# HOUSE OF ASSEMBLY

**Tuesday 6 March 2007**

**The SPEAKER (Hon. J.J. Snelling)** took the chair at 2 p.m. and read prayers.

## SCHOOLS, AQUATICS PROGRAMS

A petition signed by 94 residents of South Australia, requesting the house to urge the government to recognise aquatics as a legitimate and important part of the school curriculum and maintain funding to school swimming and aquatics programs, was presented by Dr McFetridge.

Petition received.

## MOBILE PHONE TOWERS

A petition signed by 83 residents of South Australia, requesting the house to urge the City of Onkaparinga not to place mobile phone towers within 300 metres of homes, parks, tourist areas or beaches and ensure that a prediction map of electromagnetic radiation emissions is prepared for each new mobile tower proposal, was presented by the Hon. J.D. Hill.

Petition received.

## ROADS, LINCOLN HIGHWAY

A petition signed by 99 residents of South Australia, requesting the house to urge the Minister for Transport to allocate funds for the immediate sealing of the road from the Lincoln Highway to the ferry terminal at Lucky Bay, was presented by Mrs Penfold.

Petition received.

## SCHOOLS, INSTRUMENTAL MUSIC PROGRAMS

A petition signed by 136 residents of South Australia, requesting the house to call on the government to recognise instrumental music as a key part of the school curriculum and maintain funding to the instrumental music service program and other school music programs, was presented by Dr McFetridge.

Petition received.

## QUESTIONS

**The SPEAKER:** I direct that the written answers to questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos 159, 161, 162, 168, 169, 171, 172, 179 and 180; and I direct that the written answers to questions without notice be distributed and printed in *Hansard*.

### APPROPRIATION BILL

159. **Mr HAMILTON-SMITH:** What is the breakdown of the $48 million expenditure in subprogram 7.2—Safety and Community in the 2006-07 Budget and how will the money be spent to achieve the performance indicators listed therein?

**The Hon. P.F. CONLON:** The Minister for Road Safety has provided the following information:

The $48 million includes a $34.9 million payment to SAPOL for road safety activities, with the remainder being allocated to the following activities within the Department for Transport, Energy and Infrastructure:

- Information and education programs, which addresses a range of safety issues for drivers, pedestrians and cyclists;
- Safety policy advice and reform; and
- Driver training programs.

This expenditure contributes both directly and indirectly to the reduction in the 12 month number of road fatalities to 7.4 per 100 000 population and serious injuries to 1 215 per 100 000 population outlined under the 2006-07 targets reported in Budget Paper 4, Volume 2, sub-program 7.2, Safety and Community.

Expenditure on information and education programs includes the Safe Routes to Schools program, thereby contributing to the target of increasing the number of schools participating to 178 in 2006-07 as reported within that sub-program.

### P PLATE LICENCES

161. **Mr HAMILTON-SMITH:** Are any new curfews or further restrictions as to the passenger numbers proposed for P Plate drivers and if so, what are the details?

**The Hon. P.F. CONLON:** The Minister for Road Safety has provided the following information:

On 31 October 2005, a package of enhancements to the Graduated Licensing Scheme (GLS) for novice drivers was introduced into South Australia. One component of the package is that Provisional Licence drivers who commit a serious disqualification offence are subject to a driving curfew for 12 months when they regain their licence.

The curfew applies from midnight to 5 a.m., unless the driver is accompanied by a Qualified Supervising Driver (that is, a driver who has held a full licence for two years continuously).

A serious disqualification offence is defined as, either:

- A single traffic offence that attracts four or more demerit points, or
- Two or more traffic offences each attracting three demerit points.

The Government has no plans at present to introduce any further restrictions, such as widening the current curfew provision, or to introduce passenger restrictions on Provisional drivers. The GLS enhancements recently introduced are among the toughest licensing provisions in Australia. The Government maintains a monitoring role with respect to possible new initiatives in novice driver licensing.

### ROAD SAFETY PORTFOLIO

162. **Mr HAMILTON-SMITH:** Why was the Road Safety portfolio separated from the Transport and Police portfolios, and what is the reporting relationship of those public servants working in this environment to the three responsible Ministers?

**The Hon. P.F. CONLON:** The Minister for Road Safety has provided the following information:

The road safety portfolio was established to place a new emphasis on road safety and to lead the delivery of the road safety target in South Australia's Strategic Plan.

The Minister for Road Safety is directly supported by the Safety and Regulation Division of the Department for Transport, Energy and Infrastructure.

The SA Road Safety Advisory Council chaired by Sir Eric Neil, also reports to the Minister for Road Safety and provides advice on road safety policy.

The road safety portfolio aims to coordinate road safety activities across government and the community.

Therefore, reporting relationships exist with other departments and agencies including SAPOL and the Motor Accident Commission.

Since the Rann Government came to power and, through the formation of the Road Safety Advisory Council in 2003, tougher measures have been introduced and South Australia has had a steady decrease in road fatalities. The Government has introduced loss of demerit points for using hand held mobile phones, immediate loss of licence for excessive speed and drink driving, the Graduated Licensing Scheme for novice drivers and random roadside drug testing.

Last year South Australia recorded the lowest ever total of fatalities. There were 117 deaths on the State's roads. The creation of the road safety portfolio is a logical step to ensure that South Australia reaches the road safety target of a 40 per cent reduction in road fatalities between 2000 and 2010.

### MULTICULTURAL SA

168. **Mr HAMILTON-SMITH:** How many staff are currently employed by Multicultural SA and what are their names, positions and remunerations, respectively?

**The Hon. M.J. ATKINSON:** Staff employed at Multicultural SA are listed in the attached table. This list does not include casual interpreters/translators, who number about 350.

| Title | Remuneration |
|---|---|
| Senior Community and Government Relations Officer | ASO-6 |
| Policy and Project Officer | ASO-5 |
| Customer Service Consultant | ASO-2 |
| Community and Government Relations Officer | ASO-4 |
| Acting Community Relations Officer | ASO-4 |
| Acting Grants Project Coordinator | ASO-4 |
| Office Manager | ASO-5 |
| Redeployee | ASO-8 |
| Acting Customer Service Consultant | ASO-2 |
| Executive Director | EX-C |
| Policy and Project Officer | ASO-4 |
| Customer Service Consultant | ASO-2 |
| Acting Administration Officer | ASO-2 |
| Customer Service Consultant | ASO-2 |
| Acting Manager, Interpreting & Translating Centre | ASO-7 |
| Executive Assistant | ASO-3 |
| Senior Policy and Project Officer | ASO-6 |
| Administration Officer | ASO-2 |
| Ministerial Liaison Officer | ASO-5 |
| Manager, Community & Government Relations Branch | ASO-7 |
| Redeployee | ASO-7 |
| Administrative Assistant | ASO-1 |
| Administration Officer | ASO-2 |
| Interpreter—Translator | ASO-4 |
| Acting Finance Officer | ASO-3 |
| Acting Executive Assistant | ASO-3 |
| Business Manager | ASO-7 |
| Finance Officer | ASO-3 |
| Interpreter—Translator | ASO-4 |
| Supervisor, Customer Service Centre | ASO-4 |
| Customer Service Consultant | ASO-2 |

169. **Mr HAMILTON-SMITH:** Does the Office have any overseas postings or contracted persons engaged in assisting migrants to South Australia and if so, where are they located, what is their employment status, and what are the benefits and costs linked to their appointment?

**The Hon. M.J. ATKINSON:** No.

171. **Mr HAMILTON-SMITH:**

1. Do interpreters assist migrants with driver's licence testing and if so, how are they remunerated for this service?

2. Is there a code of practice regarding supplementary private remuneration from clients using interpreting services?

**The Hon. M.J. ATKINSON:** I have received this advice:

1. Transport S.A. engages the Interpreting and Translating Centre to provide interpreters who orally translate learner's permit test questions from English into the native language of the test candidate. The interpreters are remunerated by the Interpreting and Translating Centre.

2. Two codes of practice exist that cover the Interpreting and Translating Centre's interpreters. The Code of Conduct section of the *Public Sector Management (P.S.M.) Act 1995*, and the Code of Ethics published by the Australian Institute of Interpreters and Translators.

If the member has an example of an interpreter receiving a secret commission to do the test or parts of the test instead of the client, please let us know.

