ever occurred. The Bill proposes that if the Commissioner thinks that a person may have contravened the Act, she can investigate of her own initiative. She must notify the person concerned. She is given the authority to require production of documents. The investigation can result in the Commissioner taking the matter as a complaint to the Tribunal. This power might be useful, for example, where the Commissioner detects a systemic problem that requires attention, even though no-one has complained about it. It also means that the Government's actions are more open to investigation than at present because the Minister's permission is not needed. This bolsters the independence of the Commissioner and should help to promote equal opportunity.

The Commissioner will also be able to intervene in industrial proceedings under the *Fair Work Act* with the leave of the Industrial Commission. This might occur, for instance, when an award is being set or an enterprise agreement approved. The Commissioner will be able to make submissions on the matter before the court from an equal-opportunity perspective. This will help to ensure that conditions of employment are not discriminatory.

There are smaller changes. Section 6 of the Act is amended by the Bill to remove the 'substantial reason' requirement. As that section has been interpreted, it does not mean that the discriminatory reason must predominate or be more important than other reasons. It just means that it must not be a trivial or insubstantial reason for the act. Consequently, this requirement adds little to the meaning of the section and tends to confuse readers. The effect of the amended provision will be that if a person treats another unfavourably on a ground referred to in the Act, then the person discriminates, even if there are other grounds for the act as well. The law is re-expressed, rather than changed. It is not intended that this amendment should permit a complaint to be made over a reason is illusory or insubstantial. What is intended is to simplify the provision so that it is easier to understand.

Sections 12 and 101 of the Act have never been proclaimed. Martin thought they should be repealed because they would contribute to conflict in the role of the Commissioner. There was no dissent on this in submissions to the review and the Bill proposes to repeal them. The Bill would also repeal ss. 41 to 44, dealing with sex discrimination in superannuation. These provisions have also never

been proclaimed. The regulation of superannuation, other than State superannuation, is now largely a Commonwealth matter.

A change is made to the rules about disabled persons being accompanied by guide dogs. This protection is expanded to cover any animal of a class prescribed by regulation. The review heard from Assistance Dogs Australia, a non-profit organization that trains dogs to assist people with disabilities, for example, people in wheelchairs. Having regard to this work, it seemed that the present provisions, limited to guide dogs, are too narrow.

The Bill also adopts Martin's recommendation to change the wording of s. 85K, dealing with the charging of different fees to people of different ages. This provision is meant to allow concessions based on youth or age. It is not meant to allow surcharges to those groups because they have the benefit of other concessions. The provision has therefore been reworded to focus it more clearly on fee reductions to benefit particular age groups.

The Bill does not adopt the Martin recommendation to replace the Equal Opportunity Tribunal with a Division of the District Court. The Government cannot see any benefit in doing that and submissions to the review evinced general support for keeping the Tribunal.

Members will see that the Government has listened to the comment we received on the framework paper. We were persuaded not to include in this measure the proposed new grounds of political activity, industrial activity, irrelevant criminal record or physical features, despite the existence of these grounds in some other jurisdictions. We propose to retain the rule permitting religious schools to exclude homosexual staff. We have, at several points, tried to make our law consistent with Commonwealth law that already applies here, to avoid burdening the business sector.

At the same time, the Bill makes important and long-overdue changes to the Act, including covering discrimination on the grounds of caring responsibilities and of mental illness which, from today's perspective, appear glaring omissions from our present law. It also adds to the Act the new grounds of association with a child, identity of spouse, area of residence and occupation or trade. The Bill proposes to protect independent contractors in the same way that the Act has always protected employees. It will provide, for the first time, a remedy for the vilification of any person or group on the grounds of age, sexuality, disability and other grounds. It will provide for representative complaints by persons not aggrieved on behalf of those who are. It offers an equal-opportunity remedy for sexual harassment in schools. The Bill also promotes the role of the Commissioner as an independent guardian of equal opportunity in our State. It removes the conflict of interest that has, with hindsight, probably damaged the confidence of the business sector in the Commission. It also removes the requirement for Ministerial approval for an investigation by the Commissioner, thereby subjecting Government to the same scrutiny as everyone else. This Bill fulfils the Government's election promise to amend this Act to give South Australians more comprehensive protection against unjustified discrimination. It does so, the Government believes, in a way that is fair to both complainants and respondents. It is not difficult for business to keep these proposed laws. What they require is that we act reasonably in the fields covered by the Act. We must disregard irrelevant personal characteristics. We must make sure our requirements are reasonable. We must take reasonable steps to prevent unlawful conduct by those under our control. No-one is asked by this Bill to accept unjustifiable hardship. No-one is expected to compromise on health or safety. No-one is required to act against conscience. Equal-opportunity laws, of all laws, ought to be fair. The Bill seeks to enhance equality of opportunity in a way that is fair to all.

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 *Equal Opportunity Act 1984*

4—Amendment of long title

This clause amends the long title to reflect the proposed new grounds of unlawful discrimination to be added to the Act.

5—Amendment of section 5—Interpretation

This clause defines a number of terms required as a consequence of the proposed new provisions.

Area of residence of a person is defined to mean the suburb, town or regional district in which the person resides.

Assistance animal is defined to mean a dog that is an accredited guide dog, hearing dog or disability dog under the *Dog and Cat Management Act 1995* or an animal of a class prescribed by regulation.

Caring responsibilities of a person is defined as meaning responsibility for providing ongoing care for another, whether or not as a dependant, other than in the course of paid employment or other remunerative activity.

Potential pregnancy of a woman is defined to mean that the woman is likely, or is perceived as being likely, to become pregnant.

This clause also proposes removing the term ***transexual*** from the Act and replacing it with the concept of ***chosen gender***. ***Chosen gender*** is defined to mean that a person is a person of a ***chosen gender*** if—

- the person identifies on a genuine basis as a member of the opposite sex by assuming characteristics of the opposite sex (whether by means of medical intervention, style of dressing or otherwise) or by living, or seeking to live, as a member of the opposite sex; or
- the person, being of indeterminate sex, identifies on a genuine basis as a member of a particular sex by assuming characteristics of the particular sex (whether by means of medical intervention, style of dressing or otherwise) or by living, or seeking to live, as a member of the particular sex.

Under the current Act, it is unlawful to discriminate against a person on the ground of that person's physical or intellectual impairment. It is proposed to change the terminology to make it unlawful to discriminate on the ground of a person's ***disability***. ***Disability*** is defined to mean—

- total or partial loss of the person's bodily or mental functions; or
- total or partial loss of a part of the body; or
- the presence in the body of organisms causing disease or illness; or
- the presence in the body of organisms capable of causing disease or illness; or
- the malfunction, malformation or disfigurement of a part of the person's body; or
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

This clause also proposes widening the definition of ***race*** to include the past or proposed nationality of a person.

6—Amendment of section 6—Interpretative provisions

Clause 6 proposes to amend the interpretative provisions in the Act to provide that if an act that may be a discriminatory or unlawful act has been done for a number of reasons, the fact that one of those reasons is discriminatory is sufficient to bring an action under this Act.

This clause also proposes a new subsection to provide that if a person who is alleged to have committed a discriminatory act did so on the basis of a mistaken assumption (for example, a mistaken assumption that another person was of a particular sexuality or a particular race or a person of a chosen gender) the act will still be regarded as a discriminatory act.

7—Amendment of section 10—Administration of Act and Ministerial direction

Section 10 of the principal Act provides that the Commissioner is subject to Ministerial direction in the administration of the Act. This clause proposes a new subsection (2) to provide that the Minister must not give a direction in relation to the manner in which action should be taken on a particular complaint or seek information tending to identify a party to proceedings under the Act.

8—Amendment of section 11—Functions of Commissioner

Clause 8 reflects the proposed new grounds of unlawful discrimination to be added to the Act.

9—Amendment of section 14—Annual report by Commissioner

Clause 9 brings the date of the Commissioner's annual report into line with the *Public Sector Management Act 1995*.

10—Amendment of section 25—General powers of Tribunal

Clause 10 updates the penalty provision.

11—Substitution of heading to Part 3

Clause 11 reflects the proposed change of structure of the Act (see clause 12) and the addition of the ground of chosen gender.

12—Amendment of section 29—Criteria for discrimination on ground of sex, chosen gender or sexuality

Section 29 of the principal Act provides the criteria for establishing discrimination on the ground of sex, sexuality, marital status and pregnancy. Clause 12 proposes removing the grounds of marital status and pregnancy and including them as part of the new Part 5B and adds the criteria for establishing discrimination on the ground of chosen gender. Clause 12 also proposes broadening the conduct that might amount to discrimination on the ground of sex or sexuality by including the situation of a person treating another unfavourably—

- because of the sex or sexuality of a relative or associate of the other person; or
- because of the person's past sex or past sexuality.

Clause 12 also alters the burden of proof in section 29 in relation to whether a requirement is reasonable in the circumstances of a case. Currently, the complainant has to prove that a requirement imposed by a person was not reasonable. The proposed amendment provides that the respondent will be required to prove that a requirement is reasonable.

13—Substitution of heading to Part 3 Division 2

Clause 13 reflects the proposed inclusion of independent contractors within the scope of the Act.

14—Amendment of section 31—Discrimination against agents and independent contractors

Section 31 of the principal Act provides that it is unlawful for a principal for whom work is done by agents remunerated by commission to discriminate against those agents on the grounds covered by Part 3. Clause 14 proposes extending the section to make it unlawful for a principal to discriminate on the same grounds against independent contractors engaged under a contract for services.

15—Amendment of section 32—Discrimination against contract workers

Section 32 of the principal Act makes it unlawful for a principal to enter into an arrangement with an employer of contract workers under which the employer is to discriminate against a person. The proposed amendment extends the provision to cover workers who work under a contract for services and provides for the situation where there are a number of people linking the principal and the worker. ie, a principal who engages a contractor who engages a subcontractor who employs a worker.

16—Amendment of section 33—Discrimination within partnerships

The principal Act provides that if a firm consists of less than six members it is not unlawful to discriminate on the ground of sexuality in determining who should be offered a position as a partner in the firm. The proposed amendment removes this exception to unlawful discrimination on the ground of sexuality.

17—Substitution of section 34

Section 34 of the principal Act provides that certain conduct that would amount to unlawful discrimination on the grounds of sex, sexuality, marital status or pregnancy in the area of employment is exempted from the provisions of the Act. As a consequence of the proposed new ground of chosen gender, the proposed new structure of the Act, and the proposed inclusion of independent contractors, these exemptions have had to be altered.

Currently, section 34 provides an exemption relating to employment in private households. The proposed expansion of the Act to include independent contractors necessitates a change to this provision to provide that it is not unlawful for a person to discriminate if the person employs another, or engages another as an independent contractor, for purposes not connected with a business carried on by the person.

This clause also proposes an expansion to the exemption in section 34 of the principal Act that provides that a person can discriminate on the ground of sex in relation to employment for which it is a genuine occupational requirement that a person be of a particular sex. The proposed clause expands this to include the grounds of chosen gender and sexuality.

This clause also proposes a new subsection (3) to provide that it is not unlawful to discriminate on the ground of chosen gender or sexuality in relation to employment or engagement for the purposes of an educational institution if—

- the educational institution is administered in accordance with the precepts of a particular religion and the discrimination is founded on the precepts of that religion; and
- the educational authority administering the institution has lodged a policy with the Commissioner stating its position in relation to the matter and that policy is made available—

(i) to employees and contractors and prospective employees and contractors of the authority to whom it relates or may relate; and

(ii) to students, prospective students and parents and guardians of students and prospective students of the institution.

The proposed clause also provides that a policy lodged under the clause may be published by the Commissioner.

18—Amendment of section 35—Discrimination by associations

The proposed amendments to section 35 make it unlawful for an association to discriminate on the ground of sexuality and provide for single sex associations to be covered by the Act. An exemption is proposed that provides that an association that is established for persons of a particular sex, or persons of a chosen gender or persons of a particular sexuality (other than heterosexuality) will not be unlawful and, consequently, such an association may discriminate against an applicant for membership so as to exclude from membership persons other than those for whom the association is established.

19—Repeal of section 35A

Clause 19 is consequential on the proposal that it be unlawful for associations to discriminate on the ground of sexuality.

20—Amendment of section 40—Discrimination in relation to accommodation

Clause 20 proposes to alter the exemption currently in section 40 to provide that the section does not apply to discrimination in relation to the provision of accommodation if the person who provides the accommodation, or a near relative of that person, resides, and intends to continue to reside, in the same household as the person requiring the accommodation.

21—Amendment of section 45—Charities

Clause 21 is a consequential amendment as a result of the proposed inclusion of the ground of chosen gender and the proposed restructure of the Act.

22—Repeal of section 46

Clause 22 is a consequential amendment as a result of the proposed restructure of the Act.

23—Amendment of section 47—Measures intended to achieve equality

Section 47 provides that it is not unlawful for an act to be done for the purpose of carrying out a scheme or undertaking intended to ensure that persons of the one sex, or of a particular marital status, have equal opportunities with persons of the other sex, or of another marital status. Clause 23 removes the reference to marital status as is required by the proposed restructuring of the Act, and extends the provision to include schemes or undertakings intended to ensure that persons of a chosen gender or persons of a particular sexuality, have equal opportunities with persons who are not persons of a chosen gender or persons of another sexuality.

24—Amendment of section 50—Religious bodies

Clause 24 proposes repealing an exemption in relation to sexuality for educational and other institutions that are administered in accordance with the precepts of a particular religion. The exemption is partially reinstated (in relation to employment) by proposed new section 34(3)—see clause 17.

25—Amendment of section 51—Criteria for establishing discrimination on ground of race

Section 51 of the principal Act provides the criteria for establishing discrimination on the ground of race. Clause 25 proposes broadening the type of conduct that amounts to discrimination on this ground to include the situation where a person treats another unfavourably because of the race of

a relative of the other person. Clause 25 also proposes altering the burden of proof in section 51 in relation to whether a requirement is reasonable in the circumstances of a case. Currently, the complainant has to prove that a requirement imposed by a person was not reasonable. The proposed amendment provides that the respondent will be required to prove that a requirement is reasonable.

26—Substitution of heading to Part 4 Division 2

Clause 26 substitutes the heading to Part 4 Division 2 to reflect the proposed inclusion of independent contractors within the scope of the Act.

27—Amendment of section 53—Discrimination against agents and independent contractors

Section 53 of the principal Act provides that it is unlawful for a principal for whom work is done by agents remunerated by commission to discriminate against those agents on the ground of race. Clause 27 proposes extending the section to make it unlawful for a principal to discriminate on the ground of race against independent contractors engaged under a contract for services.

28—Amendment of section 54—Discrimination against contract workers

Section 54 of the principal Act makes it unlawful for a principal to enter into an arrangement with an employer of contract workers under which the employer is to discriminate against a person. The proposed amendment extends the provision to cover workers who work under a contract for services and provides for the situation where there are a number of people linking the principal and the worker. ie, a principal who engages a contractor who engages a subcontractor who employs a worker.

29—Amendment of section 56—Exemptions

Section 56 of the principal Act provides an exemption relating to employment in private households. The proposed expansion of the Act to include independent contractors necessitates a change to this provision to provide that it is not unlawful for a person to discriminate if the person employs another, or engages another as an independent contractor, for purposes not connected with a business carried on by the person.

30—Amendment of section 62—Discrimination in relation to accommodation

Clause 30 proposes a new exemption in relation to the ground of race discrimination in the area of accommodation. The exemption provides that the section does not apply to discrimination in relation to the provision of accommodation if the person who provides, or proposes to provide, the accommodation, or a near relative of that person, resides, and intends to continue to reside, in the same household as the person requiring the accommodation.

31—Amendment of heading to Part 5

Clause 31 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

32—Amendment of section 66—Criteria for establishing discrimination on ground of disability

Section 66 of the principal Act provides the criteria for establishing discrimination on the ground of disability. This clause proposes broadening the type of conduct that amounts to discrimination on this ground to include the situation where a person treats another unfavourably because of a disability that may exist in the future or because of the disability of a relative or associate of the other person. Clause 32 also proposes altering the burden of proof in section 66 in relation to whether a requirement is reasonable in the circumstances of a case. Currently, the complainant has to prove that a requirement imposed by a person was not reasonable. The proposed amendment provides that the respondent will be required to prove that a requirement is reasonable.

Clause 32 also proposes broadening the type of conduct that amounts to discrimination by providing that a person may discriminate on the ground of disability if he or she—

- fails to provide a safe and proper means of access to, or use of, a place or facilities for a person who requires special means of access to, or use of, the place or facilities as a consequence of the person's disability; or
- treats another unfavourably because the other requires special means of access to, or use of, a place or facilities as a consequence of the other's disability,

to the extent that he or she is able to effect the provision of access or use.

Section 66 of the principal Act states that discrimination may occur if a person treats another unfavourably because a person possesses or is accompanied by a guide dog. Clause 32 proposes broadening this by changing the reference to guide dog to an ***assistance animal***.

33—Substitution of heading to Part 5 Division 2

The substitution of the heading reflects the proposed inclusion of independent contractors within the scope of the Act.

34—Amendment of section 67—Discrimination against applicants and employees

Clause 34 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

35—Amendment of section 68—Discrimination against agents and independent contractors

Section 68 of the principal Act provides that it is unlawful for a principal for whom work is done by agents remunerated by commission to discriminate against those agents on the ground of disability. Clause 35 proposes extending the section to make it unlawful for a principal to discriminate on the ground of disability against independent contractors engaged under a contract for services.

36—Amendment of section 69—Discrimination against contract workers

Section 69 of the principal Act makes it unlawful for a principal to enter into an arrangement with an employer of contract workers under which the employer is to discriminate against a person. The proposed amendment extends the provision to cover workers who work under a contract for services and provides for the situation where there are a number of people linking the principal and the worker. ie, a principal who engages a contractor who engages a subcontractor who employs a worker.

37—Amendment of section 70—Discrimination within partnerships

Clause 37 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

38—Amendment of section 71—Exemptions

Section 71 of the principal Act provides an exemption relating to employment in private households. The proposed expansion of the Act to include independent contractors necessitates a change to this provision to provide that it is not unlawful for a person to discriminate if the person employs another, or engages another as an independent contractor, for purposes not connected with a business carried on by the person.

39—Amendment of section 72—Discrimination by associations

Clause 39 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

40—Amendment of section 73—Discrimination by qualifying bodies

Clause 40 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

41—Amendment of section 74—Discrimination by educational authorities

Clause 41 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

42—Amendment of section 75—Discrimination by person disposing of interest in land

Clause 42 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

43—Amendment of section 76—Discrimination in provision of goods and services

Section 76 of the principal Act makes it unlawful for a person who offers or provides goods or services to which the principal Act applies to discriminate against another on the ground of disability. The proposed clause 43 provides that in

relation to services comprised of access to or use of a place or facilities that members of the public are permitted to enter or use, both the owner and the occupier will be taken to provide the service.

44—Amendment of section 77—Discrimination in relation to accommodation

Clause 44 proposes a new exemption in relation to the ground of disability discrimination in the area of accommodation. The exemption provides that the section does not apply to discrimination in relation to the provision of accommodation if the person who provides, or proposes to provide, the accommodation, or a near relative of that person, resides, and intends to continue to reside, in the same household as the person requiring the accommodation.