172. **Mr HAMILTON-SMITH:** What measures are taken to ensure that interpreters assisting migrants with driver's license testing restrict their support to interpreting rather than answering the question on behalf of the applicant and is there a protocol to ensure that applicants requiring interpreting assistance will answer in their own accord?

**The Hon. M.J. ATKINSON:** I have received this advice:

All interpreters working for the Interpreting and Translating Centre (I.T.C.) who have accreditation from the National Accreditation Authority for Translating and Interpreting (N.A.A.T.I) at either the paraprofessional level or professional level have passed a segment of the accreditation test in which ethical issues are examined. To pass this segment, interpreters must understand the interpreter code of ethics. This code of ethics is published by the Australian Institute of Interpreters and Translators and is endorsed by N.A.A.T.I.

About accuracy it says this:

Interpreters and translators shall take all reasonable care to be accurate.

They must:

- relay accurately and completely all that is said by all parties in a meeting—including derogatory or vulgar remarks, non-verbal cues, and anything they know to be untrue
- not alter, add to or omit anything from the assigned work
- About impartiality the code of ethics states, interpreters and translators shall observe impartiality in all professional contracts.
- Professional detachment must be maintained at all times. If interpreters or translators feel their objectivity is threatened, they should withdraw from the assignment
- Practitioners should not recommend to clients anyone or anything in which they have a personal or financial interest. If for some reason they have to do so, they must fully disclose such interest—including assignments for relatives or friends, or which affect their employers
- Interpreters and translators are not responsible for what clients say or write. They should not voice or write an opinion on anything or anyone concerned with an assignment

Interpreters working for I.T.C. in languages for which N.A.A.T.I. accreditation does not yet exist are instructed in I.T.C's own induction program on the ethics of the profession.

If the member has an example of an interpreter acting improperly, please let us know.

## GOVERNMENT BOARDS

179. **Mr HAMILTON-SMITH:**

1. What mechanisms has the Government identified for increasing the number of culturally and linguistically diverse people on Government boards and committees?

2. How will the Government ensure equity, fairness and equal opportunity so that good candidates are not excluded?

**The Hon. M.J. ATKINSON:**

1. I have written to Ministers to remind them of the Government's policy and invited the Ministers to get in touch with the South Australian Multicultural and Ethnic Affairs Commission should they require assistance in finding suitable candidates for consideration.

Women's Leadership courses are being held regularly to help with skills among culturally and linguistically diverse women.

From time to time the Chairman of the South Australian Multicultural and Ethnic Affairs Commission is asked to nominate people for consideration for appointment to boards and committees, and he does so.

2. When nominating people, the Chairman adopts a best fit for purpose policy that ensures that appropriate people are considered.

## TRANSLATING CENTRE

180. **Mr HAMILTON-SMITH:** What is the cost of implementing the new Interpreting Translating Centre Management System and what is its status?

**The Hon. M.J. ATKINSON:** To date the cost to purchase, develop and carry out the new Interpreting and Translating Centre Management System (I.T.C.M.S.) is $233 552. A further $35 000 is expected to be spent by the end of this financial year on the system.

The new I.T.C.M.S. is currently being parallel tested with the old system. The new system will go to production in early 2007.

## ALLIANZ FEES

In reply to **Mr HAMILTON-SMITH** (6 December 2006).

**The Hon. K.O. FOLEY:** The Motor Accident Commission has sought legal advice from the Crown Solicitor's Office.

The Crown Solicitor's Office has advised the Motor Accident Commission that 'the public disclosure of such confidential information would materially disadvantage Allianz in relation to its competitors' It is also noted that this could "undermine future tenders and compromise MAC's ability to obtain the best possible combination of price and service through the tender process.

Given this advice I do not consider it appropriate to divulge such confidential information to the house.

**MOTOR ACCIDENT CONTRACTORS**

In reply to **Mr HAMILTON-SMITH** (6 December 2006).

**The Hon. K. FOLEY:** Below are 2005-06 contractor's fees for the Motor Accident Commission:

| Name of Contractor | Cost | Work Undertaken | Method of Appointment |
|---|---|---|---|
| WDM Design & Advertising | $4 755 | 2006-07 Sponsorship Campaign | Selective Offer |
| Peter Bridge | $5 650 | CTP Contract assistance | Selective Offer |
| Harrison Market Research | $8 600 | Sponsorship project | Selective Offer |
| Fijitsu Australia Limited | $13 120 | Business Continuity Plan/Database assistance | Selective Offer |
| Starcom Worldwide | $22 198 | 2006-07 Sponsorship Campaign | Whole of Government |
| Ross McColl | $52 337 | Road Safety Research | Selective Offer |
| Norsena | $108 923 | TRACsa assistance | Selective Offer |
| | $215 583 | | |

**PAPERS TABLED**

The following papers were laid on the table:

By the Speaker—

Employee Ombudsman—Report 2005-06
Orroroo Carrieton, District Council of—Report 2005-06

By the Treasurer (Hon. K.O. Foley)—

Electricity Industry Superannuation Scheme—Report 2005-06

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

Proposal for Extension of the Car Park Adjacent to the Goodman Building, Hackney Road, Adelaide
Regulations under the following Act—
Development—Disclosure of Interests

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

Regulations under the following Acts—
Criminal Law Consolidation—Notice to Admit Facts
Summary Procedure—Admission of Facts
Rules of Court—
Supreme Court—Notice to Admit Facts
Magistrates Court—Notice Upon Committal

By the Minister for Health (Hon. J.D. Hill)—

Regulations under the following Act—
Controlled Substances—Prescriptions

By the Minister for Industrial Relations (Hon. M.J. Wright)—

Shop Trading Hours Act 1977, Review of—Report 2006-07

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

Adelaide Hills Wine Industry Fund—Report 2005-06
Langhorne Creek Wine Industry Fund—Report 2005-06
McLaren Vale Wine Industry Fund—Report 2005-06
Riverland Wine Industry Fund—Report 2005-06

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

Regulations under the following Act—
Liquor Licensing—
Mannum Dry Areas
Renmark High School

By the Minister for Gambling (Hon. P. Caica)—

Gaming Machines Act 1992—Report 2005-06.

**NUCLEAR POWER REFERENDUM**

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

Leave granted.

**The Hon. M.D. RANN:** Today, I announced my intention to introduce legislation into parliament that will trigger a state referendum on nuclear power should the federal government legislate to override the state government's ban on local nuclear power plants. At present, federal laws prevent nuclear power stations being built in Australia. However, this government is currently looking at the feasibility of backing that up with South Australian legislation.

Because it now appears the Prime Minister is becoming a champion of domestic nuclear power generation and his government is actively promoting the idea of overturning laws to allow their establishment in Australia, we are taking this action. I believe this is an issue of such significance and controversy that the people should be given a direct say in whether they want them built in South Australia. I have read articles by commentators saying that there needs to be a debate on this, that debate should not be stifled. Well, bring it on! The people of South Australia missed out—

*Members interjecting:*

**The SPEAKER:** Order!

*An honourable member interjecting:*

**The SPEAKER:** Order! The Premier has the call.

**The Hon. M.D. RANN:** I think you have been drinking too much of that desalinated water you have imported from elsewhere. The people of South Australia missed out on being given a say as to whether they wanted their electricity system privatised, and the Liberals went ahead and did that immediately after a state election in which they promised not to. Do you remember the news conference when, with your support, they told the people of this state that? You paid them $100 million, I am told; $100 million to these consultants brought down to advise you on selling ETSA—$100 million of taxpayers' money, and the people were given no say in that. They were told deliberate untruths during that election campaign.

The people of South Australia were also denied a say in the Howard government's bid to establish a national radioactive waste dump in South Australia. But we stood them up and beat them in the courts. Do members remember that? The federal government said that it did not care what we thought: it was going to impose a national radioactive waste dump on South Australia. Where did that lot line up? They went in favour of the federal government, not in favour of their state. They put their party before their state.

This time, I am determined that the will of South Australians will be heard. My position and that of my government is clear, and it has been consistent before and after last year's state election. My government is opposed to nuclear power plants here, because they would be financially irresponsible and economically unviable, and would massively force up the price of power. Instead, we are leading Australia in sustainable energy alternatives such as wind and solar power, and pursuing new hot rocks geothermal power generation, about which I had discussions at the weekend.