45—Amendment of section 78—Discrimination in relation to superannuation

Clause 45 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

46—Amendment of section 79—Exemption in relation to remuneration

Clause 46 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

47—Insertion of section 79A

Clause 47 proposes inserting a new exemption into the principal Act. The exemption provides that an act will not be regarded as discriminatory on the ground of disability in relation to infectious diseases if it is directed towards ensuring that an infectious disease is not spread and it is reasonable in all the circumstances.

48—Amendment of section 80—Exemption for charities

Clause 48 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

49—Amendment of section 81—Exemption in relation to sporting activities

Clause 49 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

50—Amendment of section 82—Exemption for projects for benefit of persons with particular disability

Clause 50 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

51—Substitution of section 84

Clause 51 proposes a new exemption as a consequence of the proposed expansion of the principal Act to make it unlawful to fail to provide a safe and proper means of access to or use of a place or facilities. The proposed exemption provides that a person does not discriminate on the ground of disability if the provision of access or use would impose unjustifiable hardship on the person. In determining what constitutes unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including—

- the nature of the benefit or detriment likely to accrue or be suffered by the persons concerned; and
- the effect of the disability of the person concerned; and
- the financial circumstances and the estimated amount of expenditure required to be made by the person claiming unjustifiable hardship.

52—Amendment of section 85—Exemption in relation to insurance

Clause 52 is consequential on the proposal to alter the terminology from discrimination on the ground of impairment to discrimination on the ground of disability.

53—Amendment of section 85A—Criteria for establishing discrimination on ground of age

Section 85A of the principal Act provides the criteria for establishing discrimination on the ground of age. Clause 53 proposes broadening the type of conduct that amounts to discrimination on this ground to include the situation where a person treats another unfavourably because of the age of a relative or associate of the other person. Clause 53 also proposes altering the burden of proof in section 85A in relation to whether a requirement is reasonable in the circumstances of a case. Currently, the complainant has to prove that a requirement imposed by a person was not reasonable. In contrast, the proposed amendment provides that the respondent will be required to prove that a requirement is reasonable.

54—Substitution of heading to Part 5A Division 2

The substitution of the heading reflects the proposed inclusion of independent contractors within the scope of the Act.

55—Amendment of section 85C—Discrimination against agents and independent contractors

Section 85C of the principal Act provides that it is unlawful for a principal for whom work is done by agents remunerated by commission to discriminate against those agents on the ground of age. Clause 55 proposes extending the section to make it unlawful for a principal to discriminate on the ground of age against independent contractors engaged under a contract for services.

56—Amendment of section 85D—Discrimination against contract workers

Section 85D of the principal Act makes it unlawful for a principal to enter into an arrangement with an employer of contract workers under which the employer is to discriminate against a person. The proposed amendment extends the provision to cover workers who work under a contract for services and provides for the situation where there are a number of people linking the principal and the worker. ie, a principal who engages a contractor who engages a subcontractor who employs a worker.

57—Amendment of section 85F—Exemptions

Section 85F of the principal Act provides an exemption relating to employment in private households. The proposed expansion of the Act to include independent contractors necessitates a change to this provision to provide that it is not unlawful for a person to discriminate if the person employs another, or engages another as an independent contractor, for purposes not connected with a business carried on by the person.

58—Amendment of section 85K—Discrimination in provision of goods and services

Section 85K of the principal Act provides that it is unlawful to discriminate on the ground of age in the provision of goods and services. Subsection (2) provides that it is unlawful to refuse to supply goods or perform services to another on the ground that the other person is accompanied by a child. This clause proposes relocating subsection (2) to the proposed new Part 5B under the new ground of association with a child.

59—Amendment of section 85L—Discrimination in relation to accommodation

Section 85L of the principal Act provides that it is unlawful to discriminate on the ground of age in relation to the provision of accommodation. Subsection (2) provides that it is unlawful to refuse accommodation on the ground that the other person intends to share the accommodation with a child. This clause proposes relocating subsection (2) to a new section 87A—Sharing accommodation with a child.

60—Insertion of Part 5B

Clause 60 proposes to insert a new Part 5B into the Act to prohibit discrimination on a number of grounds that have not previously been unlawful. The new proposed grounds of discrimination are the grounds of identity of a spouse, association with a child, caring responsibilities, profession, trade or lawful occupation, area of residence and religious appearance or dress. It is also proposed that the Part include within it the grounds of marital status and pregnancy which were previously included in Part 3 of the Act.

Each of the proposed new grounds makes it unlawful to discriminate in particular areas. In relation to the ground of identity of a spouse, it will be unlawful to discriminate in the area of work, by associations or qualifying bodies, in education, in relation to land, in the provision of goods and services and in relation to accommodation.

In relation to the ground of association with a child, it will be unlawful to discriminate in the provision of goods and services.

In relation to the ground of caring responsibilities, it will be unlawful to discriminate in the area of work, by associations and qualifying bodies, in education, in relation to land, in the provision of goods and services and in relation to accommodation.

In relation to the ground of profession, trade or lawful occupation, it will be unlawful to discriminate in the areas of education, land, the provision of goods and services and accommodation.

In relation to area of residence, it will be unlawful to discriminate in the area of work.

In relation to religious appearance or dress, it will be unlawful to discriminate in the areas of work and education.

The proposed new Part provides for some specific exemptions and some general exemptions in relation to charities and measures intended to achieve equality.

61—Amendment of section 86—Victimisation is unlawful

Section 86 of the principal Act makes it unlawful for a person to commit an act of victimisation. The proposed clause 61 expands the behaviour that constitutes an act of victimisation to include a person engaging in a public act inciting hatred, serious contempt or severe ridicule of a person on a ground of discrimination that is unlawful under the Act.

The proposed clause also provides that it is unlawful for an educational authority administering a secondary education institution to fail to have a written policy against victimisation by students that incorporates procedures for resolving complaints and is made readily available to students.

62—Amendment of section 87—Sexual harassment

Section 87 of the principal Act provides that sexual harassment is unlawful in certain situations. Clause 62 proposes that sexual harassment also be unlawful in the situations where—

(a) a person to whom goods, services or accommodation are being offered, supplied, performed or provided by another person subjects that other person to sexual harassment; or

(b) a member of an authority or body empowered to confer an authorisation or qualification subjects an applicant for the conferral of such an authorisation or qualification to sexual harassment; or

(c) a member of the governing body of an association subjects a member of the association, or a person applying to become a member of the association, to sexual harassment.

Clause 62 also proposes substituting the definition of conduct that amounts to sexual harassment to provide that a person sexually harasses another if—

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

63—Substitution of section 88

Section 88 of the principal Act makes it an offence to separate a person from his or her guide dog. Clause 63 proposes extending the operation of this section to include other animals prescribed by regulation. The clause also proposes 3 new sections. New section 87A is the relocation of the provision in the principal Act that makes it unlawful to refuse accommodation to a person on the ground that the other person intends to share the accommodation with a child. New section 87B makes it unlawful for an educational authority to discriminate against a student by denying or limiting access to the educational services provided by the authority on the ground that the student is breast feeding an infant or proposes to do so. New section 88A makes it unlawful for a person to be refused accommodation on the ground that the person intends to keep a therapeutic animal at that accommodation. A therapeutic animal is defined as an animal certified by a medical practitioner as being required to assist a person as a consequence of the person's disability.

64—Substitution of section 91

Section 91 of the principal Act provides for the vicarious liability of employers and principals for discriminatory or unlawful acts of agents or employees. Clause 64 removes the subsection that provides that a person is not vicariously liable for an act of sexual harassment committed by an agent or employee unless the person instructed, authorised or connived that act.

65—Substitution of heading to Part 8 Division 1

Clause 65 is a drafting amendment.

66—Amendment of section 93—Making of complaints

Clause 65 proposes to amend section 93 of the principal Act to increase the time within which a complaint must be lodged from 6 months to 12 months and provides that the Commissioner may extend the time for lodging a complaint.

67—Amendment of section 93A—Investigation initiated by Commissioner

Clause 67 proposes amending section 93A of the principal Act to provide that where it appears to the Commissioner that a person may have acted in contravention of the Act, the Commissioner may investigate the matter. The Act currently provides that such matters have to be referred to the Commissioner from the Tribunal.

68—Amendment of section 94—Investigations

Clause 68 proposes amending section 94 of the principal Act to provide that in the course of an investigation by the Commissioner, the Commissioner cannot, without the consent of the person concerned, require production of records of counselling or therapy sessions or records or notes made by an advocate for the person.

69—Substitution of section 95

Clause 69 proposes substituting section 95 of the principal Act for sections 95, 95A, 95B and 95C. The proposed new section 95 deals with the conciliation of complaints lodged with the Commissioner. New section 95A sets out the circumstances in which the Commissioner may decline to recognise a complaint as one on which action should be taken by the Commissioner. New section 95B details the situation in which the Commissioner must refer a complaint to the Tribunal for hearing and determination and new section 95C provides for the referral of matters initiated by the Commissioner to the Tribunal for hearing and determination.

70—Amendment of section 96—Power of Tribunal to make certain orders

Section 96 of the principal Act provides for the Tribunal to make certain orders. The proposed clause 70 provides that in awarding compensation the Tribunal must take into account the amount of damages or compensation awarded in other proceedings in respect of the same act, and that an award of compensation may not be made against a child.

71—Insertion of section 96A

Clause 71 proposes a new section 96A to provide that a person must not publish a report of proceedings under the Act to which a child is a party if the report identifies the child or contains information tending to identify the child.

72—Amendment of heading to Part 8 Division 2

Clause 72 is a consequential amendment.

73—Insertion of section 96B

Clause 73 proposes a new section 96B as a consequence of the new provision allowing the Commissioner to extend the time within which a person may lodge a complaint. New section 96B provides that where the Commissioner refuses an application for an extension of time, the applicant may apply to the Tribunal for a review of the decision.

74—Insertion of section 99A

Clause 74 proposes a new section 99A to provide that nothing in the Act prevents the imposition of a requirement for a worker or student to comply with a reasonable standard of appearance or dress.

75—Amendment of section 100—Proceedings under *Fair Work Act 1994*

Clause 75 proposes a new subsection to section 100 to provide that the Commissioner may, with leave of the Industrial Relations Commission of South Australia, make submissions and present evidence in proceedings before the Commission under the *Fair Work Act 1994*.

76—Amendment of section 102—Offences against Commissioner

Clause 76 updates the penalty provision.

77—Amendment of section 103—Discriminatory advertisements

Clause 77 updates the penalty provision.

78—Substitution of section 104

Clause 78 proposes a new section 104 to provide for the service of documents.

79—Amendment of section 106—Regulations

Clause 79 updates the fines that may be imposed for offences against the regulations.

Schedule 1—Related amendments
Part 1—Amendment of *Civil Liability Act 1936*
1—Amendment of section 73—Racial victimisation
This clause proposes an amendment to the *Civil Liability Act 1936* to provide that an action for damages for racial victimisation brought under the *Civil Liability Act 1936* prevents the making of a complaint under the *Equal Opportunity Act 1984*.
Part 2—Amendment of *Racial Vilification Act 1996*
2—Amendment of section 6—Damages
This clause proposes an amendment to the *Racial Vilification Act 1996* to provide that in determining the total amount of damages awarded under the *Racial Vilification Act 1996*, the court must take into account the amount awarded on a complaint under the *Equal Opportunity Act 1984* as well as any amount awarded under the *Civil Liability Act 1936*.
Schedule 2—Statute law revision amendment of *Equal Opportunity Act 1984*
Schedule 2 makes statute law revision amendments to the principal Act.

Ms CHAPMAN secured the adjournment of the debate.

FISHERIES MANAGEMENT BILL

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries) obtained leave and introduced a bill for an act to provide for the conservation and management of the aquatic resources of the state, the management of fisheries and aquatic reserves, the regulation of fishing and the processing of aquatic resources, the protection of aquatic habitats, aquatic mammals and aquatic resources and the control of exotic aquatic organisms and diseases in aquatic resources; to repeal the Fisheries Act 1982 and the Fisheries (Gulf St Vincent Prawn Fishery Rationalisation) Act 1987; to make related amendments to other acts; and for other purposes. Read a first time.

The Hon. R.J. McEWEN: I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is for improved fisheries legislation to replace the current Fisheries Act which was enacted in 1982, some 24 years ago. This Bill will provide for the ecologically sustainable development of our fisheries and other living aquatic resources found in the marine and inland waters of South Australia. No longer can we just focus on the fish in terms of our management practices, as it is recognised world wide that an ecosystem-based approach is necessary to ensure fish stocks are managed sustainably for current and future generations.

Over the past 20 years many countries have borne witness to the collapse of many wild fish stocks. Australia, and South Australia in particular, has an enviable record internationally for the sustainable management of its fish stocks and this has much to do with the governance arrangements implemented though superior legislation. This legislation provides the government with powers to ensure fish harvest strategies for commercial fisheries are sustainable over the longer term and that opportunities for recreational fishers to enjoy reasonable access to fish for personal use and sporting purposes are maintained and enhanced. The Bill builds on the excellent legacy of the current Act and provides an improved governance framework for the future management of our fisheries.

The wild fisheries in South Australia are very important for regional economic development and this support for fisheries management and development will continue under this Bill, so that regional communities continue to benefit.

The objectives of this Bill make it clear that the sustainable management of our fisheries resources is of paramount importance and that it is only within a sustainable management framework that these resources can be developed for the benefit of the community as a whole. The avoidance of over-fishing is set out as the primary principle of the legislation. The Bill also sets out a number of other principles that need to weighed up when making decisions under the legislation, including the requirement to explicitly allocate access to fish resources between stakeholders and to provide for optimal utilisation and equitable distribution of fish resources between stakeholders. Optimal use of our aquatic resources is very important to economic growth and development of new resources and value adding of existing resources is to be encouraged under this legislation.

The principles also require that commercial, recreational and Aboriginal traditional fishing activities be fostered, and that the aquatic ecosystems on which fisheries rely upon for their productivity, are not endangered or irreversibly damaged.

The great success of wild fisheries management in South Australia has been the science-based and precautionary approach taken to management decisions, through close, transparent formal consultation with industry groups and the broader community utilising the Fishery Management Committees.

This co-management approach will continue under this Bill with the establishment of a new Fisheries Council to provide advice to the Minister on the management of fisheries, whether they are for commercial use, recreational use or for Aboriginal traditional fishing purposes. The Fisheries Council will be expertise-based and will have 9 members appointed by the Governor, plus the Director of Fisheries as an *ex officio* member. This will maintain close links between the Department and the Council. The Council will have a broad advisory role and key responsibility for the development of new fishery management plans. The government has already committed ongoing funding support for the Fisheries Council in the Budget Forward Estimates. This is an important and significant policy decision, as for the first time it recognises and supports the common law principle that fisheries are a common property resource owned by the people of South Australia. Accordingly, this government believes that a proportion of the costs for management of this community resource should be borne by the government on behalf of the community. Additional costs for management of the commercial fisheries will continue to be collected through commercial licence fees under the government's full cost recovery policy.

To assist with its advisory role to government, the Fisheries Council will be required to establish advisory committees and co-opt expertise as necessary to ensure robust advice on fisheries management issues, within a co-management framework. The establishment of these committees will be under the control of the Minister, to ensure that a minimum number and type of committees is established. These committees will ensure the ongoing involvement of stakeholders in fisheries decision-making.

Clause 10 gives the Minister broad delegation powers. These will allow for a conscious move to greater industry control over management in those commercial fisheries where good governance and due diligence arrangements are demonstrable and memorable to ensure these fisheries and associated species and habitats can continue to be sustainably managed by industry groups.

The proposed statutory management plans will establish arrangements for managing recreational and commercial fisheries and the eco-system impacts of those fisheries. The legislation sets out a comprehensive process for developing and approving the plans, ensuring greater levels of involvement from the community in the preparation of the plans. A key feature of the plans is the requirement to include provisions relating to the allocation of access to aquatic resources and mechanisms for adjusting that access between sectors in the future. They will also provide the framework for granting commercial fishing licences for periods of up to 10 years, providing an improved investment climate for the commercial fishing industry, as currently commercial fishing licences can only be issued for a period of 12 months. Another important feature of the plans will be the inclusion of biological reference points and triggers. This will define what over-exploitation means in relation to a particular fishery and establish rules for maintaining stock levels and responding to stock declines.

Recreational fishing is an important activity in South Australia. It has been estimated that about 320,000 people fish at least once a year in our waters, with the most popular species being King George whiting, snapper and rock lobster. This Bill will maintain the right of everyone in the community to have reasonable access to fish for personal use. New strict possession limits are proposed for recreational anglers. This will involve determining appropriate maximum amounts of fish for a non-commercial fisher to have in his or her possession. This move to possession limits, as already introduced in all of the other States and the Northern Territory, will assist in reducing the level of illegal fishing and illegal sales and provide for our fish resources to be more evenly shared within the recreational

sector. Possession limits may also assist in reducing the risk of localised depletion of fish stocks. The actual possession limits will be established by regulation, following a separate community consultation process. The regulations will limit the application of strict possession limits to prescribed circumstances. For example, it is proposed that possession limits will not apply to a person's principal place of residence. Fisheries officers will still need to obtain a warrant to enter residential premises if illegal activity is suspected.

As already mentioned, the Bill provides for a new category of fishing being Aboriginal traditional fishing. This provides for cultural access for a native title group, which has reached a formal agreement with the government through an Indigenous Land Use Agreement under the Commonwealth Native Title Act. The Aboriginal Legal Rights Movement in South Australia, which represents native title interests, commercial fishing industry groups and local governments have endorsed this approach. For the first time, this will provide clear access arrangements to fisheries for Aboriginal people for their cultural community purposes. Commercial fishing opportunities will also be progressed by this government within the current limited entry licensing framework for commercial fisheries. In other words, no new licences will be created but investment opportunities may be provided to buy existing commercial licences on the open market.

Fisheries officers' powers in this Bill remain essentially unchanged. However, there is a new power which provides officers with the ability to search a person suspected of hiding important evidence or material on their person, once suspected by an officer of committing an offence against specified serious offences. This is an important power, as there is an increase in organised criminal activity in the fishing industry and many of these illegal activities occur in distant places or waters. Officers need the ability to search persons for mobile phones, documentation and other material that may provide critical evidence in the investigation of the illegal activity. There are strict controls in the Bill about how a search of a person will be conducted, including requirements for same sex searches and reporting of searches. Clause 80(1)(b) will enable fisheries officers to attach to or implant in aquatic resources identification devices, thereby providing another technique for tracking fish in investigations. This is particularly important in fisheries investigations given the volumes of fish that may be involved or the remoteness of the activity being investigated.

This Bill has greatly increased the penalties for breaches of the fisheries legislation. The last 24 years have seen major increases in value of our major species and therefore the incentive to operate illegally. This Bill addresses the imbalance between the penalties and the impact of illegal activity, both in terms of damage to the fish stock, but also of impact on the economic potential of the industry. Most of the offences in the Bill are summary offences that have a maximum penalty of $120,000 and/or 2 years imprisonment, but the Bill also creates a number of new minor indictable offences. These indictable offences pertain to serious criminal and fraud activities related to the sale and purchase of fish taken illegally. A new offence of trafficking of priority species, such as abalone and rock lobster, will allow for organised criminal elements to be effectively dealt with. Illegal proceeds from the sale of fish will be traced with the potential for their confiscation on successful prosecution.