If the community wants to debate the pros and cons of nuclear power in this state, a referendum will provide an excellent platform to help people make an informed judgment. I read in *The Advertiser*, 'Don't stifle debate'. We are not going to stifle debate: we are going to invite debate. To have a debate you have to have people who have positions, and that is the difference. The state Liberals in the meantime have flip-flopped all over the place on this issue. Let us have a look at what the front bench said.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** For example, on 27 February this year, at 8 a.m., the member for Waite was on radio with this to say about three businessmen who have set up a company to build nuclear power stations. The member for Waite said:

> The Premier says it's not economically viable, Robert de Crespigny, Hugh Morgan and Ron Walker think it is. Who would you back to make a competent business investment decision—Mike Rann or three of Australia's leading business people?

*Members interjecting:*

**The Hon. P.F. CONLON:** Sir, I rise on a point of order.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. P.F. CONLON:** I would really like to hear this.

*Members interjecting:*

**The Hon. M.D. RANN:** Wait for it.

*Members interjecting:*

**The Hon. P.F. CONLON:** Point of order, sir. I would really like to hear this, and it is very—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** There is breaking news, because that was at 8 a.m. At 8.42 a.m., 42 minutes later, his leader—the Leader of the Opposition, the member for Davenport—on a different radio station (because they obviously cannot sit side by side in the same studio) had this to say, when asked a question about the same issue. I want to quote from the Leader of the Opposition, because I agree with him. He said, 42 minutes later:

> I don't think the project will get up, not in the foreseeable future anyway, but I'm certainly happy to talk to them. . . everything I—

*Members interjecting:*

**The Hon. M.D. RANN:** Hang on.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** Wait for it—

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

**The Hon. M.D. RANN:** This is what the Leader of the Opposition said, 42 minutes later:

> . . . everything I have seen shows it's not going to be economically viable for 20 or 30 years, if then. . .

And you wonder why the member for Waite is going red in the face. Will the real Leader of the Opposition please stand up? If the federal government—

*Members interjecting:*

**The Hon. M.D. RANN:** The last thing I want to do is to engender interjections. If the federal government is so sure that nuclear power stations are a good idea, it should welcome the opportunity for the people of South Australia to have a say. To save on costs, we will ensure that such a referendum is held to coincide with the state election that falls closest to any federal government move to impose nuclear power stations in South Australia.

*Members interjecting:*

**The Hon. M.D. RANN:** They don't like it, because they don't want the people of this state to have a say about their state's future—and that is the difference.

*Members interjecting:*

**The SPEAKER:** Order!

### SHOP TRADING HOURS

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.J. WRIGHT:** Today I tabled the report of the review of the Shop Trading Hours Act 1977 by former senior District Court judge Alan Moss, as required under the transitional provisions of the Shop Trading Hours (Miscellaneous) Amendment Act 2003, schedule 4. Mr Moss has done an excellent job and produced a fair and balanced report. Mr Moss has conducted a thorough process which has allowed the public and interested stakeholders to put their views forward and have them properly considered in an independent manner. There are no recommendations for major changes to shop trading hours.

Whilst the government will give due consideration to suggestions made in the report for minor changes to the legislation, this independent review has fundamentally endorsed the government's approach to shop trading hours. Like many issues, shop trading hours is all about finding the right balance. This independent review has found that the government has got the balance right. I commend the report to the house.

### VISITORS TO PARLIAMENT

**The Hon. R.J. McEWEN (Minister for Agriculture, Food and Fisheries):** Mr Speaker, I understand that you shortly intend to welcome a Russian wine delegation to the state, so I will leave that to you, but it was lovely to have at lunch today four representatives from the Russian wine industry who are visiting South Australia.

**The SPEAKER:** As the Minister for Agriculture, Food and Fisheries mentioned, I wish to acknowledge the presence this afternoon of a visiting Russian delegation which is looking at our wine industry. The delegates are guests of the Minister for Agriculture, Food and Fisheries and the member for Mawson. I also welcome students from Blackfriars Priory School, who are guests of the member for Adelaide.

## QUESTION TIME

### HOLDEN

**The Hon. I.F. EVANS (Leader of the Opposition):** My question is to the Premier. Will the Premier indicate what advice the government has received in relation to an extra 1 800 jobs possibly being lost because of the multiplier effect of this week's axing of 600 jobs at Holden's? In 2003 the Premier welcomed the commencement of the third shift at Holden's, claiming that the flow-on activity in related industries would result in at least an additional 750 jobs being created. In June 2005, minister Holloway indicated that the multiplier effect of automotive jobs in South Australia was three to one. According to the government's own calculations, this means that the potential number of jobs that will

be lost because of yesterday's axing of 600 jobs at Holden's could reach 2 400.

**The Hon. K.O. FOLEY (Minister for Industry and Trade):** Only a desperate opposition leader in a desperate opposition under attack from the member for Waite—

*Members interjecting:*

**The SPEAKER:** Order! Does the member for Hammond have a point of order?

**The Hon. K.O. FOLEY:** Only a desperate opposition—

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Premier has only just begun his answer, so I am not in a position yet to judge what its relevance is.

**The Hon. K.O. FOLEY:** Only a desperate Leader of the Opposition and a desperate, narrow-minded state opposition would want to dance on this issue, would want to make political capital and dance on the fact that jobs are being lost.

**Mr WILLIAMS:** On a point of order, Mr Speaker, this is a serious question about, potentially, 2 500 South Australian families losing their job.

*Members interjecting:*

**The SPEAKER:** Order! The member for MacKillop, I know what the point of order is. The Deputy Premer.

**The Hon. K.O. FOLEY:** One of the things that I have had some degree of professional pleasure in doing over the last 12 months, since I have regained the position of industry minister, is working with the federal minister, Ian Macfarlane, on what would be one of the most difficult structural adjustment phases of an industry sector in this nation; that is, the automotive sector. A decision taken by the federal Liberal government, for which we as a political party have been supportive of, although we do have a position as a state party on the current phase-down of tariffs, we have all supported the reduction of tariffs in this nation.

*Ms Chapman interjecting:*

**The SPEAKER:** Order! The Deputy Premier has the call.

**The Hon. K.O. FOLEY:** I will attempt to answer this question in a constructive and informative manner and, to the extent I can, in a bipartisan manner, as it relates to the federal government. We are working through this incredibly difficult structural adjustment period in the automotive industry. Ian Macfarlane and I talk regularly, we meet regularly and we work through these issues regularly. We flew to Tokyo at a minute's notice only in the latter part of last year, to meet with the board of Mitsubishi, in a united approach to the Japanese car maker, Mitsubishi.

As it relates to General Motors Holden, we as a government have provided substantial financial support to assist the company in significant investment in technological improvements in safety and fuel management systems, together with the Victorian state government and the commonwealth. Three governments—two state, one federal—together agreed that we would provide this assistance to enable General Motors to keep ahead of the curve in technology and competitiveness when it comes to their vehicle for the domestic market, as well as the world market.

*Ms Chapman interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** You know, every question time she comes up with these inane interjections. This is—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** No; in fact, when it comes to the automotive industry, the fact is that I am the minister responsible for it and I have the working knowledge on this issue. We are working through this issue and, when it became aware that General Motors were likely to make this announcement, I spoke to minister Macfarlane last Monday evening (a week ago) and discussed the matter; as he had completed a federal cabinet meeting, we had a discussion about this matter. The senior executives of General Motors Holden—

*Ms Chapman interjecting:*

**The Hon. K.O. FOLEY:** Sorry?

*Ms Chapman interjecting:*

**The Hon. K.O. FOLEY:** Yes; Monday, a week ago.

**The SPEAKER:** Order! The Deputy Premier will take his seat. The deputy leader consistently peppers the minister's answers with constant interjections. It is not the way question time works. Members—

*An honourable member interjecting:*

**The SPEAKER:** Order! Members have an opportunity to ask ministers questions; ministers have an opportunity to provide an answer. If there are other questions the deputy leader wishes to ask then she has an opportunity to do that in an orderly manner, not by peppering further questions while the minister is attempting to answer the question. I have been letting her get away with it for too long and it is to stop. The Deputy Premier.

**The Hon. K.O. FOLEY:** I spoke to Ian Macfarlane on Monday a week ago, when he confirmed to me that he was aware that these job losses were coming. We had scheduled a meeting with General Motors executives that Friday. So, on the Monday night I spoke to minister Macfarlane and on the Friday the Premier and I met with the senior executives of Holden's. Members opposite may ask, 'Well, why didn't you make an announcement earlier?' It is not our job. When companies come to government for confidential briefings we must respect that confidentiality. We were briefed—

**Mr Pisoni:** You are out there with the good news.

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** Well, ring Ian McFarlane and ask him why he did not release it publicly. Don't come at me on this.

*Mr Koutsantonis interjecting:*

**The SPEAKER:** Order! The member for West Torrens!

**The Hon. K.O. FOLEY:** It was an indication of the close working relationship I have with the commonwealth on this. We worked through the matter, and we were briefed on Friday evening at 4 o'clock and, subsequently, General Motors made its announcement on Monday. The Premier and I both expressed at that meeting, as we did subsequently, our disappointment with the timing of it. We thought that it was an odd time to be announcing such a move given the great success of the car race, and of Holden's success in particular, on the weekend, but, ultimately, that is a decision for them.

As for the issue of workforce reduction, there is obviously a multiplier effect. But, to put some sort of number out like 1 800 based on no fact, based on no modelling, based on no logic, is nothing more than juvenile scaremongering by a desperate opposition. I say to members opposite, if you want to be serious, engage us constructively; if you want to be serious, engage your federal colleagues constructively. I can work with the Liberals when they are constructive, but there is one thing that we have done all the way through with this issue—we have worked with the commonwealth—

*Mrs Chapman interjecting:*

**The Hon. K.O. FOLEY:** You are a pathetic member of parliament.

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Premier will take his seat. We will move on.

**The Hon. K.O. FOLEY:** No; I have not finished, sir. We know the deputy leader has been backgrounding people about a leadership challenge.

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** We know that you are behind Moriarty.

*Members interjecting:*

**The SPEAKER:** Order! The Deputy Premier will take his seat. The house will come to order or I will suspend the sittings. The member for Hartley.

## WATER SUMMIT

**Ms PORTOLESI (Hartley):** Can the Premier please advise the house of the outcomes of the water summit held in Canberra on 23 February?

**The Hon. M.D. RANN (Premier):** Thank you, sir. I am very—

**Mr Hamilton-Smith:** Another good news story.

**The Hon. M.D. RANN:** Oh, it is a good news story. I know the pallet arrived yesterday with the desalinated water from Western Australia.

**Mr Williams:** I see you are catching up with these things.

**The Hon. M.D. RANN:** Actually, if you track back to the beginning of last year, you will remember that there was a news conference in which we announced the biggest desalination plant in the Southern Hemisphere. I saw that you gained momentum out of it. I saw that you are on a roll about these things, and then we saw what happened with the internal divisions—

**The Hon. P.F. Conlon:** Moriarty stuck his foot out.

**The Hon. M.D. RANN:** Moriarty; that is right. We are right behind the current Leader of the Opposition, and we will be supporting him to stay on in that position. I am very pleased to advise the house that South Australia has been able to negotiate major reforms to the management of the Murray-Darling Basin that will benefit the River Murray, South Australia and the nation. The commonwealth—

*Members interjecting:*

**The SPEAKER:** Order! The Premier.

**The Hon. M.D. RANN:** The commonwealth, South Australia, New South Wales and the ACT have agreed to the referral of state powers to the commonwealth to establish new management arrangements for the basin. The centrepiece of the new arrangements will be an independent Murray-Darling Basin authority—a body of independent nonpartisan experts—to make decisions as well as advise the government about the management of the water of the basin on the basis of science and in the interests of the basin as a whole. The authority will be free of political and vested interests. The state of Victoria and the commonwealth will continue to negotiate towards the referral of powers by that state.

When the Prime Minister announced without notice or consultation that the commonwealth intended to take over the management of the basin, I made it very clear that South Australia would agree to a national approach subject to, among other things, the creation of an independent body. That issue was non-negotiable. On behalf of South Australia, I was determined to see that vital decisions about the health of the River Murray were not left to politicians beholden to vested interests in the upstream states, because the health of the river and the national interests were paramount, not the interests of the rice and cotton lobby. The opportunity to reform the Murray-Darling Basin arrangements was a one in 100-year constitutional opportunity.

*Members interjecting:*

**The SPEAKER:** Order! The Premier has the call.

**The Hon. M.D. RANN:** Thank you, sir. As the downstream state, South Australia had the most to gain if we got it right and the most to lose if we got it wrong. South Australia's insistence on an independent authority was immediately rejected by the Prime Minister. He described it as a 'smokescreen', and he claimed that to agree to it was to 'surrender representative democracy'. The media commentators described my position as being isolated and out on a limb, but over the few weeks leading up to the summit we were able to garner support for our principled position.

Nationally recognised water management experts publicly supported our stand, and I am indebted to Professor Peter Cullen, former thinker in residence, and to Professor Mike Young from Adelaide University for their wise counsel. I also thank Professor John Langford and John Scanlon, the independent commissioner on the Murray-Darling Basin Commission, for their support. Most of all, I acknowledge the immense contribution of the Minister for the River Murray, the member for Chaffey. I hope that, in a bipartisan way, you would agree that the leader of the National Party in this cabinet made a major difference to the future of the River Murray which I hope that one day you will be big enough to acknowledge—but, clearly, it is not on this day.

The conservation movement backed our plan and, after some shuttle diplomacy to Brisbane, Sydney and Melbourne, we were able to secure support from the other states to have the model of an independent authority put squarely on the summit agenda. The leader of the federal opposition, Kevin Rudd, supported South Australia's plan and urged the federal government to adopt it in the national interest. The breakthrough came on 21 February 2007 (two days before the summit), when I and Queensland Premier, Peter Beattie, put a joint position to Prime Minister John Howard. The key point in the joint position was the establishment of an independent authority, which the commonwealth had previously ruled out.

By the time the summit began, all jurisdictions supported the model of an independent authority. As a direct result of South Australia's unwavering position, we have been able to achieve the following.

*Members interjecting:*

**The Hon. M.D. RANN:** I have all afternoon.

*Mr Williams interjecting:*

**The Hon. M.D. RANN:** Well, no-one believes you. How many votes could you get for the leadership? You are getting nervous about the number 3.

*Members interjecting:*

**The Hon. M.D. RANN:** The member for Waite, he was not even sure of his own vote, and Mark Brindal came out said, 'Look, I don't support him but, to avoid embarrassment, I'll sign along the line just to get the nomination.'

**The SPEAKER:** Order! The Premier will return to his answer.

**The Hon. M.D. RANN:** Thank you, sir. As a direct result of South Australia's position, we have been able to achieve the following—and I know that members who are genuinely interested in the River Murray will listen:

- agreement to South Australia's proposed model of governance in which decisions about water management will be made by an independent commission of experts

whose decisions will be based on science rather than politics;

- agreement that these new arrangements, including the qualifications of the members of the commission, be reflected in legislation;
- agreement that any decision by the relevant commonwealth minister to overrule high-level decisions and advice of the new Murray-Darling Basin authority be tabled in the commonwealth parliament;
- a commitment by the commonwealth to a strategic reserve for the River Murray as a contingency measure for South Australia and other states in the current drought and in years of extremely low flows;
- a guarantee by the commonwealth to preserve the state's existing entitlement flow of 1 850 gigalitres per annum—

**An honourable member:** It was never in doubt.

**The Hon. M.D. RANN:** If it was never in doubt why wasn't it in the original proposal—

*An honourable member interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN:** —and why didn't you say anything about it? You're prepared to sell the river short on behalf of your federal Liberal Party colleagues. I continue:

- an acknowledgment by the commonwealth that a return of 1 500 gigalitres to the River Murray for environmental purposes by 2018 can be achieved under the national plan;
- a commitment by the commonwealth that new funding will be directed on an objective and scientific basis to the areas of greatest need within the Murray-Darling Basin; and
- an agreement to a review of the new arrangements in 2014.

Under the referral of powers the commonwealth will take responsibility for key water management functions in the Murray-Darling Basin, including (and there is some detail in here that the house will want to hear and that the parliament deserves to hear):

- preparing a basin-wide strategic plan;
- setting a sustainable cap on surface and ground water use at the basin and individual catchment level;
- establishing a basin-wide water quality objective;
- setting standards for catchment level plans, including for the management of interception and flood plain activities;
- seasonal allocation of water resources;
- directing the operation of rural bulk water supply systems;
- environmental water management; and
- setting rules for water trading and charging regimes.