The Bill will provide for a new system of demerit points for all persons who expiate or are found guilty of offences. Demerit points will be applied automatically under the legislation, with consequences for accruing 200 points in a 5 year period. A person or company (and its directors) will be liable to be disqualified from holding any authority for a period of 10 years. Furthermore, if a person or company holds a transferable authority (a commercial licence), the licence will have to be transferred to a non-related third party within 6 months or the Minister may compulsorily acquire the authority. The deterrence value of the demerit points system will come through setting the points that will apply to various offences. This will be done by regulation and in consultation with industry and the community. An important aspect in introducing a demerit point system is that it will replace the current power to cancel a transferable authority. This will give recognition to the value of commercial fishing licences, by removing the discretion currently associated with that type of decision. Therefore, a licence will not be able to be cancelled except in accordance with the demerit points scheme.

The Bill includes a number of types of court orders that may be used in addition to traditional types of penalties . The provisions are intended to provide guidance to the courts, highlight the severity of fisheries offences and promote consistency in sentencing for fisheries crime. One of the types of orders may be to exclude a person from being in, on or near specified waters with fishing gear. The courts have already used these orders on an ad hoc basis for restricting the activity of fish thieves involved in serious abalone theft and this explicit power is to formalise use of this tool for dealing with serious and repetitive fisheries crime.

Biosecurity of our marine and freshwater environments is very important to support sustainable fisheries and aquaculture production. Introduced species of noxious fish present a significant risk to the future of these valuable industries and the Bill provides new powers to deal with the illegal introduction, sale, purchase and possession of noxious species. The effective control of exotic aquatic species will be required under national agreements through the Natural Resource Management Ministerial Council and the provisions in this Bill will allow for appropriate licensing, monitoring and response to exotic pests to occur.

The Bill also provides many other useful fisheries management tools, including the constitution of aquatic reserves for fisheries management purposes, which should not be confused with marine protected areas that will be established for biodiversity conservation under other legislation. Aquatic reserves may be used for purposes such as protecting fish nursery areas, fish spawning grounds, and establishing marine research zones or recreational fishing areas. There are 15 aquatic reserves established under the current Fisheries Act and these reserves will continue in existence under the new legislation.

Another feature of the legislation is the introduction of protection and reparation orders, which may be used to ensure compliance with fisheries management arrangements.

Fisheries research, fisheries development opportunities and other investigations will be facilitated through a new permit system that may be established by regulation under the Bill. Currently there is no effective mechanism to allow for short term access to fish resources, other than issuing exemptions under section 59 of the current Act. Permits will provide greater support of these initiatives in the future.

This Bill has been through a long development and consultation process over the past 5 years and the community and industry groups have been thoroughly engaged in the development of the legislation. The legislation is innovative and dynamic, with a balance between the required regulatory role of government to ensure aquatic resources are managed at sustainable levels for current and future generations, whilst allowing for a move to greater control over management in those commercial and cultural fisheries where the maturity of an industry or community group warrants this level of delegation. This Bill will provide for continued ecologically sustainable development of the fisheries of South Australia.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

Subclause (1) defines terms used in the measure.

Aquatic resource is defined to mean fish or aquatic plants. ***Fish*** is defined as an aquatic animal other than an aquatic bird, aquatic mammal, reptile or amphibian or an aquatic animal of a kind excluded from the definition by the regulations. ***Aquatic animal*** means an aquatic animal of any species, and includes the reproductive products and body parts of an aquatic animal, and an ***aquatic plant*** is an aquatic plant of any species, and includes the reproductive products and parts of an aquatic plant.

In Part 4, ***fishery*** means a class of fishing activities identified in an arrangement under that Part as a fishery to which the arrangement applies.

In other Parts of the measure, ***fishery*** means a class of fishing activities declared by the regulations to constitute a fishery, and ***fishing activity*** or ***fishing*** is defined to mean means the act of taking an aquatic resource, or an act preparatory to, or involved in, the taking of an aquatic resource. ***Take***, in relation to an aquatic resource, means catch, take or obtain the resource (whether dead or alive) from any waters or kill or destroy the resource in any waters.

Waters means any sea or inland waters (including any body of water or watercourse of any kind whether occurring naturally or artificially created and the bed of

such waters, and a reference to waters includes a reference to the intertidal and supra tidal zones of waters.

Subclause (2) provides that a class of fishing activities may be defined by regulation or other statutory instrument by reference to one or more factors such as a species of aquatic resource, the sex, size or weight of an aquatic resource, a number or quantity of exotic resource, a period of time, an area of waters or a place, a method of fishing, a class or number of boats, a class of persons or a purpose of activities.

Subclause (3) provides that a reference to ***engaging in a fishing activity of a class*** is to be construed as a reference to doing an act that falls within the defined class and as including a reference to acts such as using a device or boat for the purpose of the activity, being in charge of, or acting as a member of the crew of, a boat that is being used for the purpose of the activity or diving in waters for the purpose of the activity.

Commercial fishing is defined to mean fishing for a commercial purpose (ie the purpose of trade or business), and ***recreational fishing*** is defined as fishing other than commercial fishing or aboriginal traditional fishing. ***Aboriginal traditional fishing*** is defined to mean fishing engaged in by an Aboriginal person for the purposes of satisfying personal, domestic or non-commercial, communal needs, including ceremonial, spiritual and educational needs, and using fish and other natural marine and freshwater products according to relevant aboriginal custom.

Subclause (4) provides that for the purposes of the measure an aquatic resource will not be regarded as having been taken if it is taken but immediately returned to the water unencumbered in any way and with as little injury or damage as possible.

4—Declaration of aquatic reserves

This clause provides for the creation of aquatic reserves by proclamation. An aquatic reserve can comprise waters, or land and waters, but only land placed under the care, control and management of the Minister can form part of an aquatic reserve.

5—Application of Act

This clause provides that the measure is to apply—

- in relation to all waters within the limits of the State; and
- except for purposes relating to a fishery to be managed in accordance with Commonwealth law under a Commonwealth-State arrangement or for purposes relating to certain recreational fishing activities—in relation to any waters of the sea not within the limits of the State on the landward side of waters adjacent to the State that are within the Australian fishing zone; and
- for purposes relating to a fishery to be managed in accordance with the law of the State under a Commonwealth State arrangement—in relation to any waters to which the legislative power of the State extend, with respect to that fishery; and
- for purposes relating to recreational fishing activities engaged in otherwise than by use of a foreign boat (other than such activities prohibited or regulated under a plan of management under the Commonwealth Fisheries Management Act)—in relation to any waters to which the legislative power of the State extend with respect to such activities.

The clause also provides that the measure does not apply in relation to an activity (other than the taking of aquatic resources for a commercial purpose or the introduction of exotic aquatic organisms or disease in aquatic resources) engaged in relation to inland waters if those waters are surrounded by land in the ownership, possession or control of the same person (being a person other than the Crown or an instrumentality of the Crown).

6—Ownership of aquatic resources of State

This clause provides that the Crown in right of the State owns all aquatic resources of the State (whether living or dead).

Property in the aquatic resources of the State passes—

- to the holder of an authority granted under this measure when taken in accordance with that authority; or
- to any other person when taken lawfully in circumstances in which no authority is required under this measure for the taking.

Part 2—Objects of Act

7—Objects of Act

This clause provides that an object of this measure is to protect, manage, use and develop the aquatic resources of the State in a manner that is consistent with ecologically sustainable development, and to that end, the following principles apply:

(a) proper conservation and management measures are to be implemented to protect the aquatic resources of the State from over-exploitation and ensure that those resources are not endangered;

(b) access to the aquatic resources of the State is to be allocated between users of the resources in a manner that achieves the optimum utilisation of those resources to the benefit of the community;

(c) aquatic habitats are to be protected and conserved, and aquatic ecosystems and genetic diversity are to be maintained and enhanced;

(d) recreational fishing and commercial fishing activities are to be fostered for the benefit of the whole community;

(e) the participation of users of the aquatic resources of the State, and of the community more generally, in the management of fisheries is to be encouraged.

Principle (a) has priority over the other principles.

The clause provides that a further object of this measure is that aquatic resources are to be managed in an efficient and cost effective manner and targets set for the recovery of management costs.

The Minister, Director of Fisheries, Fisheries Council, Environment, Resources and Development Court and other persons or bodies involved in the administration of this measure, and any other person or body required to consider the operation or application of this measure (whether acting under this measure or another Act), is required to act consistently with, and seek to further, the objects of this measure. In so far as the measure applies to the Adelaide Dolphin Sanctuary, these persons and bodies must seek to further the objects and objectives of the *Adelaide Dolphin Sanctuary Act 2005*, and insofar as the measure applies to the River Murray, they must seek to further the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act.

Part 3—Administration

Division 1—Minister and Director

8—Minister

This clause provides that the Minister has the functions and powers assigned or conferred by or under this measure.

9—Director

This clause continues in existence the office of the Director of Fisheries.

10—Delegation

This clause empowers the Minister and the Director to delegate functions or powers under this measure.

Division 2—Fisheries Council of South Australia

11—Establishment of Council

This clause establishes the Fisheries Council of South Australia. The Council is to consist of at least 10 members, of whom 9 will be appointed by the Governor on the nomination of the Minister. The Director of Fisheries will be a member *ex officio*. All members must have expertise in fisheries management and at least 1 must have knowledge and experience of aboriginal traditional fishing.

12—Presiding member and deputy presiding member

This clause requires the Minister to appoint a presiding member and a deputy presiding member.

13—Terms and conditions of membership

This provides for the appointment of members of the Council on conditions determined by the Governor for a term not exceeding 3 years. A member can only hold office for a maximum of 2 consecutive 3 year terms.

14—Vacancies or defects in appointment of members
This clause provides that an act or proceeding of the Council is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.
15—Remuneration
This clause entitles a member of the Council to remuneration, allowances and expenses determined by the Governor.
16—Functions of Council
This clause sets out the functions of the Council.
17—Council's procedures
This clause deals with the Council's procedures at meetings.
18—Annual strategic plan
This clause requires the Council to prepare an annual strategic plan and submit it to the Minister.
19—Annual report
This clause requires the Council to prepare an annual report on its operations and submit it to the Minister. The Minister is required to table the report in both Houses of Parliament.
Division 3—Advisory committees
20—Establishment of committees
This clause empowers the Minister and the Fisheries Council to establish advisory committees.
Division 4—Fisheries Research and Development Fund
21—Continuation of Fund
This clause continues the Fisheries Research and Development Fund in existence, specifies sources of money for the Fund and authorises its application by the Minister for certain specified purposes.
22—Accounts
This clause requires the Minister to cause proper accounts to be kept in relation to the Fund.
23—Audit
This clause requires the Auditor-General to audit the accounts of the Fund at least once a year and empowers him or her to audit the accounts at any time.
Part 4—Commonwealth-State arrangements
Division 1—Commonwealth-State joint authorities
24—Powers and functions of Minister
This clause provides that the Minister may exercise a power conferred on the Minister by Part 5 of the *Commonwealth Fisheries Management Act*.
25—Judicial notice
This clause requires judicial notice to be taken of the signatures of members of a Joint Authority and their deputies.
26—Functions of Joint Authority
This clause provides that a Joint Authority has such functions in relation to a fishery in respect of which an arrangement is in force under Division 2 as are conferred on it by the law in accordance with which the fishery is to be managed.
27—Delegation
This clause empowers a Joint Authority to delegate powers under this measure.
28—Procedure of Joint Authorities
This clause provides that certain sections of the Commonwealth Act apply in relation to the performance by a Joint Authority of its functions under this measure.
29—Report of Joint Authority
This clause requires the Minister to table in both Houses of Parliament a copy of the annual report prepared by a Joint Authority under the Commonwealth Act.
Division 2—Arrangements with Commonwealth with respect to management of particular fisheries
30—Arrangement for management of certain fisheries
This clause provides that the State may, in accordance with the Commonwealth Act, enter into an arrangement for the management of a fishery. It also provides for the termination of an arrangement and the preliminary action that is required to bring an arrangement into effect or terminate an arrangement.
31—Application of this Act to fisheries in accordance with arrangements
This clause provides that if there is an arrangement for a fishery to be managed in accordance with the law of the State, the provisions of this measure apply in relation to the fishery.
32—Application of Commonwealth law to limits of State in accordance with arrangements
This clause provides that if there is an arrangement for a fishery to be managed in accordance with the law of the Commonwealth, that law applies to the limits of this State as a law of the State.
33—Functions of Joint Authority
This clause sets out the functions of a Joint Authority that is to manage a fishery in accordance with the law of the State.
34—Joint Authority to exercise certain powers instead of Minister or Director
This clause provides that certain powers under this measure conferred on the Minister or Director in respect of a fishery to be managed under the law of the State by a Joint Authority are exercisable by the Joint Authority to the exclusion of the Minister or Director.
35—Application of certain provisions relating to offences
This clause applies references made to an authority in a provision creating an offence under this measure to any such authority issued or renewed by a relevant Joint Authority.
36—Presumption relating to certain statements
This clause is an evidentiary provision that facilitates proof of the waters to which an arrangement applies.
37—Regulations relating to Joint Authority fishery
This clause empowers the Governor to make regulations in relation to a fishery to be managed by a Joint Authority in accordance with a law of the State.
Division 3—Arrangements with other States
38—Arrangements with other States
This clause empowers the Minister to enter into agreements with the Minister administering a corresponding law, or with an authority of another State or Territory concerned in the administration of that law, for the purpose of co-operation in furthering the objects of this measure (whether in this State or in that other State or Territory).
39—Functions
This clause provides that for the purposes of this Division, the Minister may perform any function and exercise any power conferred on the Minister under Division 1 or 2 as if the Commonwealth Act applied under this Division.
Part 5—Management plans for commercial fishing, recreational fishing and aquatic reserves
40—Interpretation
This clause includes interpretation provisions required for this Part.
41—Application of Part
This clause provides that this Part does not apply to an aboriginal traditional fishing management plan.
42—Duty of Council to prepare management plans
This clause requires the Council to prepare management plans if required by the Minister. Management plans may relate to classes of commercial or recreational fishing activities or to aquatic reserves.
43—General nature and content of management plans
This clause sets out the matters which a management plan must address.
44—Procedure for preparing management plans
This clause sets out the procedures that apply to the preparation of management plans, including the public consultation processes required.
45—Tabling of management plans
This clause requires management plans adopted by the Minister to be tabled in both Houses of Parliament.
46—Procedure for making certain amendments to management plans
This clause specifies the types of amendments to a management plan that may be made by the Minister by notice in the Gazette. These include the correction of errors, changes of form not involving changes of substance, changes that do not substantially alter the plan, and changes authorised by the regulations or the plan itself.
47—Duration of management plans

This clause provides that a management plan for a development fishery expires on the third anniversary of its commencement, or on the expiry date specified in the plan, whichever is the earlier. Any other management plan expires on the tenth anniversary of its commencement, or on the expiry date specified in the plan, whichever is the earlier.

48—Availability and evidence of management plans

This clause requires copies of management plans to be kept available for inspection and purchase by the public during ordinary office hours.

49—Review of management plans

This clause requires the Council to conduct comprehensive reviews of management plans at least once every 5 years, and empowers the Council to conduct reviews at any time. The Council must submit a report on the outcome of a review to the Minister and the Minister must table the report in both Houses of Parliament.

50—Implementation of management plans

This clause requires the Minister to manage commercial and recreational fishing activities and aquatic reserves in accordance with any relevant management plan adopted by the Minister.

Part 6—Regulation of fishing and processing

Division 1—Commercial fishing

51—Interpretation

This clause defines terms used in the Part.

52—Obligation of commercial fishers to hold licence or permit

This clause makes it an offence for a person to engage in commercial fishing unless the person holds a licence or permit or is acting as the agent of a licence or permit holder. The maximum penalty for an offence related to fish of a priority species is $500 000 if the offender is a body corporate or $250 000 if the offender is a natural person. In any other case the maximum penalty is $100 000 or imprisonment for 4 years if the offender is a body corporate or $50 000 or imprisonment for 2 years if the offender is a natural person.

53—Obligation for boats and devices used in commercial fishing to be registered

This clause makes it an offence to use a boat for the purpose of commercial fishing, or cause, suffer or permit a boat to be used for such purpose, unless—

- the boat is registered or is being used in place of a registered boat with the consent of the Minister; and
- the boat is in the charge of a natural person registered as the master of a boat that may be so used or is acting in place of a registered master with the consent of the Minister.

The clause also makes it an offence for a person to use a device for the purpose of commercial fishing, or cause, suffer or permit a device to be used for such a purpose, unless the device is registered for use under a licence or permit held by the person or a person for whom he or she is acting as an agent.

Each offence is punishable by a maximum fine of $250 000 if the offender is a body corporate or $50 000 if the offender is a natural person.

54—Applications for licences, permits or registration

This clause specifies the form and manner in which an application for a licence, permit or registration must be made.

It provides that a licence or permit granted to a natural person will include a photograph of the holder, and empowers the Minister to refuse an application if the applicant fails to meet the Minister's requirements. In such a case the Minister may keep the fee that accompanied the application. The clause also specifies other grounds on which the Minister may refuse an application, and requires the Minister to consult with the Minister for the River Murray before determining applications relating to, or applying in respect of, the River Murray.

55—Conditions of licence, permit or registration

This clause empowers the Minister to impose conditions on fishery licences, permits and registrations. It is an offence for the holder of an authority to contravene a condition of an authority. If the condition relates to the holder's quota entitlement under the authority the maximum penalty is $20 000. In other cases it is $10 000.

56—Duration of authority and periodic fee and return etc

This clause specifies the duration of a fishery authority. The maximum term of a licence is 10 years. The maximum term of a permit is 3 years.

The clause requires the holder of an authority to pay an annual fee, and lodge periodic returns in accordance with the regulations. The Minister may require the holder of an authority to pay a penalty for default in payment of an annual fee, and if the person fails to pay the fee, or the penalty for default of payment, or fails to lodge a return as required, the Minister may suspend the authority until the person complies.

57—Transfer of licence or permit

This clause provides that a fishery licence or permit is not transferable unless the regulations for the fishery provides that the licence or permit may be transferred.

If the holder of a transferable licence or permit dies, the licence or permit vests in the personal representative of the deceased as part of the estate but cannot be transferred in the course of the administration of the estate except with the Minister's consent.

If the licence or permit is not transferred within 2 years after the death of the holder of the licence or permit, or such further period as the Minister may approve, the licence or permit is suspended pending transfer.

58—Obligation to carry authority and identification while engaging in fishing activities

This clause requires the holder of a fishery licence or permit who is a natural person to carry the licence or permit and identification in the form issued by the Minister, at all times when engaging in fishing activity pursuant to the licence or permit.

If a registered boat is being used on waters for any purpose, the person in charge of the boat must carry with him or her the licence or permit under the boat may be used to take aquatic resources and identification in the form issued by the Minister.

If a registered device is being used on waters for any purpose but not on or from a boat, the person using the device must carry with him or her the licence or permit under which the device may be used and identification in the form issued by the Minister. If the device is being used on or from a boat, the person in charge of the boat is required to carry the licence or permit and identification.

The maximum penalty for non-compliance is $2 500.