Further detailed work now needs to be completed by our officers to prepare a memorandum of understanding and draft complementary legislation. The commonwealth intends to introduce legislation in May this year with state legislation to follow later in the year—and I hope, and my plea to the opposition is, that we can do this in a bipartisan way.

I would like to acknowledge their contribution and thank officers of the South Australian government from the Department of the Premier and Cabinet, the Department of Water, Land and Biodiversity Conservation and the Department for Transport, Energy and Infrastructure for their excellent work and commitment to the interests of the state and the River Murray. It was a worthwhile effort and a good result that everyone (except members opposite) is prepared to acknowledge.

## AUTOMOTIVE TARIFFS

**The Hon. I.F. EVANS (Leader of the Opposition):** My question is again to the Premier.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. I.F. EVANS:** Does the Premier's call for a freeze on tariff reductions have the support of Holden management? The opposition has been informed by industry sources that tariffs have limited impact on the company's international competitiveness, and that movements in the exchange rate have a bigger impact on the company's export capacity.

**The Hon. K.O. FOLEY (Minister for Industry and Trade):** The government's decision to make the statements regarding tariffs were not done solely within government.

**Mr Pisoni:** What about payroll tax?

**The SPEAKER:** Order!

**Mr Pisoni:** Reduce payroll tax.

## UNLEY, MEMBER FOR, NAMING

**The SPEAKER:** Order! I name the member for Unley. When I call a member to order I expect them to come to order immediately; not to continue interjecting. Does the member for Unley wish to explain or apologise?

**Mr PISONI (Unley):** I apologise, sir.

**The Hon. P.F. CONLON (Minister for Transport):** I move:

That the apology not be accepted.

Motion carried.

**The SPEAKER:** The member for Unley will withdraw from the chamber.

*The honourable member for Unley having withdrawn from the chamber:*

**The Hon. P.F. CONLON (Minister for Transport):** I move:

That the honourable member for Unley be suspended from the service of the house for the remainder of today's sitting.

Motion carried.

## AUTOMOTIVE TARIFFS

**The Hon. K.O. FOLEY (Minister for Industry and Trade):** This answer will, incidentally, embarrass the Leader of the Opposition. The decision to make a submission to the commonwealth (which I announced publicly a month or so ago) was not the work of the government; it was not a decision of the government's own making that we call for a pause in tariff reductions. This shows that the opposition simply does not do the hard work, the homework, because, as I said, at the time that decision was based on a report given to government by the high level automotive group that we pulled together—

*An honourable member interjecting:*

**The Hon. K.O. FOLEY:** What was that?

**The SPEAKER:** Order! The Deputy Premier will ignore interjections.

**The Hon. K.O. FOLEY:** The high level automotive group included—and this is where the advice on tariffs came from—the recommendation in the report that the federal government reconsider its commitment to reducing automotive tariffs below 10 per cent from 2010 onwards with a view to deferring tariff cuts until 2015. The group comprised

executives chaired by the former CEO of General Motors in Australia and a senior executive in its worldwide division, Mr Ray Grigg; Mr Rob McInry, CEO of Mitsubishi Motors; Mr Bruce Griffiths, Managing Director of Futuris Automotive; Mr Stephen Myatt, Director of the Engineering Employers' Association; Peter Upton, Chief Executive Officer of the Federation of Automotive Product Manufacturers; Mr John Camillo, State Secretary of the Australian Manufacturing Workers Union; Mr Wayne Hanson, State Secretary of the Australian Workers Union; and, wait for it—Mr Rod Keane, Executive Director of Manufacturing, General Motors Holden. What a silly question. The member has embarrassed himself. That question makes a very simple point about the performance of opposition members in this state: they do not do the hard work and they do not do the homework. No wonder there are headlines like 'Lib chief attacks Evans as gutless' and 'Evans has the aura of a defeated man'.

*Members interjecting:*

**The SPEAKER:** Order!

## TRANSADELAIDE CORRESPONDENCE

**Mr BIGNELL (Mawson):** Is the Minister for Transport aware of correspondence to TransAdelaide by the member for Waite claiming to have been wronged in a radio interview and, if so, can he respond to those claims?

*Members interjecting:*

**The SPEAKER:** Order! I will call the next question on the government's side. I need to look at the member for Mawson's question.

*Members interjecting:*

**The SPEAKER:** Order! I just need to have another look at the exact phrasing of the member's question.

## CLIPSAL 500

**Mr KOUTSANTONIS (West Torrens):** Can the Treasurer update the house on the success of this year's Clipsal 500 event?

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.D. RANN (Premier):** I am delighted to answer this question. The weekend was an outstanding success. We had a record television audience for the Clipsal 500, massively up on the previous year for both Saturday and Sunday. My challenge to the Australian Motorsport Board and to the people running the event was this: to get the world record for touring car races. And what did we get? We got the world record. To achieve the world record we had an attendance of 275 000, I am told. Last year we had 270 300 at the event, I think, and this year we had 206 900 from memory, give or take one or two. So, we are up about 6 500 on last year's event. I understand that about 16 000 tourists came in from interstate and overseas, with a particular targeting of Victorian fans, and it was great to see them come over. Of course, our race makes a profit, as opposed to Victoria's Formula One race which, I am told, loses over $30 million. Not only did we get the world touring car record, not only did we get a race that has bigger turnouts than all but two or three of the Formula One races, but we also got the world record and, very importantly, we got 1 500 Kiwis here over the weekend who contributed to the cultural and festive atmosphere of the state. It was great to meet many of them at the weekend. As you would be aware, Hamilton in New Zealand, which is the base of the famous Waikato rugby team—in fact, I can say that I played rugby in the Waikato—

*An honourable member interjecting:*

**The Hon. M.D. RANN:** Not for Waikato: in the Waikato. I met with the Mayor of Hamilton. They have been running a race and they are looking for our assistance. They want to encourage a direct link so that the Kiwis come over in increasing numbers to our events. We had 16 000 visitors—contributing about a $13 million injection into the state economy—spending money in restaurants, pubs, clubs and shops. It was a great event and it was terrific to get the world record.

## HOLDEN

**The Hon. I.F. EVANS (Leader of the Opposition):** My question is again to the Deputy Premier. Good to see you back. Did the government insist that General Motors Holden guarantee either additional jobs or at least no job cuts in exchange for the $3.4 million worth of assistance provided to export the Pontiac G8 model? If not, why not?

**The Hon. K.O. FOLEY (Minister for Industry and Trade):** No such conditions were put on that, and the reason is that, first, the package of assistance was not for export. The package of assistance by the three governments was to improve efficiency and fuel efficiency and to make technological improvements right across the range.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. K.O. FOLEY:** General Motors Holden approached three governments: South Australia—I took a phone call from Denny Mooney in Korea—the Victorian government and the commonwealth government. The commonwealth government, which, to the best of my understanding, is on the same terms as our government (or there might be one or two slight differences), put $6.7 million of its money forward. The South Australian government and the Victorian government contributed $3.4 million each to a safety enhancement project for Holden. The project will consist of R&D and training to enable re-engineering improvements for passenger vehicles manufactured by Holden. Assistance will focus on technological improvements and safety and fuel management systems as well as achieving improvements and further reducing greenhouse gas emissions on Commodore vehicles.

All three governments have acted cooperatively in supporting this project and aligning payment requirements. The funding was for vehicle improvements, not employment maintenance or production support. Importantly, both the commonwealth and state governments jointly entered into this agreement with the understanding that these improvements would assist Holden to build on its unique capability in large rear wheel drive vehicles. There are a number of milestones or trigger points in this agreement which require General Motors Holden to meet certain obligations. These obligations pertain to research and development expenditure and the introduction of technology into its vehicle fleet. Clawbacks may occur if these milestones are not met. These arrangements, agreements and conditions are being worked through with the commonwealth, so the criticism that the state-based Liberal opposition has, it also has with the federal Liberal government—

**Ms Chapman:** 600 South Australian jobs.

**The Hon. K.O. FOLEY:** —with the federal Liberal government, and I am prepared to cop their withering attack because I stand—

**Ms Chapman:** Because you failed.

**The Hon. K.O. FOLEY:** Because I failed! Shoulder to shoulder with the commonwealth government. In fact, if one reads *The Australian Financial Review* today, Senator Nick Minchin said that Holden was 'doing what it has to do' and adjusting its work force to ensure it could survive in Australia. Ian Macfarlane said that Holden told him yesterday the sackings were not related to tariff policy, instead, 'matching production with demand'. These federal ministers are quite correctly saying that this is about matching production with demand.