Division 2—Aboriginal traditional fishing

59—Management of aboriginal traditional fishing

This clause enables the Minister and a native title group that is party to an indigenous land use agreement to make an aboriginal traditional fishing management plan under the agreement for the management of specified aboriginal traditional fishing activities in a specified area of waters.

60—Availability and evidence of aboriginal traditional fishing management plans

This clause requires aboriginal traditional fishing management plans to be available for inspection and purchase by members of the public.

Division 3—Processing

61—Obligation of fish processors to be registered

This clause makes it an offence for a person to act as a fish processor unless he or she is registered as a fish processor. However, registration is not required if the person only processes aquatic resources obtained from a registered fish processor or is the holder of a fishery authority or aquaculture licence and only processes aquatic resources taken or farmed under the authority or licence for sale to a registered fish processor or directly to consumers. Also, a person need not be registered if he or she belongs to a prescribed class of persons.

The term ***fish processor*** is defined in clause 3 to mean a person who for the purpose of trade or business processes, stores, transports or deals with fish or other aquatic resources. ***Processing***, in relation to fish, means scaling, gilling, gutting, filleting, freezing, chilling, packing or any other activity involved in preparing fish for sale. In

relation to any other aquatic resource, processing means any activity involved in preparing the resource for sale.

It is also an offence for a registered fish processor to use any premises, place, boat or vehicle for or in connection with processing, storing or dealing with aquatic resources unless the premises, place, boat or vehicle is specified in the certificate of registration. For offences against this clause the maximum penalty is $50 000 if the offender is a body corporate or $10 000 if the offender is a natural person.

62—Classes of registration

This clause creates 2 classes of fish processor registration, being restricted registration subject to a condition limiting the kind of activities authorised by the registration, and registration authorising a person to do any act involved in processing.

63—Applications for registration

This clause specifies the manner and form an application for fish processors registration must be made and empowers the Minister to refuse an application in certain cases.

64—Conditions of registration

This clause provides that it is a condition of registration as a fish processor that the processor will only process aquatic resources of a class specified in the registration. The registration may be subject to other conditions imposed by the Minister limiting the processing that may be carried out under the authority of the registration.

65—Duration of registration and periodic fee and return etc

This clause specifies the duration of fish processors registration. The maximum term of registration is 3 years. The clause requires a registered fish processor to pay an annual fee, and lodge periodic returns in accordance with the regulations. The Minister may require a registered fish processor to pay a penalty for default in payment of an annual fee, and if the person fails to pay the fee, or the penalty for default of payment, or fails to lodge a return as required, the Minister may suspend the registration until the person complies.

Division 4—Miscellaneous

66—Misuse of authorities

This clause makes it an offence to misuse an authority by giving another person possession or control of an authority that is not in the name of that person, by having possession or control of an authority not in the person's name, or by falsely representing that the person is the person named in an authority. The maximum penalty is $5 000.

67—Issue of duplicate authority

This clause empowers the Minister to issue duplicate authorities.

68—Effect of suspension of authority

This clause provides that an authority has no force or effect while it is suspended.

Part 7—Offences

Division 1—Offences relating to fishing activities

69—Prescribed fishing activities prohibited

This clause makes it an offence to engage in a fishing activity of a prescribed class. The maximum penalty if the fishing activity involves fish of a priority species is $10 000 for a first offence, $20 000 for a second offence and $35 000 for a third or subsequent offence. In any other case the maximum penalty is $5 000 for a first offence, $10 000 for a second offence and $20 000 for a third or subsequent offence.

70—Taking, injuring etc aquatic mammals and protected species prohibited

This clause makes it an offence to take an aquatic mammal or aquatic resource of a protected species or injure, damage or otherwise harm an aquatic mammal or aquatic resource of a protected species. It is also an offence to interfere with, harass or molest an aquatic mammal or aquatic resource of a protected species, or cause or permit interference with, harassment or molestation of an aquatic mammal or aquatic resource of a protected species.

If the offence involves an aquatic mammal, the maximum penalty is $250 000 if the offender is a body corporate or $100 000 if the offender is a natural person. If the offence does not involve an aquatic mammal the maximum penalty for a first offence is $50 000 if the offender is a body corporate or $10 000 if the offender is a natural person. For a second or subsequent offence the maximum fine is $100 000 if the offender is a body corporate or $20 000 if the offender is a natural person. An offence not involving an aquatic mammal is expiable. The expiation fee is $500.

71—Sale, purchase or possession of aquatic resources without authority prohibited

This clause makes it an offence to sell or purchase aquatic resources taken without an authority. It is also an offence to sell or purchase, or have possession or control of an aquatic resource taken in contravention of this measure or a corresponding law, an aquatic resource of a protected species or an aquatic resource of a prescribed class.

The maximum penalty for an offence involving fish of a priority species is $250 000 if the offender is a body corporate or $50 000 or imprisonment for 4 years if the offender is a natural person. In any other case the maximum penalty is $100 000 if the offender is a body corporate or $20 000 if the offender is a natural person.

It is a defence if the defendant proves that the aquatic resources were purchased from a person whose ordinary business was the selling of such aquatic resources and were purchased in the ordinary course of that business. It is also a defence if the defendant proves that the defendant did not take the aquatic resources in contravention of this measure or a corresponding law and did not know, and had no reason to believe that the aquatic resources were (as the case may be) taken not under an authority, or taken in contravention of this measure or a corresponding law, or were aquatic resources of a protected species or aquatic resources of a prescribed class.

In proceedings for an offence, if it is proved that a person had a commercial quantity of an aquatic resource of any species in his or her possession or control, it will be presumed, in the absence of proof to the contrary, that the person had that aquatic resource in his or her possession or control for the purposes of sale.

If it is proved that a person had a commercial quantity of an aquatic resource of any species in his or her possession or control in circumstances in which it is reasonable to presume that the aquatic resources were taken by that person in waters to which this measure applies, it will be presumed, in the absence of proof to the contrary, that the person took the aquatic resources from such waters.

72—Possession of prescribed quantity of aquatic resource in prescribed circumstances

This clause makes it an offence to have possession, in prescribed circumstances, of a quantity of aquatic resource exceeding the quantity fixed by the regulations. The maximum penalty for an offence involving fish of a priority species is $10 000 for a first offence, $20 000 for a second offence and $35 000 for a third or subsequent offence. In any other case the maximum penalty is $5 000 for a first offence, $10 000 for a second offence and $20 000 for a third or subsequent offence.

It is a defence if the defendant proves that the aquatic resource was taken for a commercial purpose under an authority or was kept under an aquaculture licence or the person has a prescribed defence.

73—Unauthorised trafficking in fish of priority species prohibited

This clause makes it an offence to traffic in a commercial quantity of fish of a priority species, or have possession or control of a commercial quantity of such fish, unless authorised to do so under this measure. The maximum penalty is $500 000 if the offender is a body corporate or $100 000 or imprisonment for 4 years if the offender is a natural person.

74—Interference with lawful fishing activities prohibited

This clause makes it an offence to obstruct or interfere with a lawful fishing activity, or interfere with aquatic resources taken in the course of a lawful fishing activity, without reasonable excuse. The maximum penalty is $5 000.

If a person is obstructing or interfering with a lawful fishing activity in contravention of this provision, the person must, at the request of a person engaged in the lawful fishing activity, cease or discontinue the obstructive conduct or interference or remove the obstruction. The maximum penalty for failure to do so is $5 000.

In addition, the court by which a person is found guilty of an offence against this clause may, whether or not a penalty is imposed, order the defendant to pay to a person affected by the commission of the offence such compensation as the court considers proper for loss or damage suffered by that person as a result of the commission of the offence.

Division 2—Miscellaneous offences

75—Entering etc aquatic reserve, or engaging in fishing activity in aquatic reserve, without authorisation prohibited

This clause makes it an offence to enter or remain an aquatic reserve, or engage in a fishing activity in an aquatic reserve, except as authorised by the regulations, a management plan or a permit issued by the Minister. The maximum penalty is $5 000 for a first offence, $10 000 for a second offence and $20 000 for a third or subsequent offence.

76—Disturbance of water beds, or removal or interference with animals or plants, in aquatic reserve without authorisation prohibited

This clause makes it an offence to engage in an operation involving or resulting in disturbance of the bed of any waters of an aquatic reserve or removal of or interference with aquatic or benthic animals or plants of any waters in an aquatic reserve, except as authorised by the regulations, a management plan or a permit issued by the Minister. The maximum penalty is $5 000 for a first offence, $10 000 for a second offence and $20 000 for a third or subsequent offence.

77—Unauthorised activities relating to exotic organisms or noxious species prohibited

This clause makes it an offence to bring, or cause to be brought, into the State, or sell, purchase, deliver, or have possession or control of, aquatic resources of a noxious species, except as authorised by a permit issued by the Minister.

It is also an offence to release or permit the escape of exotic fish, aquaculture fish or fish that have been kept apart from their natural habitat, into any waters, or to deposit in any waters such fish or exotic aquatic plants, except as authorised by a permit issued by the Minister.

The maximum penalty for an offence is $250 000 if the offender is a body corporate or $120 000 if the offender is a natural person.

Exotic aquatic organism is defined to mean fish or an aquatic plant of a species that is not endemic to the waters to which this measure applies. ***Noxious***, in relation to an aquatic resource, means a species of aquatic resource declared by the Minister by notice in the Gazette to be a noxious species for the purposes of this measure.

The Minister must, before making a decision on an application for a permit that relates to, or is to apply in respect of, the Adelaide Dolphin Sanctuary, consult with the Minister for the Adelaide Dolphin Sanctuary. Before making a decision on an application for a permit that relates to, or is to apply in respect of, the River Murray, the Minister must consult with the Minister for the River Murray.

Division 3—Temporary prohibition of certain fishing activities etc

78—Temporary prohibition of certain fishing activities etc

This clause empowers the Minister make a declaration by notice in the Gazette that it is unlawful for a person—

- to engage in a fishing activity of a specified class during a specified period;
- to have possession or control of aquatic resources of a specified kind during a specified period.

A declaration remains in force for a period, not exceeding 12 months, specified in the declaration and may be renewed once for a further period not exceeding 12 months.

The Minister must, on the request of the Minister for the Adelaide Dolphin Sanctuary, make a declaration, or vary or revoke a declaration, in relation to a fishing activity undertaken in respect of the Adelaide Dolphin Sanctuary. On the request of the Minister for the River Murray, the Minister make a declaration, or vary or revoke a declaration, in relation to a fishing activity undertaken in respect of the River Murray.

If, in the opinion of the Minister, it is necessary to take urgent action to safeguard public health or protect the aquatic resources of the State, the Minister, or a fisheries officer authorised by the Minister, may direct a person or persons of a specified class to not engage in a fishing activity of a specified class during a specified period.

It is an offence for a person to engage in a fishing activity in contravention of a declaration or direction under this clause. The maximum penalty is $5 000 for a first offence, $10 000 for a second offence and $20 000 for a third or subsequent offence.

Part 8—Enforcement

Division 1—Authorised persons

Subdivision 1—Appointment of authorised persons

79—Appointment of fisheries officers, scientific observers and sea rangers

This clause empowers the Minister to appoint suitable persons to be fisheries officers, sea rangers or scientific observers. A fisheries officer is not eligible for appointment as a scientific observer.

Subdivision 2—Fisheries officers

80—General powers of fisheries officers

This clause sets out the powers of fisheries officers that may be exercised as reasonably required for the administration and enforcement of the measure.

The powers to enter and search premises can only be exercised on the authority of a warrant issued by a magistrate or justice. However, a warrant is not required for non-residential premises if they are used by a fish processor for, or in connection with, processing, storing or dealing with aquatic resources, or if the fisheries officer has reason to believe that urgent action is required in the circumstances.

81—Power of fisheries officer to search persons for evidence of certain offences

This clause empowers a fisheries officer to search a person if he or she reasonably suspects the person has on or about his or her body evidence of a prescribed offence. The search must be conducted by a person of the same sex as the person being searched unless it is not reasonable or practicable to do so in the circumstances of the search. The fisheries officer who conducts the search must make a written record of the search setting out certain details relating to the search.

82—Powers of fisheries officers relating to exotic organisms and aquaculture fish

This clause empowers the Minister to authorise a fisheries officer to take whatever action is necessary or desirable in the Minister's opinion to—

(a) search for and destroy exotic organisms or aquaculture fish;

(b) and limit the consequences of the presence of the exotic organisms or aquaculture fish,

despite the fact that the action may constitute a trespass or cause loss or damage to property.

If a fisheries officer reasonably suspects that an offence has been committed in relation to an exotic organism or aquaculture fish, the fisheries officer may—

(a) search for and destroy the exotic organism or aquaculture fish and, for that purpose, may take whatever action is, in the opinion of the Minister, necessary or desirable; and

(b) take whatever action is, in the opinion of the Minister, necessary or desirable to limit the consequences of the offence or to ameliorate the damage caused by the offence,

despite the fact that the action may constitute a trespass or cause loss or damage to property.

83—Power of fisheries officer to arrest persons without warrant

This clause empowers a fisheries officer to arrest a person without warrant if—

(a) the person hinders or assaults an authorised person, a person accompanying or assisting a fisheries officer or any other person engaged in the administration or execution of this measure; or

(b) the fisheries officer reasonably suspects that the person has committed an offence against this measure or a corresponding law and—

(i) when required to do so under clause 80—

(A) the person failed to state truthfully his or her name or usual place of residence; or

(B) the person failed to produce true evidence of his or her identity; or

(ii) the fisheries officer has reasonable grounds for believing that the person would, if not arrested—

(A) fail to attend court in answer to a summons issued in respect of the offence; or

(B) continue the offence or repeat the offence; or

(C) alter, destroy, conceal or fabricate evidence relating to the offence; or

(D) intimidate, harass, threaten or interfere with a person who may provide or produce evidence of the offence.

A fisheries officer must, on arresting a person, immediately convey the person, or cause the person to be conveyed, to the nearest police station.

It is an offence for a person to resist arrest or, having been arrested, escape from lawful custody. The maximum penalty is $10 000 or imprisonment for 2 years.

84—Corresponding laws may confer powers and functions

This clause provides that a corresponding law may confer powers or functions on fisheries officers.

85—Fisheries officer may be assisted in exercise of powers etc

This clause provides that a fisheries officer may, while acting in the exercise of powers or discharge of duties under this measure, be accompanied by any person and, if he or she reasonably believes that it is necessary in the circumstances, request a suitable person to assist him or her in the exercise or discharge of those powers or duties. A person, while assisting a fisheries officer in response to a request for assistance, has and may exercise all such powers of a fisheries officer as are reasonably necessary for the purpose.

A fisheries officer may, if he or she believes that it is necessary for the purpose of enforcing the provisions of this measure, request the person in charge of a boat or vehicle to make the boat or vehicle available for his or her use. If a fisheries officer makes such use of a boat or vehicle, the Minister may pay to the person who would otherwise have been entitled to the use of the boat or vehicle at that time such compensation as the Minister considers proper for any loss incurred as a result of the boat or vehicle being made available for use by the fisheries officer.

Subdivision 3—Scientific observers

86—Functions of scientific observer

This clause provides that a scientific observer has such functions as may be assigned to the scientific observer by the Minister. These are:

- to collect data about a fishery, fish habitat or aquatic resource;
- to conduct scientific research in relation to a fishery, fish habitat or aquatic resource.

87—Placement of scientific observer on registered boat

This clause requires the Minister to give the holder of a fishery authority written notice of the Minister's intention to place a scientific observer on a registered boat used under the fishery authority.

A registered boat to which the notice relates must not, during the period specified in the notice, be used under a fishery authority unless a scientific observer is aboard the boat at all times while it is being so used. If this prohibition is contravened, the registered owner of the boat and the registered master of the boat are each guilty of an offence. The maximum penalty is $20 000.

Subdivision 4—Sea rangers

88—Functions of sea ranger

This clause provides that a sea ranger has such functions as may be assigned to the sea ranger by the Minister.

Subdivision 5—Miscellaneous

89—Provisions relating to things seized

This clause provides that if a thing is seized under this Part it must be held pending proceedings for an offence related to the thing seized, unless the Minister authorises its release or orders that it be forfeited to the Crown.

If the defendant is found guilty of the offence, the court must consider the question of forfeiture and has a power to order that the thing be forfeited to the Crown. If the thing has already been forfeited by order of the Minister, the court must either confirm or quash the forfeiture order.

If proceedings are not commenced within a certain time, or the defendant is found not guilty of the offence, or the defendant is found guilty but no order for forfeiture is made, the person from whom the thing was seized or a person who had legal title to the thing at the time of its seizure is entitled to compensation.

If a perishable item is seized in relation to an expiable offence and the offence is expiated, the thing is forfeited to the Crown and no compensation can be recovered in respect of it. If the thing is forfeited to the Crown, it may be disposed of by sale, destruction or in some other way directed by the Minister.

If a fisheries officer finds a fishing device unattended and seizes the device and fish caught or trapped by the device, and the owner of the device is unknown, the Minister can order that the fish be forfeited to the Crown, notice must be given of the seizure, and, after a certain time, if the owner remains unknown and the Minister determines there is reason to believe that the device was used, or was intended to be used, in contravention of this measure, the Minister can order the device to be forfeited to the Crown and disposed of.

Proceeds of forfeited items sold must be paid into the Fisheries Research and Development Fund.

90—Offence to hinder etc authorised persons

This clause makes it an offence to hinder or use abusive, threatening or insulting language to a person engaged in the administration of this measure, to fail to comply with requirements made by authorised persons under this measure, or to falsely represent that a person is an authorised person. The maximum penalty is $5 000. It is also an offence to assault a person engaged in the administration of this measure. The maximum penalty is $10 000 or imprisonment for 2 years.

Division 2—Orders made by Minister

91—Protection orders

This clause empowers the Minister to issue a protection order to secure compliance with this measure. A fisheries officer can issue an emergency protection order if of the opinion that urgent action is required to protect a fish habitat. A person to whom a protection order is issued must comply with the order. The maximum penalty for a failure to comply is $10 000.

92—Action on non-compliance with protection order

This clause empowers the Minister to take any action required by a protection order that is not complied with. Action may be taken on the Minister's behalf by a fisheries officer or other person authorised by the Minister. The reasonable costs and expenses in doing so can be recovered by the Minister from the person who failed to comply with the order, and if the amount is unpaid, the Minister can impose interest on the amount unpaid. The amount unpaid, together with interest, is a charge in favour of the Minister on any land owned by the person.

93—Reparation orders

This clause empowers the Minister to issue a reparation order if satisfied a person has caused harm to a fish habitat by a contravention of this measure. The order may require the person to take specified action to remedy the

damage and to pay money into an approved account to enable action to be taken to address the damage.

A fisheries officer can issue an emergency reparation order requiring a person to take specified action if of the opinion that urgent action is required to prevent or mitigate further harm.

A person to whom a reparation order is issued must comply with the order. The maximum penalty for failure to comply is $5 000.

94—Action on non-compliance with reparation order

This clause empowers the Minister to take any action required by a reparation order that is not complied with. Action may be taken on the Minister's behalf by a fisheries officer or other person authorised by the Minister. The reasonable costs and expenses in doing so can be recovered by the Minister from the person who failed to comply with the order, and if the amount is unpaid, the Minister can impose interest on the amount unpaid. The amount unpaid, together with interest, is a charge in favour of the Minister on any land owned by the person.