**Ms Chapman:** You're a goose.

**The Hon. K.O. FOLEY:** I'm a goose!

**The SPEAKER:** Order! The Deputy Premier will take his seat. I have already spoken to the deputy leader once about interjecting while ministers are answering questions. Being deputy leader I give her a bit more latitude than I do other members, but she should not abuse that. The Deputy Premier should also just ignore interjections. It is also disorderly to respond to interjections. The Deputy Premier.

**The Hon. K.O. FOLEY:** I am able to work with the federal Liberal government; we are working through this together. This is not something a state government can stop. This is something that a national government cannot stop occurring. It is structural readjustment. I simply say that there are times to have spirited political debate about policy, but there are also times when political parties should come together and work in the best interests of the economy, the nation and our state. Ian Macfarlane can do that: why cannot Iain Evans?

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order! I apologise to the member for Mawson. His question was in order—I misheard it.

## TRANSADELAIDE CORRESPONDENCE

**Mr BIGNELL (Mawson):** Is the Minister for Transport aware of correspondence to TransAdelaide by the member for Waite, claiming to have been wronged in a radio interview and, if so, can he respond to those claims?

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON (Minister for Transport):** I know the member for Waite is embarrassed, but when he is finished—

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** There he goes! TransAdelaide got a rather unusual letter, one that placed the public servant who quizzed me in a rather awkward position. The letter from the member for Waite stated:

> I write to draw your attention to a statement you made which I believe to be inaccurate. I enclose a copy of the full transcript and set out the relevant extract below:
>
> Bevan: But you're saying we're only spending $10 million on the rest of the network.
>
> Hamilton-Smith: $10 million over four years—

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** He really doesn't want to hear it, does he? He wants to write letters to public servants, but he doesn't want to hear his own words back.

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** You have said that in the letter and we will deal with that, too. So just wait a moment—we'll get on to it, okay?

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** Are you done? He continues:

> The statement I take issue with is your reply to Mr Abraham of 'No, it's not right.' I enclose a copy of the media release from the Hon. Patrick Conlon, MP, dated 13 September 2006, which confirms that the public transport capacity will be boosted for train, tram and bus users, with an extra $10 million over the next four years. I appreciate that more than $10 million is spent on public transport each year. However, my statement that $10 million over four years of new money on the whole network—all the buses, all the trains, all the trams, new services and improvements—was entirely correct and based upon the Minister for Transport's own media release.

—which he enclosed. It also refers to an extra $6.6 million that year and an extra $50 million for buses in 2008-09 and 2009-10, but he may have failed to read that bit—give him the benefit of the doubt. However, he does doing on to say:

> My concern is that by your stating, 'No, it's not right', listeners were given the impression that I did not have the correct facts.

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** I will come to that, too. He further stated:

> I am very careful to ensure that figures I use publicly are accurate. Therefore, I would be grateful if you could correct this matter.

Okay: he has taken a lot of care to be accurate. I have read some breathtaking sentences in my life, but that was a beauty. It took me quite a while to find the breath to laugh at it. I will not go into all the other outrageously misleading statements he has made in there, but I will just talk about this $10 million.

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** Come on, you're going to have to listen, Marty—it's your words, you're going to have to listen eventually.

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** Calm, calm.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. P.F. CONLON:** You sound like you don't want to hear it, don't you Marty?

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** Then just be quiet. This very $10 million—which he says is new money, correctly, in the interview and on which he is so careful to get his facts right—has been referred to by him before. Let us go back over it. When his media release was first announced on Sunday 16 September it said:

> Labor's reannouncement of paltry increased spending on public transport over the next three years is an admission to failure which would struggle to match inflation.

Of course, except now it is new money. Now he agrees it is new money—additional money: $6.6 to cover increased costs above inflation, plus new money. On 26 September he said:

> This is nothing more [the $10 million] than the incremental increases to the contracts provided in the Metro ticket contract.

It is not new money: this is just the incremental increase. He goes on to say:

> It is quite apparent that the amount of money ($10 million) over four years will not even match inflation.

Wasn't new money then. Wasn't new money in September. Wasn't new money later—

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** Of course, he is saying it again. This bloke who is so desperate to get the facts right is ignoring that $6.6 million went in that year for increased costs. For a man who likes to get his facts right, he only likes to get them right very selectively on certain programs. On the same program—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. P.F. CONLON:** I can explain it to you.

*Members interjecting:*

**The SPEAKER:** Order!

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. P.F. CONLON:** The fact is—

*Mr Hamilton-Smith interjecting:*

**The SPEAKER:** Order!

**The Hon. P.F. CONLON:** The fact is that the member for Waite was prepared to mislead the public about the $10 million. He was prepared to mislead the house, but as soon as he gets into a minor affront with a public servant he is writing threatening letters and abusing him for it.

*Mr Hamilton-Smith interjecting:*

**The Hon. P.F. CONLON:** No; I will deal with that, sunshine. What else did he say on the radio? He said:

> I asked questions in parliament on this and the answer I just got shocked me.

Wouldn't you think, Mr Speaker—this bloke who is determined to tell the truth—that when someone says, 'I asked questions in parliament,' he is talking about grilling the minister. No, what he did—and he is misleading the radio station—is he snuck in, he put questions on notice and snuck out with the answers. 'I asked questions in parliament on this.' Oh, big, brave Marty: 'I asked questions.' And he misled *The Advertiser*. This man who is so committed to accuracy in his public statements misled *The Advertiser* the same. He said, 'I asked questions in parliament.' Come on, who in here believes that means that he did stand up in question time and ask the questions? It was a mystery to me, sir, because I can't remember him asking a question.

**Mr HAMILTON-SMITH:** Mr Speaker, I rise on a point of order. The minister is accusing me of having misled the world! I am mortally hurt by this; I am withering in my chair; he will just have to withdraw or I may crumble!

*Members interjecting:*

**The SPEAKER:** Order! It is only misleading the parliament that would be disorderly, an accusation of misleading the parliament. The Minister for Transport.

**The Hon. P.F. CONLON:** These were his own words. He said, 'Ideally the minister himself would come on radio personally to debate such issues with me.' Okay, you waited. Okay, nice and quiet. I was on there for half an hour about two weeks ago with Leon Byner. He rang up from the Barossa. He said, 'I would like to debate the minister but I am driving to the Barossa and the phone might fall out.' I've got some news for him: you could have pulled over. I never get a question from him. He will debate me anywhere I'm not; he'll debate me in grievances; he'll debate me in private members' time; but he will not come in here. At the end of last year he was going to move a no confidence motion on me, and we are still waiting. This bloke will debate me anywhere I am not. He says, 'I'll meet you anywhere you're not.'

*An honourable member interjecting:*

**The Hon. P.F. CONLON:** It's true. This public servant was a little embarrassed because he was accused of engaging in political debate when all he did was exchange facts, and he apologised. He said, 'I apologise if you think I engaged in political debate.'

*An honourable member interjecting:*

**The Hon. P.F. CONLON:** That's right. So, when will the member for Waite apologise for twice earlier misleading about the $10 million? Twice he misrepresented it and twice he told lies to the public of South Australia.

**Mr HAMILTON-SMITH:** I rise on a point of order, Mr Speaker. I am accused of misleading. That is totally wrong. The minister is completely breaching the rules of this place. Can you just get him to—

**The SPEAKER:** Order! The member for Waite will take his seat. Accusations of misleading are only disorderly if they are accusations of misleading the parliament. I do not think the Minister for Transport has made that accusation.

**The Hon. P.F. CONLON:** I make it very clear that when the honourable member said that it did not match inflation he was misinforming people. He was not telling the truth about it. I close by quoting this line from this letter:

> Thank you very much to the member for Waite. I am very careful to ensure the figures I use publicly are accurate, therefore I would be grateful if you would correct this matter.

Can I assure the house that I will enjoy that quote over the next three years, because the member for Waite is a recidivist; he cannot help himself when it comes to misinforming the public. I look forward to it.