95—Reparation authorisations

If satisfied that a person has caused harm to a fish habitat by a contravention of this measure, the Minister can issue a reparation authorisation under which fisheries officers or other persons authorised by the Minister may take specified action on the Minister's behalf to remedy the damage to the fish habitat. The reasonable costs and expenses in taking action can be recovered by the Minister from the person who caused the harm, and if the amount is unpaid, the Minister can impose interest on the amount unpaid. The amount unpaid, together with interest, is a charge in favour of the Minister on any land owned by the person.

96—Related matters

This clause requires the Minister to consult, as far as is reasonably practicable, with other public authorities that may also have power to act before the Minister issues a protection order, reparation order or reparation authorisation. However this does not apply if action is being taken as a matter of urgency or in other circumstances of a prescribed kind.

A person cannot claim compensation from the Minister, the Crown, a fisheries officer, or a person acting under the authority of the Minister or a fisheries officer, in respect of a requirement imposed under this Division or on account of any act or omission undertaken or made in the exercise (or purported exercise) of a power under this Division.

97—Registration of orders or authorisations by Registrar-General

This clause allows the Minister to have the Registrar-General register an order or authorisation issued under this Division relating to an activity carried out on land, or requiring a person to take action on or in relation to land. Such an order or authorisation is binding on each owner and occupier from time to time of the land. The Registrar-General must, on application by the Minister, cancel the registration of such an order or authorisation and make appropriate endorsements to that effect.

98—Effect of charge

This clause sets out the priority of a charge imposed on land under this Division.

Division 3—Court orders

99—Additional orders court can make on conviction

This clause sets out the orders a court that convicts a person of an offence against this measure can make in addition to imposing any other penalty.

The orders include—

- imposing conditions on an authority held by the person;
- varying the conditions of an authority held by the person;
- suspending an authority held by the person;
- disqualifying the person from holding or obtaining an authority;
- disqualifying the person from being the director of a body corporate that holds an authority;
- prohibiting the person from being in, on, or in the vicinity of, specified waters without a lawful purpose;
- prohibiting the person from engaging in fishing activities;
- prohibiting the person from being in or on specified boats;
- prohibiting the person from being in or on specified premises connected with the processing of aquatic resources;
- prohibiting the person from having possession of specified devices;
- prohibiting the person from having possession of specified aquatic resources.

An order can be made either on the court's own initiative or on application by the prosecution.

100—Orders ERD Court may make on application by Minister

This clause empowers the Environment, Resources and Development Court to make an order of a kind referred to in clause 99 if satisfied an order of that kind has been made against the person under a corresponding law and the making of the order is justified in the circumstances of the case. An order can be made on the application of the Minister.

101—Provisions relating to orders under this Division

This clause empowers a court to stipulate that a suspension, disqualification or prohibition order made by the court under this Division is to apply permanently, for a specified period or until further order. If a person contravenes an order, they are not only liable for contempt, but are also guilty of an offence for which the maximum penalty is $100 000.

Division 4—Demerit points scheme

102—Interpretation

This clause contains definitions of terms used in this Division and includes other interpretation provisions.

103—Demerit points for certain offences

This clause provides that a person who is convicted of, or expiates, an offence against this measure of a kind prescribed by the regulations incurs the number of demerit points prescribed by the regulations in relation to that offence. Demerit points incurred or recorded by or in relation to a person under a corresponding law will be taken to have been incurred by the person under this Division.

Demerit points incurred by a person must be recorded against a fishery authority if the person who incurred the points is the holder of the authority or a registered master of a boat registered for use under the authority and the demerit points were incurred in relation to an offence committed by the person against clause 119(4).

104—Consequences of certain number of demerit points being incurred by person or recorded against authority

This clause provides that if a natural person incurs 200 or more demerit points within 5 years the person or body is liable to be disqualified from holding or obtaining an authority, from being a director of a body corporate that holds an authority and from being registered as the master of a boat used pursuant to an authority. The disqualifications operate for a period of 10 years. If a body corporate incurs 200 or more demerit points, the body corporate and each director of the body corporate is liable to be disqualified from holding or obtaining an authority. If 200 or more demerit points are recorded against a fishery authority within 5 years, the Minister must cancel the authority unless the authority is transferrable and the authority is either transferred to an eligible transferee or is compulsorily acquired by the Minister.

105—Notices to be sent by Minister when certain number of demerit points are incurred or recorded

The clause requires the Minister to notify a person when—

(a) the person has incurred a number of demerit points equal to or exceeding one-half of the number that results in liability to be disqualified; or

(b) a number of demerit points equal to or exceeding one-half of the number that results in an fishery

authority held by the person becoming liable to cancellation are recorded against the authority.

106—Notices to be sent by Minister when person becomes liable to disqualification or authority is to be cancelled

This clause provides that if a person is liable to be disqualified, the Minister must give the person notice of the disqualification. If an authority is liable to cancellation, the Minister must give the holder of the authority notice of the cancellation. If a person is liable to disqualification and the person holds an authority, the notice of disqualification must also inform the holder that any non-transferable authority held by the person is cancelled and that any transferable authority held by the person must be transferred to an eligible transferee, is suspended until the transfer takes effect and, if not transferred, will be compulsorily acquired by the Minister.

107—Disqualification etc and discounting of demerit points

This clause specifies that a notice of disqualification or cancellation takes effect on the day specified in the notice.

If a transferable authority is not transferred as required by a notice of disqualification, the Minister must acquire it compulsorily in accordance with the regulations. An authority that is compulsorily acquired cannot subsequently be issued to the person from whom it was so acquired or an associate of that person. If a person is disqualified, any transferable authority held by the person is suspended until transferred and any non-transferable authority held by the person is cancelled.

If a disqualification takes effect, all demerit points in respect of the offence that brought the aggregate of points to 200 or more are discounted, as are all demerit points in respect of offences committed prior to the time that the person committed that offence. If an authority is transferred, all demerit points recorded against the authority are discounted.

108—Court not to take into account demerit points in determining penalty

The clause provides that in determining the penalty to be imposed on a person convicted of an offence against this measure, the court must not take into account the fact that, in consequence of the conviction, demerit points will be incurred by the person.

Division 5—Miscellaneous

109—Additional penalty based on value of aquatic resources

This clause provides that if a person is convicted of an offence involving the taking, sale or purchase, or possession or control, of aquatic resources, the court must, in addition to imposing any other penalty prescribed by this measure, impose a penalty equal to 5 times the wholesale value of the aquatic resources at the time at which the offence was committed, or $100 000, whichever is the lesser.

Part 9—Review and appeals

Division 1—Internal review

110—Review of certain decisions of Minister

This clause gives a person aggrieved by a decision of the Minister—

(a) to refuse an application for the issue or renewal of an authority; or

(b) to refuse an application for consent to transfer an authority; or

(c) to impose conditions on an authority or vary a condition of an authority,

the right to apply to the Minister for a review of the decision.

On a review, the Minister may confirm or vary the decision under review or set aside the decision and substitute a new decision.

Division 2—Appeals

111—Appeal to District Court against decision of Minister

This clause provides that if an applicant for a review is not satisfied with the decision of the Minister on the review, the person may appeal to the Administrative and Disciplinary Division of the District Court against the decision.

112—Appeals to ERD Court against protection or reparation order

This clause gives a person to whom a protection order or reparation order has been issued the right to appeal to the Environment, Resources and Development Court against the order.

113—Constitution of ERD Court

This clause sets out how the ERD Court is to be constituted when exercising jurisdiction under this measure.

Part 10—Miscellaneous

Division 1—General

114—Exemptions

This clause empowers the Minister to exempt persons and classes of persons from specified provisions of this measure by notice in the Gazette. An exemption may be made subject to conditions. Contravention of a condition constitutes an offence punishable by a maximum fine of $10 000. Before making an exemption that relates to, or is to apply in respect of, the Adelaide Dolphin Sanctuary, the Minister must consult with the Minister for the Adelaide Dolphin Sanctuary. Before making an exemption that relates to, or is to apply in respect of, the River Murray, the Minister must consult with the Minister for the River Murray.

115—Registers

This clause specifies the registers that the Minister must keep. The registers must be kept available for inspection, without fee, by members of the public at a public office and on a web site. On payment of the fee fixed by regulation, a member of the public may obtain a copy of any part of a register kept under this measure.

116—Recovery of fees, levies and other amounts

This clause provides that fees, levies and other amounts payable under this measure are recoverable by court action as debts due to the Minister.

117—Statutory declarations

This clause provides that if a person is required under this measure to provide information to the Minister, the Director or a prescribed authority, the Minister, Director or prescribed authority (as the case may be) may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Minister, Director or prescribed authority.

118—False or misleading statement or information

This clause makes it an offence for a person to make a statement, or provide information, that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this measure. The maximum penalty if the offence relates to a statement or information relating to a quota entitlement under a fishery authority is $300 000 if the offender is a body corporate or $60 000 if the offender is a natural person. In any other case the maximum penalty is $100 000 if the offender is a body corporate or $20 000 if the offender is a natural person.

119—Offences committed by bodies corporate or agents, or involving registered boats

Subclause (1) provides that if a body corporate is guilty of an offence against this measure, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless he or she proves that he or she exercised all reasonable diligence to prevent the commission of the offence.

Subclause (2) provides that if a person is guilty of an offence against this measure committed while he or she was acting as the agent of another person, that other person is guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

Subclause (3) provides that if a registered boat is used in or in connection with the commission of an offence against this measure, the registered owner of the boat is guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

Subclause (4) provides that—

(a) if the registered master of a registered boat is not the registered owner and—

(i) the registered master, while on the boat, does or omits to do an act or thing the doing or omission of which constitutes an offence against this measure or that would, if done or omitted to be done by the registered owner, constitute an offence against this measure; or

(ii) the registered master does or omits to do, in relation to a fishing activity conducted by use of the boat, an act or thing the doing or omission of which constitutes an offence against this measure or that would, if done or omitted to be done by the registered owner, constitute an offence against this measure,

the registered owner is guilty of an offence and liable to the same penalty as is prescribed for the principal offence or to the penalty to which the registered owner would be liable if the act or thing, if done or omitted to be done by him or her, constituted an offence against this measure;

(b) if—

(i) an employee or other agent of the registered owner or the registered master, while on the boat, does or omits to do an act or thing the doing or omission of which constitutes an offence against this measure or that would, if done or omitted to be done by the registered owner, constitute an offence against this measure; or

(ii) an employee or other agent of the registered owner or the registered master does or omits to do, in relation to a fishing activity conducted by use of the boat, an act or thing the doing or omission of which constitutes an offence against this measure or that would, if done or omitted to be done by the registered owner, constitute an offence against this measure,

then—

(iii) the registered owner is guilty of an offence and liable to the same penalty as is prescribed for the principal offence or to the penalty to which the registered owner would be liable if the act or thing, if done or omitted to be done by him or her, constituted an offence against this measure; or

(iv) if the registered owner is not the registered master, the registered owner and the registered master are each guilty of an offence and liable to the same penalty as is prescribed for the principal offence or to the penalty to which the registered owner would be liable if the act or thing, if done or omitted to be done by him or her, constituted an offence against this measure.

120—Commencement of prosecutions

This clause requires prosecutions for expiable offences against this measure to be commenced within the time limited prescribed for expiable offences by the *Summary Procedure Act 1921*. Prosecutions for non-expiable offences must be commenced within 3 years after the date of the alleged offence or, with the authorisation of the Director of Public Prosecutions, at any later time within 5 years after the date of the alleged offence.

121—Self-incrimination

This clause provides that if a natural person is required to give information, answer a question or produce, or provide a copy of, a document or record under Part 8 and the information, answer, document or record would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless give the information, answer the question or produce, or provide a copy of, the document or record, but the information, answer, document or record will not be admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty other than proceedings in respect of the making of a false or misleading statement or declaration.

122—Rewards

This clause empowers the Minister to pay a reward not exceeding the prescribed amount to a person who provides information leading to the conviction of a person for an offence against this measure.

123—Confidentiality

Subclause (1) makes it an offence for a person engaged or formerly engaged in the administration of this measure or the repealed Act to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this measure or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this measure, the repealed Act or a corresponding law; or

(d) to a law enforcement, prosecution or administrative authority of a place outside this State, where the information is required for the proper administration or enforcement of a law of that place relating to fishing; or

(e) for the purposes of any legal proceedings arising out of the administration of this measure, the repealed Act or a corresponding law.

Subclause (2) provides that the subclause (1) does not prevent the disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person.

Subclause (3) provides that information that has been disclosed under subclause (1) for a particular purpose must not be used for any other purpose by—

(a) the person to whom the information was disclosed; or

(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

The maximum penalty for an offence against this clause is $10 000.

Subclause (4) provides that the Minister, the Chief Executive or any other person to whom a return is provided under this measure by the holder of a fishery licence or other authority cannot be required by subpoena or otherwise to produce to a court any information contained in such a return.

124—Service

This clause provides for the service of documents.

125—Evidentiary provisions

This clause contains evidentiary provisions which may be used to facilitate proof of various matters in proceedings for offences against this measure.

Division 2—Regulations

126—General

This clause empowers the Governor to make such regulations as are contemplated by this measure or as are necessary or expedient for the purposes of this measure.

127—Regulations relating to conservation and management of aquatic resources, management of fisheries and aquatic reserves and regulation of fishing

This clause empowers the Governor to make regulations for the conservation and management of the aquatic resources of the State, the management of fisheries and aquatic reserves and the regulation of fishing. Regulations for the management of a fishery or relating to aboriginal traditional fishing can only be made on the recommendation of the Minister. The Minister may recommend the making of regulations for the management of a fishery if satisfied that the regulations are necessary or desirable for the purpose of giving effect to a management plan for the fishery. The Minister may recommend the making of regulations relating to aboriginal traditional fishing if—

(a) the Minister is satisfied that the regulations are necessary or desirable for the purpose of giving effect to an aboriginal traditional fishing management plan made with a native title group under Part 6 Division 2; and

(b) the regulations are, in the opinion of the Minister, consistent with the plan and the indigenous land use agreement under which the plan was made; and

(c) the Minister has consulted the native title group and given due consideration to any comments made by the group in relation to the regulations.

128—Regulations relating to processing of aquatic resources

This clause empowers the Governor to make regulations for the regulation of processing of aquatic resources and

matters ancillary or incidental to or connected with such processing.

129—Regulations relating to control of exotic aquatic organisms and disease

This clause empowers the Governor to make regulations for the control of exotic aquatic organisms and the prevention, control and eradication of disease in aquatic resources.

Division 3—Review of Act

130—Review of Act by Minister

This clause requires the Minister to cause a review of the operation of this measure to be conducted and a report on the results of the review to be submitted to him or her. The review must be undertaken after the tenth anniversary of the commencement of this measure and must be submitted to the Minister before the twelfth anniversary of that commencement. The Minister must table copies of the report in both Houses of Parliament.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Fisheries Act 1982* and the *Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987* and makes transitional provisions with respect to various matters.

Schedule 2—Related amendments

This Schedule makes related amendments of a consequential nature to a number of other Acts.

Ms CHAPMAN secured the adjournment of the debate.

The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries): I move:

That the time for moving the adjournment of the house be extended beyond 5 p.m.

Motion carried.

APPROPRIATION BILL

Adjourned debate on motion:

That the proposed expenditures referred to Estimates Committees A and B be agreed to.

(Continued from page 1127.)

Mrs PENFOLD (Flinders): The Rann government has $2.7 billion more to spend every year than did the former Liberal government—it should be drowning in money—but with this budget it missed the opportunity to relieve taxes on South Australian businesses, thereby stimulating jobs, economic growth and prosperity for the future. There are 80 000 small businesses in South Australia. They are the foundation of our economy and an extremely large employer, especially of young people. It is from these small businesses that big, new, innovative world-class businesses grow. They are the incubators. Assets such as these should be given the best possible chance to maximise production for the benefit of all South Australians.

However, what is in this budget for small businesses is no tax relief and increased costs. What could have been a lifeline for the South Australian economy—setting it up for the future—has been sadly ignored. It is a missed opportunity from which some of our 80 000 small businesses will never recover. The negative impacts will be felt by all South Australians because the high level of tax affects the cost of all goods and services as well as the ability of businesses to provide more jobs and economic growth.

The major assault on business costs pledged by Labor during this year's election is obviously nothing more than a broken promise. Even the Treasurer admitted in *The Advertiser* of 22 September that we need to reduce business taxes in this state if we are to keep pace with our interstate competitors. Payroll tax is not only a major cost, it is a major employment disincentive, with many small businesses resisting taking on new staff to avoid going over the threshold. The striking reality is that our South Australian businesses remain burdened with the highest payroll tax regime in the country (5.5 per cent), and our payroll tax threshold remains the lowest at $504 000.

The government has budgeted to take $840 million in payroll tax out of businesses this financial year. By the end of this term of government, it is estimated that payroll tax will be nearly $1 billion a year for the South Australian business community. That is a $1 billion tax on employment in South Australia. That money should be spent by businesses on innovation and technology to enable them to better compete in international markets. It should be spent on employing young South Australians, but, instead, this money will be paid in payroll tax, even on trainees and apprentices.

It should be noted that we have one of the highest rates of youth unemployment in Australia at around 28 per cent. This is no wonder when our government makes South Australia the hardest of any of the states in which to employ people. Many other states have lower payroll tax rates and do not charge payroll tax until the payroll reaches $1 million or more. This gives these small businesses a huge advantage over their South Australian competitors. Even respected South Australian charitable organisations, such as Greening Australia, the RSPCA and the Animal Welfare League, are not exempt from this miserable tax. These volunteer organisations are exempt in other states, but in South Australia volunteers are treated as second-class citizens.

As one former Labor Teachers Union leader once said: if a job is worth doing, it is worth being paid for. Without these volunteers, our communities—particularly those in regional Australia—would collapse. We could not afford to pay for all the work they do. Businesses voiced their concerns to the government about state taxes but, of course, this government, which says it listens, does not really listen, despite all the public meetings and all the gratuitous words by the government and the resulting media hype.

Land tax collections are set to increase from $140 million in 2001-02 to $342 million in 2006-07—a $200 million tax increase. The land tax revenue from the private sector has increased by about 21 to 22 per cent this year alone. The estimated land tax grab from the private sector in 2006-07 will be around $193 million compared with $76 million in 2001-02. In total, the government intends to collect more than $1 billion in property taxes each and every year over the next four years. In 2001-02 the government collected about $731 million—a significant increase of $250 million each and every year. The Treasurer has continued to underestimate revenue collections by the government. During the past four years he has generally underestimated total revenues by close to $570 million per year.

South Australia has one of the highest WorkCover levies in Australia, and the unfunded liability has increased nearly tenfold from $67 million under the previous Liberal government to $617 million in December 2005. That is a staggering $550 million increase. There are no proposals for reform of WorkCover in this budget and, therefore, another opportunity to make a difference and a real investment in economic development has been lost in South Australia.