## WORKCOVER

**The Hon. I.F. EVANS (Leader of the Opposition):** Will the Minister for Industrial Relations advise the house whether the WorkCover Board has received any advice that WorkCover's unfunded liability is at risk of blowing out to $1 billion if changes to the WorkCover scheme are not made? WorkCover's unfunded liability has already reached $694 million. The annual report states that, if there is no improvement in the non-redemption or return to work rate, another $300 million could be added to the unfunded liability. This would make the unfunded liability $1 billion.

**The Hon. M.J. WRIGHT (Minister for Industrial Relations):** That is already in the public domain. I think that, when I returned from sick leave, I made a ministerial statement. Also, of course, the annual report in which reference is made to that particular item has been tabled.

**The Hon. I.F. EVANS:** Will the Minister for Industrial Relations advise the house whether the WorkCover Board has received any advice confirming that, without changes to the legislation, WorkCover's unfunded liability is at risk of blowing out to $1 billion? The statement from the Chair of WorkCover in the most recent annual report states:

> There is a limit to how much impact reform of the WorkCover business, as opposed to the WorkCover system, can have on the financial sustainability of the scheme.

The annual report raises the risk of another $300 million being added to the unfunded liability.

**The Hon. M.J. WRIGHT:** I am not too sure where the Leader of the Opposition has been, but last year I made a ministerial statement, I tabled the annual report and, to the best of my recollection—

*Members interjecting:*

**The SPEAKER:** Order! I cannot hear what the minister is saying.

**The Hon. M.J. WRIGHT:** I made a ministerial statement when I returned from sick leave. I would need to check that statement but, to the best of my recollection, I made the point that I was engaged in discussions with WorkCover about potential changes, and I tabled the annual report.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. I.F. EVANS:** My question is to the Minister for Industrial Relations. Has the government received any advice that, if it does not change the WorkCover scheme or the legislation, WorkCover's unfunded liability is at risk of reaching $1 billion? In the annual report, Chairman Bruce Carter states:

> The question remains whether administrative and management changes alone will be enough to turn the scheme around.

The government has an observer on the WorkCover Board who reports back to the government.

**The Hon. M.J. WRIGHT:** I do not know how many times the leader wants to ask the same question, but he has asked the same question on three occasions. As I have said previously, when I returned from sick leave I made a ministerial statement and I tabled the annual report.

*Members interjecting:*

**The Hon. M.J. WRIGHT:** It is all in the annual report for you to read.

**The Hon. I.F. EVANS:** Is the Minister for Industrial Relations concerned that, if WorkCover's average discontinuing rate for claims older than three years remains at the same level experienced over the past five years, WorkCover's unfunded liability is at risk of blowing out to $1 billion? Notes to and forming part of the annual report state that, if projected improvements in those areas do not occur, WorkCover's unfunded liability could increase by $300 million, taking the total unfunded liability to $1 billion.

**The Hon. M.J. WRIGHT:** I would need to go back and check it but, to the best of my recollection, I made a full ministerial statement about our concerns in regard to WorkCover. If it was not in the ministerial statement, it would have been in answers to a range of questions I think asked by the shadow minister, in which I stated that we are concerned about the level of unfunded liability and concerned about the average levy rate. Make no mistake—

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. M.J. WRIGHT:** Everyone, including the Leader of the Opposition, knows that the return-to-work rate has plummeted since as far back as 1995. That is as clear as day. What we need to do is get more people back to work, and that is what we are actively engaged in doing. Some of the reference that the leader has made is in the annual report, and I tabled that report before Christmas. I would need to check the report, but I think there is also reference to the fact that, at this stage, because they have not been around very long, they have not been able to factor into their numbers the introduction of EML. As I have said previously, the change to the regulations and the introduction of EML is a fundamental change to claims management that will improve return to work. Are there other ways? Probably there are, and we are looking for them.

**The Hon. I.F. EVANS:** The Minister for Industrial Relations has been responsible for WorkCover for five years. Can he explain to the house why WorkCover has the worst return-to-work rate in the nation? The Chair of the WorkCover Board stated in the last annual report that increased return to work remains fundamental for improving the social and economic outcomes of the scheme and that, to achieve that, it may be necessary to effect legislative change to ensure that essential levers exist to meet the objectives of the act.

**The Hon. M.J. WRIGHT:** Yes, I can answer that question. In part, I have alluded to it in my previous answer. If you look at the return-to-work figures, the return to work plummeted as far back as 1995. The reason why we have the worst return-to-work rates is that we have long-term claims that we did not get back to work. Why did we not get people back to work? There is a range of reasons but, fundamentally, we had regulations in place that did not provide the claims managers with the correct incentives to get people back to work. What has this government done about it? It has changed the regulations in the parliament so that we now have the correct incentives and penalties in place for whoever the claims management agent is.

What has the board done? It has chosen EML to manage the claims management, and we will see the benefits of those results. This problem dates back to long-term claims that were in the system as far back as 1995, where we have not been doing well at getting people back to work.

**Mr WILLIAMS (MacKillop):** My question is also to the Minister for Industrial Relations. Minister, you have been responsible for WorkCover for more than five years. Will you explain to the house why during that time WorkCover's unfunded liability has blown out from $67 million to $694 million?

**The SPEAKER:** I remind the member for MacKillop to address his remarks through the chair.

**The Hon. M.J. WRIGHT:** It is because the actuaries have caught up with the bad business of the previous Liberal government.

**Mr WILLIAMS:** Having been responsible for WorkCover for more than five years, will the Minister for Industrial Relations explain why WorkCover is now the worst performing scheme in the nation? In January this year, WorkCover CEO Julia Davison was quoted in *The Advertiser* as saying that the South Australian scheme is 'the nation's worst performing despite an overhaul of management and procedures during the past two years'.

**An honourable member:** Shame!

**The Hon. M.J. WRIGHT:** I do not know about shame. I do not know why the shadow minister does not go back to my ministerial statement where I talk about the level of the unfunded liability and the average levy rate. It is five years today, but we have to go back to 1995. That will show that the return to work plummeted from 1995. As a result of return to work plummeting, we were not getting people back to work and we had long-term claims in the system. I have already talked about the change in the regulations to provide incentives and penalties to the claims management agent. That should have been done by the previous Liberal government.

**Mr WILLIAMS:** My question is to the Premier. Has the Economic Development Board expressed concern that

WorkCover's unfunded liability is at risk of reaching $1 billion; and, if so, has the Economic Development Board suggested any changes to the scheme?

**The Hon. M.D. RANN (Premier):** I am delighted to be able to make a major announcement today in relation to the Economic Development Board; and then I will deal with the issue. It is extraordinarily prescient for the honourable member to ask this question. I am delighted to tell the house about the appointment of three new high calibre members to the state's Economic Development Board. The EDB is the government's key adviser on economic policy and development and I am pleased that in the future we will have the very best advice from members with experience at the highest levels of information, biotechnology and finance industries. The Economic Development Board represents a unique partnership between government and business for the future prosperity of South Australia that has already proved its worth. Telstra BigPond Group Managing Director Justin Milne, TGR BioSciences Chief Executive Dr Leanna Read—

**Mr WILLIAMS:** I rise on a point of order, Mr Speaker. Whilst this information is very important—and I am sure the Premier will have the opportunity to make a ministerial statement after question time—the question is whether the Economic Development Board has expressed concern about the unfunded liability of WorkCover.

**The SPEAKER:** The Premier will get to that.

**The Hon. M.D. RANN:** Of course, but obviously members want to hear the context and the calibre of the people. Mr Kevin Osborn is a financial specialist. They have all agreed to join the South Australian Economic Development Board. The appointment of Justin Milne and Leanna Read will bring considerable expertise to the EDB in the knowledge-based industries of bioscience and information communications technology. Dr Read is a highly regarded South Australian scientist, one of the pioneers of the state's biotechnology industry. Her experience in managing the transition of TGR's technology from the research laboratory to a successful commercial enterprise is particularly valuable.

Justin Milne is responsible for successfully driving the growth of BigPond's internet service provider business, BigPond's brand and Telstra's internet content. Mr Milne, who is a prominent South Australian, graduated from Flinders University and now lives in Sydney. In addition, the appointment of Kevin Osborn to the board will bring a wealth of financial sector experience. Mr Osborn has played a significant role, both locally and internationally, in the finance sector having served as Regional Chief Executive for Australia, New Zealand and Singapore for Bank One. He is now a non-executive director of Adelaide Bank and ABB Grain. His strong commercial acumen and financial management skills will be a great asset to the EDB. Justin Milne and Leanna Read, particularly, will help the board in South Australia to focus on the knowledge-intensive industries of the future, and help us achieve key targets in South Australia's Strategic Plan.