It is vitally important that South Australia grows its economy and a key component of any growth will be improving the competitiveness of our business sector, currently being placed at a distinct comparative disadvantage with other states by higher rates of payroll tax, property tax

and WorkCover levies—and that is an absolute disgrace. It makes a mockery out of the Treasurer's pre-election promise that a Labor government would make it cheaper and easier to do business in South Australia. The sad reality is that, until the state government creates conditions in which businesses can create jobs and lure people back, the outlook for economic growth will continue to be ordinary, despite the best efforts of business.

The Labor government grabs taxpayers' dollars from the regions, but it is well known for being Adelaide-centric in its policy formation. It shocked even me, although I was prepared for a lack of investment in the regions. The whole of regional South Australia has been let down by the Minister for Regional Development's acceptance of Labor's population-based funding policy that gives priority to the city. Despite the continued budget surpluses, Labor's miserable record of investment outside the city area is becoming even worse. No matter what kind of positive spin Labor tries to put on it, the truth cannot be avoided.

This budget snubs regional South Australia. Its needs are largely disregarded. The economic development to increase state revenue is not recognised because it is not understood by this minister and this government. Rural regions are forced to endure a lower standard of living and much poorer health and education outcomes than their metropolitan counterparts. Overpasses, bridges and tramline extensions in Adelaide will not do anything to help long-term jobs in Adelaide or regional South Australia.

Net debt has increased by six to $700 million so where is it all going? Obviously, it is not to the regions. This is in total contrast to the stated goal of building sustainable communities in regional South Australia. The Regional Development Infrastructure Fund has just $9.6 million over three years for the whole state. How much of a difference can be made with such little funding to help with things such as mining, where the government is blowing the trumpet of success so hard? Exploration is just that—exploration. However, in order to get successful mines operating quickly, help has to be provided with the infrastructure—or projects will go elsewhere. Mining is an important industry for regional South Australia, but there is no provision in the budget for infrastructure required to tap into the state's mining potential.

Of the billions allocated to capital works projects, not one project is targeting important rail, port or road projects for the mining sector. Grants and subsidies from a government that the Premier has touted as being unashamedly pro-mining have been cut by around $5 million. Funding for the Office of Minerals and Energy Resources has been frozen, despite predicted growth in the mining sector. Funding for the agricultural, forestry and fishing portfolios—all key economic portfolios—now make up a paltry 1.8 per cent of the budget.

In the previous budget the government announced a $4 million infrastructure upgrade for Port Lincoln airport—the busiest outside Adelaide. I was delighted that the government had recognised the importance of this regional airport, yet there is no mention of the upgrade in this year's budget, nor have any of the promised funds been spent. Other airports have closed across Eyre Peninsula and people often have to travel 200 kilometres, or more, to Port Lincoln.

Funding is urgently needed to bring the airport up to a standard befitting a busy regional gateway. Presently, there is often inadequate room for passengers to sit and wait, and there is no food, drink, newspaper or local product to purchase. King Island in the Bass Strait, with about 10 000 passengers per year, has better facilities than this state's second busiest airport, with more than 130 000 passengers per year—and do not tell me there is no money to pay for infrastructure and services for regional South Australia.

The Premier and the Treasurer need to explain how they let the number of public servants blow out above the budget to now total an extra 7 750 full-time equivalents over the budget. How did this happen? The cost of this blow-out is estimated at more than $500 million per year. What would even half that figure per year do for infrastructure in regional South Australia? Perhaps children might finally be able to wear seatbelts on school buses and not be crowded into school bus aisles. I find the poor buses for regional children to be particularly insulting, when $21.2 million is being allocated to upgrade the existing metropolitan bus fleet.

Health is another area where the government's attitude towards regional South Australia is particularly pronounced. Despite planning to spend just over $3 billion on health this year, country health is virtually being ignored. It is insulting to regional South Australians that almost $130 million is allocated for health projects this year in the budget, but country health is receiving $1 million for just 10 dialysis chairs at Port Augusta and $3.5 million for refurbishment of rural and remote mental health beds at the Adelaide suburban hospital of Glenside. Waiting lists are growing, while people suffer pain and are treated with contempt. Labor has made much of the $160 000 it has given to Whyalla Hospital to reduce its waiting list of 450 for joint replacements, but this small amount is a drop in the ocean. The eight or so additional operations that $160 000 will allow will not put much of a dent in a waiting list of 450.

Regional hospitals have been allocated about $10 million extra to operate, compared with over $85 million extra allocated to metropolitan health. As one-third of the population lives in the regions, surely even taking into account the majority of specialists being located in the city, at least a quarter of the funding should go to regional hospitals, particularly as city people have easy access to both private and government hospitals. The majority of the extra funds to regional hospitals will be soaked up by the pay increases through enterprise bargaining. Rural South Australian hospitals are being left to rot by a city-centric government.

The former minister for health in her estimates speech mentioned with pride the population-based funding model that is used by Labor, but I would like her to explain to me why so much funding is being channelled into the cities, while country people are fundraising for their local hospitals, the Adelaide Children's Hospital, the Royal Flying Doctor Service and to subsidise the accommodation for country families coming to the city to have babies, cancer treatment and operations of all kinds that could be undertaken locally.

The Rann government preaches to the people of this state about safe driving, and then puts together a budget that clearly fails in its duty to keep roads properly maintained and safe. The government announced a paltry $7.6 million for ongoing work on regional roads and a shoulder sealing program, and about the same amount of money for improvements to selected Outback roads. The sum of $7.6 million would seal about five kilometres of road when, on Eyre Peninsula alone, there is about 12 000 kilometres of unsealed roads. There is no question that people have a responsibility to use roads safely, but speed it not the only killer: so are dangerous, neglected roads. Reducing regional speed limits will only keep us longer on the roads, and drivers will inevitably be tired and bored as they crawl along these roads.

Many young ones, in particular, will not, and we will continue to see them in our statistics.

The money spent on trams and opening bridges could seal more than 1 000 kilometres of road, and 1 000 kilometres of sealed regional roads would save lives, decrease greenhouse gases, increase our competitiveness and lower our costs for freight and road maintenance. If it were not for the federal Liberal government's Roads to Recovery program, regional South Australia would be in a parlous state.

The federal government recently provided a grant of $900 000 to help seal the road between the Lincoln Highway and Lucky Bay, where the new ferry is expected to arrive before Christmas. The berths on either end are currently being completed after an onerous process of negotiations were finally completed with government departments and the state government. However, despite this ferry, cutting driving time by as much as four hours one way for people travelling to and from Eyre Peninsula, the state government is withholding matching funding that would enable the road to be sealed before the ferry starts and before the Christmas holiday traffic. I can only think that it is must be for philosophical reasons that a Labor government does not want to be seen to support a private enterprise. I beg it to consider the benefits for the people of not having to travel that extra eight hours, often for hospitals and with children—as in one case, with three under the age of five. This is without all the other benefits that would come from increasing safety and reduced wear and tear on the roads.

Primary industry has always been an important sector for South Australia, and this year the sector faces severe drought. You would think that the government might find it somewhere in its conscience to address this issue, but the budget has deserted rural South Australians. Despite the situation being desperate, cuts have been made to vital services for agriculture. Government funding for agriculture, wine and the State Food Plan has been reduced, totalling a 15 per cent cut over the past two years and a 20 per cent cut in real terms. These cuts come on top of the slashed budgets in the first two years of the Rann government. The former Liberal government embarked on the State Food Plan, investing in the plan with South Australian food producers and saw huge growth in the industry. The plan is now in disarray.

The food industry continues to decline and ABS figures reveal other key primary sectors are in decline, including the gross value of agricultural production, livestock and crops. The government continues to ignore our primary industries and our regions. The state's water supply is critical, with global warming a reality and drought upon us. No solution is being offered by the government or its government owned SA Water—and I understand that it has had special mention in the Auditor-General's Report for taking into general revenue nearly $300 million in dividends, instead of using this money to provide water to the people of the state, as SA Water's charter demands. Instead, we are supposed to feel glad to reduce our consumption. Labor promotes itself as a party for those on low income and the disadvantaged. However, its rhetoric is sadly at odds with its actions or, more particularly, its lack of action for ordinary people.

This is evident in the content of this budget not only in my shadow areas of regional development and small business but also in consumer affairs. Every member in this house should be aware of the difficulties that constituents experience when they have a problem with a service or a business. One might suppose that this whole area would be of immense interest and concern to Labor. However, judging by the government's treatment of both the Office of Consumer and Business Affairs (OCBA) and Consumer SA, this Labor government could not care less.

OCBA is a division of the Attorney-General's Department. It is customer focused and flexible in its activities, providing accessible services and information, ensuring that the legislative framework and its administration are fair and effective, yet funding for this important customer protection body has been doled parsimoniously. Because of lack of funding, it is difficult to get answers, even for Freedom of Information Act applications, and now we hear that six of the nine regional OCBA jobs are to be chopped and offices closed. It is part of this government's tactic of obfuscation so that its shortcomings and failures are hidden from scrutiny and public knowledge. This is also evident in its decision to withdraw funding from the voluntary organisation Consumer SA, which is the independent consumer voice in South Australia.

Established in 1977, Consumer SA is a longstanding part of the consumer protection scene in South Australia and receives national recognition through membership of the Consumers Federation of Australia. Consumer SA not only deals with complaints and grievances but, more importantly, takes preventative action by way of distributing information warnings to consumers, representing consumer interest to government and industry and researching matters that affect consumers. The organisation drafted a business plan for 2006-07 based on an application for core funding to the state government for $38 000 to help pay for a part-time staff person in the office, but this was not included in the budget.

We waited four months for this budget and we are still left with many more questions and answers. Why are South Australians taxed more than any other state in Australia? Why are country South Australians being ignored while the government wastes money on opening bridges and trams in Adelaide? Why is funding being withdrawn from key consumer protection bodies when offences are spiralling? I could go on, but members get the point: it is the same old Labor mismanagement of government that eventually Liberals will be called in to fix.

Ms CHAPMAN (Deputy Leader of the Opposition): We have just completed the estimates committee process in this parliament. It is an important process, which was established, as I recall, under the premiership of the Hon. David Tonkin when he was premier between 1979 and 1982. He felt that it was important that, when the budget papers had been published by government, the parliament have the opportunity to ask questions. That is a process that has endured ever since. It is important, at the very least, for the ministers to attend. Even in the short time that I have been here, which is pretty evident, we know that we do not always get a lot of answers but, nevertheless, the ministers are on notice. They are in the presence of their senior advisers and departmental heads and, with the excellent level of advice that is in attendance with them, it is somewhat surprising to me that we do not get more answers than we do and, in particular, that a number of ministers take questions on notice.

With the army of senior advisers that have appeared in these estimates committees, the number of questions taken on notice is staggering. Let me give you an example. During these estimates committees I was present to question the Minister for Health, Minister for Mental Health and Substance Abuse, Minister for Correctional Services, Minister for

Families and Communities, Minister for Housing and Minister for the Status of Women—a fair range. Of those areas that I have direct responsibility for, 20 health questions were taken on notice, as were 12 housing questions, 14 families and communities questions and eight mental health questions. These are all important areas, as are other portfolio areas, and I certainly hope that by 17 November we will receive those answers.

It is important for both sides of the house to have that information so that all members of parliament understand what information they have. We will be asked to pass the Appropriation Bill before we have a lot of those answers. I refer to the Deputy Premier's comments made earlier this afternoon, now that the estimates committees have concluded, when he suggested that the quality of the budget had been accepted, the scrutiny of the budget had been undertaken and that he was looking forward to the passage of the bill. He may have been somewhat premature in those comments. Nevertheless, it has been an important process and I look forward to receiving those answers.

I want to touch on three areas in relation to health, which has nearly one-third of the state budget. First, I would like to deal with the re-acquisition—the 'de-privatisation' as described by the government—of the Modbury Hospital. The budgeted amount of $17.5 million was not only for initial costs but also so that this process, which we have described as ideological zealotry, could be undertaken. Why spend $17.5 million over the next four years to buy back the Modbury Hospital contract when there is a perfectly good operating contract in place, all for the purpose of bringing 712 staff members from Healthscope's employ over to the public service? That is the objective of this exercise, and the claim is that it will provide a better service. Yet, two stunning things came out of the questioning and the minister's statements in relation to this operation, exercise, wild goose chase, stupid idea—or whatever you want to call it.

First, it is quite clear that we will miss out on the opportunity to take up the option of another five years that would be available under that contract. That takes the cost of this government's buyback of Modbury Hospital to $42 million that taxpayers lose out on as a result of this process—

Mr Pisoni: Ideology gone mad.

Ms CHAPMAN: Ideology gone mad. Nevertheless, that is their position; that is what they want to do and that is what they are committed to doing. The attitude of whatever it takes, whatever it costs became abundantly clear.

The other matter I wish to raise is the question of the extra $400 million to be spent on health. This was to be very important because the Premier, the Treasurer and the Minister for Health, day after day when the budget was released, were saying that $400 million would be spent and that that would be the equivalent of an extra 100 000 procedures or processes upon which action would be taken in our health system. When we came to the budget we got a budget disclosure that said that in the first year—this year that we are already a quarter of the way through—they would spend only $40 million of it. So, in the end you get $160 million spent in the fourth year.

That is fine. During estimates we asked the government to tell us what it would spend the first $40 million on. The answer was: 'We have not decided yet; we haven't worked that out yet; we're still discussing it; we're still considering what we're going to do.' Here we are, a quarter of the way through the financial year, during which they claim they will spend the first $40 million of $400 million, and they have not even worked out what they are going to spend it on! It is laughable to think this government is committed to health. It is laughable that the Treasurer has used health as an excuse for holding off the delivery of this budget for four months. We are four months late getting the budget, a quarter of the way through the financial year in which they are to spend the first $40 million, and they have still not even decided what they are going to spend it on. For goodness sake! It is a joke and it shows their complete ignorance of the crisis in health in this state.

The third matter I raise is the action taken by the minister in his restructuring of South Australia's governance in health. This is very important. We have heard a lot about the restructuring over the past six months of regional health boards and the future role of the boards that currently sit above our unit hospitals and health services in regional South Australia. For some years we have had, I think, seven regional boards. They were abolished and the government decided that it would change the role of our country unit hospital boards and take away from them two stunning things which they currently enjoy under the South Australian Health Commission Act and under which they have protection.

First, they are going to take away the right of hospital boards to hire and fire their own staff, because they think it is important that that be centrally controlled, so they will do it. Secondly, it became quite evident during the budget estimates for two reasons that they will take control of the capital works and redevelopments that take place in rural South Australia. Hindmarsh Square will decide which hospitals will be developed and which will die in the country. The Minister for Health made it very clear during estimates that, first, he wanted to have regional hospitals in four major regions in South Australia. We knew this because he has been saying it on the radio.

He also made it clear that he would take control of which hospitals would get capital funding and which would not. That was obvious because the budget itself disclosed $130 million for capital works this year and only $1 million to be spent in the country. That is not to rebuild a hospital, fix up asbestos or put on a new roof but to put 10 dialysis chairs in the hospital at Port Augusta. As important a service as that is, it is a cheek to allocate it as a capital works project when the rebuilding of crumbling country hospitals is pressing on this government's agenda but has been ignored for country South Australia. That was the country reform.

Disclosed also in this budget was the admission by the minister that he planned to scrap altogether the three metropolitan regional boards. These boards have been in operation for just over two years and were established by former minister Lea Stevens. Today I listened with interest to her contribution to the debate, because she commended, complimented and recorded her appreciation for the excellent work done by members (in particular, the chairpersons) of the three major regional metropolitan boards. That was very good and very important because, back in March 2004 when she was still the minister, she advised the parliament that on 26 February that year Her Excellency had signed proclamations to dissolve all the hospital boards—Royal Adelaide, Lyell McEwin and Modbury (all their boards went out the window)—and that she was setting up these regional boards.

She advised the house that it was consistent with a report, which was called the Generational Health Review by Mr Menadue, one of the principal recommendations of which was to move away from separate boards for stand-alone hospitals and health services, and a regional approach for the

delivery of services. Well, isn't that amazing? She said all of that, and that was fine. She also identified that the Repatriation General Hospital wanted to think about what it was going to do. That hospital was still in a consultation process. As we actually remember, of course, that hospital was outraged by the prospect of being shoved into some metropolitan regional board.

It wanted to go it alone and, as we now know, ultimately it did. The government left it alone and we got the commitment from the Premier, and I will come back to that in a minute. In the meantime, former minister Stevens set them up and identified publicly how important it was that they carry out the responsibility. She described it as a historic step in the long-term reform of the state's health system, and here we are just two years later and they are being axed. That was the first thing announced by the minister. He did not answer the question by advising the committee: he just said that he would announce it soon.

Of course, he did not even have the decency to announce to the committee on that day which regional boards would be axed. He had to tell Greg Kelton so that it was in *The Advertiser* for the rest of the world to know about instead of the committee which asked him about it the day before. That is the arrogance and contempt which the Minister for Health has for this parliamentary committee. He does not tell us which boards are going but announces it the next day in *The Advertiser* via Mr Kelton. The former minister for health (Hon. Lea Stevens) outlined to the house today at least her appreciation for the work they had done.

At the time of this reform, a contribution was made to the parliament by the Hon. Dean Brown (a former premier and former member for Finniss) on 20 September 2004 in which he said:

> The establishment of these boards and the creation of a new bureaucracy has been the main action arising from the Generational Health Review. Ironically, in the past 12 months the British Labor government has scrapped the regional health boards and appointed new boards for each hospital. In other words, they have gone back to where they were in the 1980s. The reason is that the regional boards were found to be too bureaucratic and inefficient and lack sound management control over the individual hospitals. Equally, the New South Wales Labor government has announced the scrapping of its regional health boards because of their mounting operational failure. South Australia seems to be taking a generational step backyards.

Well, how prophetic were those words, because we agree that having the regional boards was not the way to go. However, when the government appointed the regional boards it did not mention to them, the parliament, the public, the health industry or the consumers that they will be there only for a little over two years; that the government would scrap them and not replace any board administration to any of these hospitals. If you want to be able to put a view from the Royal Adelaide Hospital, you will have to go to Hindmarsh Square and to the CEO. That is the consequence.

The other sneaky little contribution, sneaky little variation, that should have been disclosed to the committee is the abolition of three other boards: the Ambulance Board, the Health Commission Board and the Metropolitan Domiciliary Care Board. They get a mention the next day in *The Advertiser* article, but they do not get a mention at estimates. They are just out the window. They are completely scrapped. They are gone. That is the end of their governance.

If one looks at the annual reports of the Health Commission one will see that a number of boards are left. Largely, they are the boards that cover the registration of various industries, namely, the nurses, doctors, medical boards, and so on. The country health boards are left which, of course, will be completely undermined in any power they will have. The government has axed just about every other one, except one, that is, the Repatriation General Hospital. Well, isn't that interesting? That hospital fought to stay alive and independent. It demanded that.

We want to know what the government intends to do with the Repatriation General Hospital Board. Will it commit to this parliament, as it did previously—that is, have a full consultation with the veterans and returned servicemen and women of this state before it takes any decision on this issue? We ask for that at least. I remind the house that, when the diggers had to battle for this once before, the Premier said, 'The diggers own that hospital in every sense of the word.' Those were the words of the Premier. They made a commitment then that, if that was what the veterans wanted, that would remain so. After 2½ years of reform, bringing in boards, abolishing some and neutering others, we will see whether the last one left standing—the Repatriation General Hospital—will have a life in the governance role of its hospital, or whether it will be deserted and destroyed.

The Hon. I.F. EVANS (Leader of the Opposition): I will not hold the house long, as I am aware that country members want to leave and that the Dimitria Festival guests are here for a function in Old Parliament House. However, I want to contribute very quickly to the debate on the estimates process. My view is that, in principle, estimates are a good process. They are a necessary process for democracy, but the process works only if there is goodwill between the minister and the shadow minister. Any minister can sit there for the day and say 'on notice' time and again, stall the process, not deliver an answer to the parliament until down the track and, basically, frustrate the process. If ministers want to do that, estimates become a difficult process for everyone involved, including the opposition and the media.

I believe that the estimates committee process is good for democracy. It is a good discipline on the minister and on the Public Service to think, 'What sorts of questions might the minister be asked and, indeed, what sorts of questions might the minister ask us?' It is a good discipline on the opposition, for the six or seven days of estimates, to focus on the various portfolio areas. However, that is all undermined if, for some reason, the relationship between the minister and the shadow minister does not bring about goodwill on the floor of the house to seek questions and have those questions answered.

I think that estimates is a good process. Of course, like all estimates committees, you will have good hours and bad hours in relation to getting information out of the government, but how else do the opposition, the media and the public know what is hidden in the bowels of the budget papers and the various departmental lines if we do not have some form of process whereby the opposition can drill down into the detail of the budget? I understand that, before estimates committees, days used to be set aside when any member of the parliament could stand up and ask the minister any question in a 'whole house' style of estimates committees. I think that it was in Premier Tonkin's day when they moved to this form of committee to try to improve the process.

In my view, there were timetabling issues in relation to the estimates committees. I sat in on the session on the Office for the Southern Suburbs and, while the southern suburbs are important, that office comprises two people and has a budget

of $700 000. It got three-quarters of an hour in the timetable, whereas WorkCover, which has an unfunded liability of $700 million and a staff of around 1 000 or more, got three-quarters of an hour. The Attorney-General got a timeslot of three-quarters an hour. If you compare the relative importance of the Office for the Southern Suburbs and the Attorney-General, I think there are some timetabling issues that need to be dealt with next year. Another issue is that some ministers get three-quarters of an hour but give a 20-minute opening statement, effectively restricting the opposition to three questions during the whole committee, which leads to some of the frustration in the estimate committees process.

The estimates committees have again revealed some interesting information this year. In fact, three ministers have had to come into the house and correct statements and, effectively, apologise to the house through having to correct statements. We have had minister Maywald, minister Hill and minister Weatherill all come into the house and say that they had made errors in their answers to the committee and seeking to correct the record. Even the Auditor-General had to go through the process of writing a letter to the committee stating that he had given incorrect evidence to the committee and apologising to the committee. So, we had four people before the committees who gave incorrect answers and had to correct the record.

The Hon. J.M. Rankine: There were five.

The Hon. I.F. EVANS: There were five? I am sorry; the Minister for Consumer Affairs admits that she was the fifth. So, the number of corrections would almost be a record for estimates committees. I guess it comes down in part—and I do not know whether I would put the Minister for Consumer Affairs in this category—to the attitude some of the ministers have towards the whole process. The Treasurer, for instance, is now on the record in this house as saying, 'Surely you're not going to hold me to account for what I've said in parliament?' How dare the opposition do that! Fancy the opposition holding a minister to account for what they have said in parliament. During the estimates committees, the Hon. Mr Foley indicated that he was not going to be held to account for what he said on ABC Radio to the public before the last election about not having to cut any Public Service numbers to fund the employment of extra teachers and police.

So, when ministers have that sort of arrogant, dismissive approach to the process, errors can be made, and they have to come into this place and correct the record. I guess it is an indication of the attitude the government has to the parliament and the estimates process that the Treasurer has made those particular comments. Of course the opposition will try to hold the government to account for what it has said in the parliament—and we will certainly try to hold it to account for what is said publicly on radio.

During the committee process, some of the more controversial areas have arisen, particularly the education cuts. I think the education cuts really do show that this government is out of touch with the average South Australian family. For a government to suggest that it will cut the swimming programs, the water safety and aquatic programs and instrumental music programs, and the government's attacks on the small schools, is small minded and mean. I went to a public school of only 69 students, and I do not see why those schools deserve any less funding than they were receiving prior to this budget. Those schools, for no other reason than they are within 80 kilometres of Adelaide (if schools are outside of 80 kilometres of Adelaide, they do not get a cut), will get a cut of up to $30 000 per school. It might not sound a lot, but a $30 000 cut to, say, Basket Range School, which has 32 students, is a cut of nearly $1 000 a student.

I say to Labor members: if your government went to your schools and said, 'We're going to cut your grants by $1 000 a student,' you would be quite rightly outraged. Well, that is what they are doing to us. That is what your Treasurer and your Premier are doing to those small schools: up to $30 000 in cuts to all the small schools under the Small School Grants Program. There is no educational reason for this. There is no report that says that, if we cut them by $30 000, we will get a better educational outcome. This is nothing but a blunt Treasury instrument to create a saving, and the savings to the government is chicken feed: $600 000 to $1 million. It is absolute chicken feed.

An honourable member: Twenty-one schools.

The Hon. I.F. EVANS: Twenty-one schools. What have they done to deserve this, other than they are in small communities, where there is little or no public transport? Some of these schools have some of the best teachers in Australia, and they have been recognised as such through national awards, and this government is going to cut their grants. It will cut $600 000. Enjoy your guitar festival, enjoy your Thinkers in Residence, enjoy having two more ministers than previous governments, at an extra cost of $4 million every year; but front up to the Basket Ranges, the Lenswoods, the Mylors, and tell them that you believe that those families should suffer a cut of up to $1 000 per student. How would your schools go at having to raise—in far bigger population bases, might I say—an extra $1 000 per student? They would not like it; they would be outraged, and you would not do it to your own schools. For $600 000, that is what the government is doing. I grew up in a small school. The reality is those small schools—and the member for Light can laugh—are the lifeblood of those communities. They are—

Mr Piccolo interjecting:

The SPEAKER: Order!

The Hon. I.F. EVANS: We will come to the member for Light. I think the attack on those small schools is small-minded, and I think it is mean. The government is going to make a lot of money out of asset sales in education. This is a government that promised no asset sales. This government is going to make a lot of money out of selling education assets. It is so small-minded it is going to attack the small schools. There are plenty of other savings in education you could make without attacking small schools. We all know what it is; it is nothing short of a deliberate tactic to get those schools to close and amalgamate. That is all it is.

What programs are they going to have to cut? They are going to have to cut the school support officers (SSOs) for students with special needs. They will have to close down the drama and music programs and the specialist teachers associated with those. They are going to close down sports coaches and things like the pedal prix and trips that are taken for granted in every other school. The member for Light can rave on about what we did in government. The member for Light needs to—

Mr Piccolo interjecting:

The Hon. I.F. EVANS: I will tell you why the context is different. I can go back and say to you, 'John Bannon closed 62 schools before he stuffed the State Bank.' Is that relevant today? In government we had a debt of $11 billion and, yes, we closed some schools, but this government has 20 per cent more revenue than when we were in government. You have $2.7 billion a year more. What the Treasurer will tell you, and

what your budget says, if the member for Light has not worked it out, is that, even though we have $2.7 billion more every year, we cannot find $600 000 for 20 small schools. Really? I do not believe that.

We can go right back in history. How far do you want to go? History is irrelevant. It is today's context. You have more money than at any time in the state's history. What I am saying to you is that when you have got more money than at any time in the state's history I do not think cuts to those small schools are justified. If you had an $11 billion debt, the criticism may not be as strong from this side of the chamber, but you do not have an $11 billion debt: what you have is a relatively low debt position, because this side of the house made some tough decisions when in government. So that is the difference: it is in the context.

We will continue to fight for those small schools, because we think there are other areas where the government can find the $600 000 a year which it is ripping out of those small schools. What we know now is that the Premier's promise in the budget of no privatisations is, of course, in tatters. We now know that these schools are going to be under public/private partnerships and owned and managed by the private sector. In terms of the Premier's own definition, that is privatisation of the process. There is no doubt about it. The Premier's media stunt of saying there will be no privatisations under the Rann/Foley government is a nonsense, as is the no asset sale.schools.

The other issue is the total hypocrisy of the government in relation to what it demands of the private sector and what it demands of itself. It will be an interesting test for the government. The government has put a high claim for open space on the Cheltenham sale. The reason it is doing this is that the member for Cheltenham and the current racing minister went around and made some strong promises about how they would never sell Cheltenham and how Cheltenham was safe under the Labor government. Of course, now we know they have done a deal where they are going to let the Cheltenham Racecourse be sold, as long as there is 40 per cent open space.

The test for the government will be what open space it will leave when it sells 17 government-owned schools. If it is not 40 per cent then the government needs to explain why open space in the northern suburbs, or north-western suburbs, is any less valuable than the open space at Cheltenham. How is the government going to get away with having only a 12.5 per cent open space requirement (if it even sticks to that requirement—being government) on those developments where it is selling those schools compared with what it is doing to a private entity in the racing industry and demanding 40 per cent?

The other issue is that of WorkCover. There is no doubt in my mind that there are major problems with WorkCover. The unfunded liability of WorkCover has gone from $67 million in March 2002, to $693 million in June this year. That is a tenfold increase in unfunded liability. The WorkCover premium rate in South Australia is the highest in Australia at 3 per cent; New South Wales has a rate of around 2 per cent, and they have had three levy cuts in the last year; Victoria has a levy rate of around 1.6 per cent, and they have had three levy cuts in the last three years; and Queensland has a WorkCover rate of 1.2 per cent.

It seems to me that there is something wrong with our WorkCover system when most other states are giving premium discounts or are substantially below us. The rate in Queensland is nearly one-third of ours at 1.2 or 1.3 per cent. WorkCover is a tax on payroll. It is effectively a 2 per cent margin on payroll tax that we suffer here as a result of WorkCover. I have asked questions everywhere on WorkCover. One day I will get the media to write the story, because there is something wrong with it. We asked the Premier, and, basically, the Premier is dismissive of it. It will be a problem for South Australia if something is not done to rein in the unfunded liability of WorkCover—there is no doubt about it.

The estimates committee process, in my view, is essentially a good one. I congratulate members on my side of the house for the way they went about it. For some of the newer members it was an interesting process to go through for the first time. I appreciate the effort put in by this side of the house in relation to the estimates committees. I support the motion.

Mr VENNING (Schubert): I have been doing this process for many years in relation to estimates, and there is always a problem when you speak at the end with how to cut it short. I will try to get through it very quickly, because it is late. I find this whole exercise very interesting every time we go through it. I always say, 'Heavens, it is a very expensive exercise, but it is a very critical part of the parliamentary process.' In other words, it is an essential part of providing the checks and balances on a parliament.

Irrespective of who is in government, it is there to be used and to protect the people and the people's money. As I said, it is a vital process but every year it is becoming more flawed—and none worse than this time. It is all about a full scrutiny of the government's budget. The ministers' officials from within government are called in here to be scrutinised—and I thank all of those who took part, particularly the officials, because it must be pretty horrific to come in here and have the pressure of the minister turning around and saying, 'You can answer that.' I certainly feel for them.

However, when we have all this in process what really upsets me is the nonsense of ministers not answering the question. It is all very well to say that the standing orders of the house allow a minister to answer a question however he or she likes, but why have a process of scrutiny in place, why have the cost of it, if we ask questions on budget lines and a minister can say, 'I don't have to answer that,' or, 'I have already answered that question,' and then does not address it? I will give one example that really got up my nose, and that was when I asked the Treasurer a question in relation to the perception out there that the government has an extra 8 800 public servants. I asked whether he knew about that—and it cost us an extra $500 million last year. His first response was, 'Ask me a decent question.' There were all these shenanigans and carry-ons from the Treasurer, and then he said that he had already answered that question. I asked when, but he would not say.

That is arrogance in the extreme, Mr Speaker; it is not what estimates is all about. The Treasurer did not even attempt to answer the question; he did not even try to criticise or attack the subject of the extra public servants, he did not even try to justify it. He just ignored the question and said, 'I've already answered that.' I then said to him, 'Tell me this, yes or no; did you know about these extra public servants?' He would not even attempt to give a yes or a no, not a shake of the head or anything. Again he just said, 'I have already answered these questions,' and, 'How dare the member come in here with prepared questions like that.' Well, I have to say that that was a question I wrote down in my own handwriting

on the spot—I wrote it down right there and then—and it is rude to say that I had a prepared question. This is the question that most people out there are asking—and $500 million builds a lot of roads; it would fix a lot of our worn out roads. This government has an extra $2.7 billion and what do we have to show for it?

I questioned the Minister for Health about the Barossa hospital during the process—at least I got a colleague, the member for Finniss, to ask the question, and I thank him for that. The question was totally ignored, there was not even an attempt to answer it—and these are issues that have been going around for many years.

Today in the house I heard the member for Fisher make a speech and I listened to it very intently, because he spoke of his trip to Western Australia. Well, hello—I challenge every member of the chamber to a visit, whether it be Western Australia, New South Wales, Queensland or even Tasmania, and then come back here and have a look and see where we are. You can talk all you like—this place is full of talk, it is all talk—but get out there and have a look. The member for Fisher made his observations of Perth and I agree with what he said—Perth is a go-ahead place. He was talking about their marvellous transport scheme, and they do have a brilliant scheme. I ask the member for Fisher to please go and find the old MATS plan of the seventies and have a read of it. We did have a plan for Adelaide transport many years ago, but what happened to it? Labor got elected and all the land was sold off and the concept was totally dismantled.

Look at what we are doing today. We see that one of the major items of this budget is to put two or three of the key parts of that project in at a huge extra cost. All of us, particularly the member for Fisher who has been here for longer than I (and I have been told I have been here long enough), have to wear this blame. The member for Fisher has been here since 1989. He has been a minister, a chairman of committees and a Speaker, so he, more than I, can share the blame, but we all have to wear it. It is $2.7 billion more expensive.

We hear about guitar festivals, thinkers in residence, two extra ministers, lifting bridges, and trams down King William Street. Then you wonder why we do not have the key projects which we all want for the state and which we want to leave for our kids. They are not happening, because they are all going into these Mickey Mouse projects, and they all cost money—not to speak of the 8 800 extra public servants.

As I said, this place is just talk; it is full of hot air. You can talk all you like, but get out and have a look. Drive on the roads and look for yourselves. I know the member for Light is very proud of his family, and well he should be. The lads are doing an exceptionally good job irrespective of the political party, but it does not worry me. But what sort of assets is he going to leave this generation? What sort of roads will these lads drive on when they are our age? Go and look. If you leave them roads that are no good at all, they will be paying tolls to use them.

Mr Kenyon: Like Jeff Kennett put in.

Mr VENNING: Don't bring Jeff Kennett into this, because he did Victoria a lot of favours. My word, he did. When we came into power in 1994—and I have never said this before—we did one thing wrong. We should have done what Kennett did and put on the family tax, and that would have broken the back of the state debt in the first term of government. He did it, but the premier at the time said he would not do it. He was a man of his word and we did not do that. As the member for Fisher highlighted today (I hope he hears this and comes back at me about it, because he can wear the blame as well as I, particularly with the government), all the other states are leaving us behind in all areas. We heard this today from our leader when he talked about WorkCover. It is just one of the areas in which we are getting creamed.

Mr Piccolo interjecting:

Mr VENNING: I hope the family of the member for Light is not like my family, because I have professionally employed children. I still have three working in this state, and if I have one of them left in five years I will be surprised. Two of them are looking interstate now, because the opportunities and quality of life are there, and that is pretty sad indeed.

The Hon. J.M. RANKINE (Minister for State/Local Government Relations): I move:

That the time for moving the adjournment of the house be extended beyond 6 p.m.

Motion carried.

Mr VENNING: Finally, I want to say something about small schools again. I could not believe that a government would come into this place—and the member for Light has small schools in his electorate, on the outskirts of Gawler—and slam $30 000 off each of these schools. I am totally amazed. I do not know what the end plan is. This is a ruthless attack on these schools. By pulling the money out, the facilities will fall away and eventually the parents will vote with their feet and take out their children and, of course, the government will then close the school. I think it is a very cynical exercise.

I also want to say that I questioned the Minister for Agriculture during estimates because I am very concerned about the cutbacks that we have every year in agriculture—bit by bit, surely but surely. The minister can always justify the cutback. He always says to me, 'Ivan, you got it wrong.' We are $12 million down but all these projects were completed and that project was stopped, and the bottom line is that the minister is spending $12 million less on agriculture. That is a fact. The minister can make all these excuses and come over here and try to soften us up, but that is the bottom line. It is pretty sad, especially the way things are. I heard the comments today in the house about the drought. I only hope that we can sort out the EC regions, that the government will instantly come in with the support that the federal government will also give us, because it is a serious situation. Of course, I declare my interest as a farmer.

I have been talking about these sorts of things for many years in this house, but never have we seen it as bad as this. It is not the farmers my age, because we have been around a while and have a bit up our sleeves, but it is these young farmers. The young farmers out there are being told how to be professional farmers. They are excellent farmers, but the trouble is that it is a very expensive way of doing things. They have invested a lot of money in putting in the crop, buying more land, buying modern machinery that is very expensive, and a lot of them are very heavily in debt. You cannot compare this, because these people have to turn round next year and spend the money again to put in a crop. That is the problem.

They will go to the bank and the bank will say,' Sorry, sir: we can't advance you this money again because we have done it twice now but you're not viable.' What is that young guy going to tell his wife when he goes home? This is where you get your suicides. I certainly hope that by next year we

can revamp this process of estimates, because it certainly needs it.

Mr PEDERICK (Hammond): In deference to the time and the fact that we have had a gruelling week or so in estimates, I will be brief. I wish to speak briefly on a few budget lines that affect the seat of Hammond, one of which is the cuts to aquatic centres. The government will say that they are only proposed cuts, but the message getting to me is that aquatic centres across the state will lose their funding. There are eight centres across the state, one of which is based in Murray Bridge, and 180 schools come to this aquatic centre for various water sport activities and training. Four thousand students from across the state come there. If we lose this, we will lose a vital part of water safety.

Another cut is the Be Active program. The government is cutting it out and putting in a little Mickey Mouse program just to say that it is still doing something. This is sheer arrogance by a government whose health minister says that it is concerned about health and the obesity of children. It is a slap in the face of reality as to where we are going with this. The government talks about food labelling, etc. If our kids could be more active and had an incentive to be more active, they would be a lot fitter.

In terms of the branched broomrape eradication program, only 360 hectares of branched broomrape was treated for eradication out of a quarantine area of 193 000 hectares. What does the government do? Over four years it will cut $3.25 million from the program. When our exports are at risk; when our other state partners pull out of this project; when the commonwealth pulls out of this project and our exports have gone to the pack, the Rann Labor government will have to have a good look at itself.

Another issue with the budget lines is that Murray Bridge drew the lucky straw: we get two new prisons. It is not all bad: there will be 1 700 construction jobs and probably about 400 jobs once they are up and running, but what was interesting that we learned through estimates was that the $411 million figure will be for the whole 25-year project time for the prison and will involve management fees. There was a total lack of consultation, yet we come in here and hear people like the minister for Cheltenham talking about his consultation with people and how this is the government for consultation. This just flies in the face of that.

This was announced budget morning in *The Advertiser*. But, now that we have it, the rural city of Murray Bridge Council, other interested parties and I will work with the situation. We need to make sure that the government has enough health services and mental health support in place. This is not just for prisoners and prisoners' families; we will have extra public servants working down there, of course. We need to speed up the process for land release in Murray Bridge for another shopping precinct.

We certainly need to have another upgraded transport system to get people in and out of Murray Bridge quickly. Another issue is country roads. We have about $7.6 million in extra funding for maintenance. When we look at the budget, there is almost $1 billion of major capital road works projects in urban areas, and not one of these is in regional South Australia. I was in estimates the other night, and the Attorney-General tried to tell me that the Rann Labor government was the government for regional South Australia. What a joke!

I will take a glance at the river and, obviously, the drought, which are major factors about which I think we all need to have a bipartisan approach, and we must make sure that we handle the resource very carefully. This is a tough time and, as the minister outlined today, we are in uncharted territory. I was impressed with one thing in estimates. I sent some correspondence off to the minister probably six weeks ago, and I asked a question in estimates about the high level of approvals for lake-side water users to get their pumps into the water given the low water pool levels. I had a phone call this morning from one of my constituents in Milang who said that the department has already made contact with irrigators advising that most of the bureaucracy is to be done away with. Instead of needing seven permits, one permit will be all that is required. So, that is progress on that front.

Mr Pisoni: So, are you commending the minister for that?

Mr PEDERICK: I am commending the minister on that—absolutely. I give credit where it is due. As far as the drought is concerned, yes, it is tough out there. I have plenty of farmers who will reap only 50 per cent of their properties this year, and they are really suffering. We have already lost lads from the area to the mining sector—which is good; at least they have jobs—and there are other farmers going off their farms to get work. Next week, we are hosting a rural business forum in Murray Bridge and we will have not just farmers and irrigators but also bankers and stock agents to help sort out where we are going and whether we will put in an EC application. I have a feeling that we will go down that path. To its credit, PIRSA is coming down to help us work through that process.

Mr GOLDSWORTHY (Kavel): In view of the time, I will be brief in my contribution. This is my fifth year sitting on the estimates committees, and my fifth year of being part of the opposition and a member of the Treasury and Finance estimates committee. Whilst I note that there was some reporting in the media in relation to the Treasurer's attitude to some of the opposition's lines of questioning, it is my experience that the Treasurer's attitude has not changed over those five years. He has been churlish and arrogant, and basically he refuses to answer the questions. I do not need to canvass that any further, because members on this side have adequately covered that issue.

In my five years of sitting on the Treasury and Finance estimates committee, the Treasurer's behaviour has not changed, nor improved. I regard it as an honour that, for the first time, I was responsible for leading the questioning on behalf of the opposition in relation to the local government volunteers and emergency services portfolio areas.

The Hon. J.M. Rankine: You did a good job.

Mr GOLDSWORTHY: Thank you. I note the compliment from the Minister for State/Local Government Relations. A couple of issues were highlighted in those committees. The Leader of the Opposition made the comment that there may be a need next year to look at some of the timetables or schedules, particularly with local government. In the Budget Papers there were two pages relating to the Office for State/Local Government Relations and we had two hours—

The Hon. J.M. Rankine: You filled them.

Mr GOLDSWORTHY: I know. I can dig out two hours' worth of questions, but I wonder whether it is of any real value to find questions just to pad out two hours, in view of the fact that the government chooses only to report on two pages for the Office of State/Local Government Relations. That is something we can look at. I am happy to talk to the minister about that—it will not be in 12 months, because I understand the estimates are in July next year—and whether

we shorten it to an hour and a half. We will see what we can do.

One issue that came up in relation to local government was the refusal of the President of the Local Government Association to sign the State/Local Government Agreement. I understand one of the major areas of concern that Mayor Rich has is in relation to the incredible hike in the waste management levy—$10 million, I understand. I know the Minister for State/Local Government Relations does not have a direct responsibility for that, but I asked some questions during estimates in relation to that issue. The main concern of Mayor Rich and the Local Government Association is the lack of consultation. I understand that the government had previously made a commitment to consult with the local government sector prior to making the announcement that any waste management levy would be hiked.

I noted with interest the remarks of the Minister for State/Local Government Relations during the estimates committee, and what she said is quite admirable:

> Community engagement is one of those areas about which I have been incredibly passionate since becoming a minister.

It is a real disappointment that we have one part of cabinet saying they are incredibly passionate about community consultation and another part completely ignoring it. The Minister for Environment and Conservation, the Hon. Gail Gago in another place, has totally ignored that ethic. The Minister for State/Local Government Relations should talk to her about holding her end of things up. That is one of the main concerns that the LGA has with this government in not signing that agreement. It is becoming a hallmark of this government that it says it will consult and that consultation is important and so on, but we have seen time and again that it has not taken place. I could give a number of examples in relation to that, but I will not do so in this contribution.

I will move on quickly to emergency services. There has been a reasonable amount of media coverage in relation to the Elvis airframe helicopter issue. I still maintain that there are more than sufficient funds in the community emergency services fund (CESF) to adequately pay for that helicopter if it is based here during the summer months. There are a couple of questions I will ask in relation to this matter. A decision has not been made about where a fourth helicopter will be based. Why should the eastern states think they are more important and that they should have a helicopter base rather than us here in South Australia?

I understand there are also some operational issues in relation to the helicopter, such as that it needs water resources, reservoirs, and the like, within reasonable proximity to where it is operating. Issues and arguments have been put to me about not having water resources all around the state.

I was born and I have lived in the Adelaide Hills, and I represent a big part of the Adelaide Hills. I can say that in the high fire risk areas of the state, such as the Adelaide Hills, the Fleurieu Peninsula, Kangaroo Island (which the member for Finniss represents) and the southern parts of Eyre Peninsula, there is plenty of water. There are half a dozen reservoirs in the hills and the Fleurieu Peninsula and Kangaroo Island have the sea. There is plenty of water around the bottom of Eyre Peninsula. If one looks at the coastline, there is sea to the west, south and east. Accessing water is not an issue for the operational aspect of the Elvis helicopter so it blows that argument out of the water.

In closing, I want to talk about the decision of this government to cancel the small schools grants. That decision will have a devastating impact on a number of schools in my electorate. The Leader of the Opposition spoke passionately about this issue. I do not need to go over it, but I will make the point that these small schools—I went to a primary school, which had about 50 children in it, from grade 1 to grade 7, and I had a good education in my primary years—form part of the local community. If the government makes the decision to close these schools, it will diminish the sense of community within those districts and areas. They form part of the community and they are a focal point for community activity, and it will be on the government's head if these schools are closed and those communities are diminished by it. I put on the record that the estimates process is a very important part of the budget itself. It is a very important part of the democratic process that we all look to enjoy and uphold.

Mr PENGILLY (Finniss): I feel as though I have been handed the poisoned chalice at 6.20 p.m. in the second week of estimates, so I will keep my remarks brief—I will not be speaking for 20 minutes. I put on the record, having experienced estimates for the first time, my total disillusionment with the process. Winston Churchill talked about the few in the Battle of Britain; well, I will talk about the few new opposition members who had to sit there and suffer through six days of estimates. In one house we had a particularly good chair. However, I thought the process was seriously flawed and, for the life of me, I cannot work out why we sat here for all that time to get so few answers. Perhaps I will learn in due course that that is the way in which this place works. I would like to get hold of it by the scruff of the neck, and I am sure my colleague the member for Light would like to tweak it somewhat so that we get a bit of commonsense.

The Hon. K.O. Foley interjecting:

Mr PENGILLY: There is probably no doubt the Treasurer sat there for eight years and thought the same when he was in opposition. I commend our side of the house. I believe the opposition worked assiduously to find the required number of questions to fill the time schedule allocated for estimates. Rather than make some comment about the money that was spent—with the exception of some road funding—I will make a few comments about the money that was not spent; in particular, I would like to dwell on the absence of funding for country roads.

The member for Hammond mentioned the $1 billion that will go into metropolitan roads infrastructure over the next few years. I am absolutely appalled at the total lack of funds that were put into country roads, and I will mention my own electorate quite deliberately. There are a number of roads there, but I point out, in particular, the Victor Harbor to Adelaide road, the Goolwa to Mount Compass road and the Yankalilla to Victor Harbor road on the mainland side, and the plethora of roads on Kangaroo Island that desperately need funding. As the member for Flinders pointed out, something like 12 000 kilometres of roads in her electorate are unsealed. I think it is a travesty of justice and inherently unfair that money has not been put into those country roads—and, more to the point, in my own electorate, to be quite parochial about it.

With respect to the health sector, I am most worried about where health is going in the country. I do not subscribe to the arrant nonsense that has been perpetrated about what a wonderful job the restructure of country health will achieve. I have very strong concerns about local communities losing their local assets and being conned into falling in line with

some bureaucratic nightmare, which will totally take over the operation and control of those units which have long been part of rural communities. In my own electorate, I point to the lack of funding to assist with dialysis facilities that we put in place. That is causing great consternation.

I now turn to the subject of schools. I have a little school in my electorate at Rapid Bay—and some members of the government might like to go and have a look at that school. It is a prime example of what small country schools can achieve. It is very much a community, family oriented school, to the extent that, just recently, one of the students, who is six years old, had her second eye removed due to a disease, and the whole school has rallied around to assist. It is the community spirit in that school that has got the little girl back there and kept her going strongly. The funding cuts to small schools, which will eventually strangle them, are a sad indictment of this government. The callous, cold and unfeeling manner in which the minister—

Mr Piccolo: Heartless.

Mr PENGILLY: 'Heartless' comes to mind as well, member for Light, thank you. I do not need any assistance: I am doing quite well. The swimming and music programs were to be cut and, all of a sudden, we have them back until after this summer. Whoopee! What will happen next year? We will have to look out, because it will really stir up the community around the state if the government attempts to cut out swimming and music programs. The cuts to tourism funding in the marketing budget are of grave concern. I was not a member of that estimates committee, but I do not believe that adequate answers were given. Once again, with respect to the drought that is absolutely crucifying the nation, I think the responsible minister failed to emphasise in the committee just what is required.

The last estimates committee that I attended was with the Minister for Environment and Conservation. I thought that the answers were totally, absolutely and pathetically inadequate—in fact, they were not answers. We waffled away there for a couple of hours—and the member for Light, I think, sat in on that committee. The answers with respect to the LGA, the waste levy and the impact on the community of small councils having to go and find another $10 million, I think, will come back to haunt this government before it is finished, along a lot of other things. I cannot say that I look forward to estimates committees next year, because I do not. It will be in the middle of winter—I suppose that is something. However, the prospect of having to sit there for another six days next year is something that really does not enthuse me.

Motion carried.

The Hon. K.O. FOLEY (Treasurer): I move:

That the remainder of the bill be agreed to.

Motion carried.

Bill read a third time and passed.

STAMP DUTIES (LAND RICH ENTITIES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 September. Page 952.)

Mr HAMILTON-SMITH (Waite): I rise at 6.25 p.m. to indicate that the opposition will be supporting the measure. I will be as quick as I can, so Hansard please bear with me if I go a bit fast, as I am sure everyone wants to go home. As members would know from its introduction in the second reading, the bill seeks to amend part 4 of the Stamp Duties Act 1923 in order to restore the integrity of the land rich provisions to ensure the equitable tax treatment of transactions which, in substance, relate to the transfer of interest in land. I am particularly interested in this issue because it has to do with the equity and fairness of our taxation system, and it has to do with the issue of the land component of entities at the point of sale. I think there are some issues and some inconsistencies in the way our tax laws are struck, which fall unfairly on some small businesses.

Part 4 of the act was enacted in 1990 to counter avoidance schemes, whereby revenue was being lost as a result of the practice of artificially placing land in highly leveraged private companies or private unit trusts and then transferring the shares (or units) rather than the land itself to prospective purchasers, thereby taking advantage of financial product rates of duty, rather than higher ad valorem conveyance duty rates. These provisions are known colloquially as the 'land rich provisions'. Without the land rich provisions, it was possible to exploit the rate differential that exists between the conveyancing duty charged on conveyances of land (which was a progressive scale up to 5.5 per cent) and financial product duty charged on the transfer of shares in unlisted companies (which was at 0.60 per cent), notwithstanding that the underlying control of the real property had changed.

The first measure relates to what is known as the majority interest test. Currently, a private entity is deemed to be a land rich entity if it owns $1 million or more of land in South Australia and the value of its entire land holding is 80 per cent or more (known as the 80 per cent test) of the value of all assets owned by the entity. Ad valorem conveyance duties are then imposed on a transaction by which a person or a group of persons acquires an interest of greater than 50 per cent in a land rich entity. As a means of avoiding triggering the land rich provisions, major investors are no longer taking a majority interest in an indirect land-holder but are regularly acquiring 50 per cent of the entity, which is a sufficient holding to influence the ownership of the entity in a manner consistent with outright control. It is therefore proposed in the bill to amend the majority interest threshold to include interests of 50 per cent, as well as interests of greater than 50 per cent.

Revenue SA advises that the 50 per cent or more test applies in all states except Western Australia and Tasmania. The second measure relates to the 80 per cent test. An entity owning $1 million or more of South Australian land is currently considered to be a land rich entity if the total value of its land holdings is 80 per cent or more of the total value of its assets. This threshold has been manipulated, for example, by entities that artificially increase the value of intangible assets.

In order to reduce the scope for manipulation, it is proposed through this measure to reduce the percentage of assets required to be land assets to 60 per cent of the total value of the entity's underlying assets. It is recognised that this may impact adversely on the farm sector which is heavily focused on land as its major asset. The 80 per cent threshold will therefore be retained for primary production entities—a measure this side of the house welcomes. Revenue SA advises that the 60 per cent or more test applies in all states except Tasmania and that the 80 per cent or more test for primary producers applies only in New South Wales.

The third measure brings to duty, on an aggregated basis, the acquisition of an interest of 50 per cent or more in a land

rich entity that results from a single contract of sale, a series of such transactions, or by persons acting in concert in order to defeat the threshold tests. Revenue SA advises that the aggregation test (concerted acquisitions) applies in all states. The fourth measure amends the act to confirm that the land of a private entity will be taken to include anything fixed to the land, including anything that is, or purports to be, separately owned from the land, unless the Commissioner is satisfied that the separate ownership is not part of an arrangement to avoid the imposition of conveyance duties or rates of duty. Revenue SA advises that this test applies only in Queensland.

The fifth measure has been introduced in response to industry concern about the inflexible operation of the provisions in determining an entity's land assets for the purposes of the asset threshold. The Commissioner of State Taxation will, therefore, be given discretion to include contractual rights or interests arising in the normal course of business of an entity for the purposes of the 60 per cent test. This amendment operates to the benefit of taxpayers. Revenue SA advises that this test applies in all states except Tasmania. The sixth and final measure provides an offset for duty paid on the acquisition of units in a private unit trust scheme against any land rich duty assessment. This amendment brings the act into line with equivalent provisions in other jurisdictions and also operates to the benefit of taxpayers. Revenue SA advises that this test applies in all states.

This is a budget bill with estimated revenue collections of $4 million in a full year. In political terms, the bill, in my view, has not really registered as a public issue; frankly, it is a fairly neutral issue. We have consulted on the bill and raised a number of questions that I would like clarified. I inform the Treasurer that I have eight questions. I am happy to go into committee to have them dealt with; alternatively, I have talked to the shadow treasurer in another place and I would be happy to read the eight questions, if you would be happy to obtain the answers and provide them in the other place.

The Hon. K.O. FOLEY: Yes.

Mr HAMILTON-SMITH: In that case, the first question I have is that the $1 million threshold has not been increased since the introduction of this section in the legislation in 1990. There have been significant increases in land values since 1990. New South Wales, evidently, has increased its threshold to $2 million and we have heard that Victoria might be considering an increase. Are other states increasing, or looking to increase, the threshold? What would be the revenue cost in SA if the threshold were to be increased to $1.5 million?

The second issue I raise regards the argument for reducing the 80 per cent test to 60 per cent. There have been artificial increases in intangible assets to avoid triggering the 80 per cent test. If this is a problem, why will it not still be a problem at 60 per cent? Would it be possible to address this issue by providing clearer guidelines on the appropriate method of valuation for intangibles?

The third issue I raise regards the definition of 'local primary production land asset' which assumes that land is used either wholly for the business of primary production or wholly for some other purpose. No guidance is given as to how the definition applies where only part of the land is used for primary production. Whereas in the Land Tax Act, the definition refers to land 'used wholly or mainly for the business of primary production'.

What problems, if any, would be caused if the definition used in the Land Tax Act were to be used for this purpose, and will the government consider an appropriate change? The fourth issue I raise involves section 91A(3) which refers to 'anything fixed to the land, including anything separately owned'. Will this provision catch leased plant and machinery? Will this mean that intangible assets, such as licences and goodwill, will be encompassed in the value of land: for example, a liquor licence? Why was not the term 'fixture' used as it has a defined legal meaning rather than the vague expression 'anything fixed to the land'? I realise these are the technical points, but we thought them worth raising. Could the value of electricity transmission and distribution equipment on the land be included in the value of the land?

The fifth issue I raise is that there has been increasing use of the commissioner's discretion in the legislation in recent years, which does not make for transparent and readily understandable legislation. Is the government aware of concerns about this trend, and what is the government's response? Is the use of the commissioner's discretion more prevalent in South Australian legislation than in other state?

The sixth issue I raise has to do with sections 94(2)(d) and 94(5). The government states that this amendment operates to the benefits of taxpayers. Will the government explain how that statement can be guaranteed? For example, is it not possible for the commissioner to use his discretion to disadvantage taxpayers? If some discretion is required under section 94(2)(d), would it not be preferable to draft the provisions so that rights and interests acquired in the ordinary course of business are included, unless the commissioner believes there is anti-avoidance conduct involved? Why is the phrase 'acquired in the course of normal business of the entity' used in section 94(5) rather than the commonly used phrase 'in the ordinary course of business', which has been judicially considered?

The seventh issue has to do with section 95A. One concern of industry is that the drafting of section 95A(2), in particular, is far too wide. I specifically refer to the concept of 'acting in concert', which is very uncertain. Paragraph (b), particularly, picks up a range of transactions that would not attract aggregation under section 67: for example, where a 50 per cent holding is sold to three independent shareholders, the land rich provisions might be capable of applying (either paragraph (a) or paragraph (b)), given the width of the concepts used.

My eighth and final point has to do with section 95B. This section requires entities to test their status for a period of three years following the acquisition. What is the policy basis for this requirement and does it not depart from the general principle that duty be assessed at the date of the instrument? If this provision remains, at what point in time will the addressed duty became applicable and what will be the penalty consequences? I ask the Treasurer to address those eight questions between now and when the bill goes to the upper house. I am happy to conclude my remarks. I thank the minister for bringing the bill forward and we are happy to see it pass through all stages.

The Hon. K.O. FOLEY (Tresurer): I thank the shadow minister for his approach to this bill. We will get detailed answers for the shadow treasurer to allow the passage of the bill in another place.

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

ADJOURNMENT

At 6.40 p.m. the house adjourned until Tuesday 14 November at 2 p.m.