South Australia's economic development future depends on innovation in both the emerging technology sectors and new approaches to our traditional industries. Innovation is central to the update of the strategic plan released in January. Similarly, Mr Osborn's appointment will help us attain those targets related to venture capital, business investment and infrastructure, to mention just a few. I am pleased that three such dynamic business people are keen to join the EDB, and look forward to working with the board in coming years. Like the existing EDB members, the new members will play a hands-on role in promoting our state's key economic interests. On the issues of WorkCover, I will report back to this house sine die.

## GENDER EQUITY

**The Hon. P.L. WHITE (Taylor):** My question is to the Minister for the Status of Women. Can the minister advise the house on a recent report on gender equity by the Australian National University?

**The Hon. J.M. RANKINE (Minister for the Status of Women):** I thank the member for Taylor for her question. A recent report by the Australian National University entitled, 'How well does Australian democracy serve Australian women?' has evaluated several key areas of women's policy, including legislation, policy framework and the presence of women in public decision-making. I am pleased to advise the house that the authors of this report indicate that the South Australian government has been found to be 'doing the right thing by women', and it should come as no surprise that South Australia has been found to be leading the nation in its approach to women's policy. Even if you have a passing interest in the status of women, you would be well aware of the Premier's commitment, and that of this government, in advancing the opportunities for women in this state.

This house would be well aware of the recent achievements that have been made in the areas of women's safety and women's leadership.

*Members interjecting:*

**The SPEAKER:** Order! The minister has the call.

**The Hon. J.M. RANKINE:** Thank you. I suggest members opposite should be really careful when talking about women in leadership positions, with their track record. With significant reforms to rape and sexual assault laws currently before the parliament, a women's safety agenda being coordinated across government, the highest percentage of women ever sitting on government boards, initiatives to improve women at executive level of government, and certainly women on this side of the house in parliament, the status of women in South Australia is rightly recognised in this report. Unfortunately, the findings of the report for the whole of Australia generally are not quite as bright as they are here in South Australia.

*Members interjecting:*

**The SPEAKER:** Order!

**The Hon. J.M. RANKINE:** In fact, the authors lament the fact that Australia has sunk from being a world leader in policy agendas that delivered gender equity to now trailing behind countries such as Canada, New Zealand and the United Kingdom, and it is no surprise to hear that one of the contributing factors to this decline is the fact that women's issues have been systemically de-prioritised at a federal level. Child care, maternity leave, a flawed approach to domestic violence, and the number of women in parliament make up a list of bad news stories for the federal coalition government and, unfortunately, for Australian women.

We have no clearer indication of the federal government's lacklustre performance in relation to women's equality than some of the recent statistics released by the Australian Bureau of Statistics on pay equality between men and women and the severe disadvantage faced by working women in Australian workplace agreements. Women on individual contracts are earning up to $4.70 less an hour than those on collective wage agreements. Women working on full-time Australian workplace agreements are earning, on average, over $87 per

week less than women on collective agreements. Women working part time are earning a little over $85 per week less than those on collective agreements. However, it is the most vulnerable—the women who are casual employees—who are most affected. Assuming they work a 20-hour week, on an Australian workplace agreement they stand to earn up to $94 less; working 30 hours a week, they could earn $141 less than those on collective agreements. These statistics are extremely concerning, and clearly spell out the vulnerable position in which the federal government has been prepared to leave Australian women. Unfortunately, it looks as though things are only going to get worse for women and their families under this current federal government.

## DENTAL TREATMENT

**The Hon. J.D. HILL (Minister for Health):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. J.D. HILL:** Last year, the Coroner handed down his findings into the death of Mr Daniel Salmon at the Royal Adelaide Hospital in 2002. The Coroner found that Mr Salmon's death resulted from a serious infection known as Ludwig's angina, flowing from a decayed tooth that had not been treated over an extended time, despite the recommendations of doctors and dentists. Mr Salmon's case is particularly tragic, because simple timely dental treatment would have prevented the infection from arising in the first place. Appointments had been made on a number of occasions at the Adelaide Dental Hospital for Mr Salmon to receive dental treatment. Unfortunately, it appears that fear of the dentist led him to fail to attend a number of these appointments, on the last occasion just four months before he died of a dental infection.

The Coroner recommended that I make a public statement about the risks inherent in ignoring seeking treatment for dental infection, which I am doing today. Seeking and receiving regular dental check-ups is central to maintaining good oral health. However, if a dental infection does arise, it is essential that dental treatment is sought without delay. For holders of a pensioner concession card or a health care card issued by Centrelink, public dental clinics will arrange an appointment for the treatment of dental infections immediately.

## NOTIFIABLE DISEASES

**The Hon. J.D. HILL (Minister for Health):** I seek leave to make a further ministerial statement.

Leave granted.

**The Hon. J.D. HILL:** Over the past few weeks, public health officials have been busy dealing with several food-borne illnesses. I have previously made statements in the house on the matter of the investigation into the 12 known cases of E. coli 0157. I have also stated that there are commonly about 40 cases of shiga toxin producing E. coli infections every year, including types of E. coli other than 0157. This year, there have been seven cases of other types of that E. coli unrelated to 0157.

It is in this light that I refer to comments by the member for Bragg when she said last week that the government had hidden the unrelated seven cases. I assure the member and the house that this is not the case. These other cases are a different bug. They are not E. coli 0157. Other types of E. coli were reported to the department and were openly reported on the departmental website. Having been corrected on this front, the member then went on to claim that she was contacted by a so-called 20th case, a 68 year old dairy farmer. The member for Bragg claimed that this man tested positive for E. coli. The man's GP has confirmed that he tested positive to the much more common salmonella, not E. coli.

On Friday, when the department issued a public health alert on the dangers of an increasing number of cases of cryptosporidium, the member for Bragg said: 'The opposition is demanding to know the source of the parasite.' The member also alleged that the department 'kept this situation under wraps'. Firstly, as the Minister for Health, I will not politically interfere in the good work of the public health experts. Secondly, we expect a lot of our departmental officials, but we cannot expect an explanation on the source of a parasite that exists widely in the environment. I have organised for the member for Bragg to be briefed on the E. coli situation by the state's chief medical officer, but she still does not understand the process or the science, and so she attacks the officials.

The Department of Health uses the best science and medical knowledge to make decisions about investigations and public alerts. These doctors and scientists have a difficult job to do, and they should not have to face baseless attacks on their credibility.

## WELLINGTON WEIR

**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:** Earlier this year, I advised the house about measures the government is taking to secure water supplies for all South Australians in response to the extreme drought and low flow conditions being experienced in the Murray-Darling Basin. I am now in a position to update the house on the concept design for a temporary weir and the estimated cost of its construction and removal. In doing so, I emphasise that, while the government has finalised the concept design for a temporary weir, it is not a final decision to construct a temporary weir—that decision, if it is to be made, will not be made until at least June.

The advice received by the government is that a temporary weir would be a granular rock and earth embankment, with a single row of sheet piling to form an impermeable barrier. It will be sited 10 kilometres below Wellington at Pomanda Island. I am advised that, in arriving at this recommendation, 12 sites between Murray Bridge and the head of Lake Alexandrina were investigated, using specially commissioned geotechnical surveys and data from previous surveys. In arriving at the recommended concept design, a number of possible designs were analysed and found not to be feasible. The estimated cost of the recommended design for a temporary weir at this location is around $110 million. While investigations are continuing into the best method of removing the structure, the current estimated cost of removal is between $10 million and $25 million. These costs reflect the complexity of building a structure in this reach of the river, which although temporary must nevertheless be robust enough to secure water supplies for Adelaide and country areas in what would be an emergency situation. They also

reflect the greater understanding of the geotechnical conditions in the riverbed and the conditions under which a temporary weir would need to operate.

A final decision to construct a temporary weir has not been taken and will not be taken until at least June. In the meantime, work will continue on detailed design and construction time frames. Work may also commence in the next few months on some access roads, and placing an order for sheet piling, which has a relatively long delivery time. The government has sought an exemption from the commonwealth Environment Protection and Biodiversity Conservation Act 1999 for the construction phase only, and work will now proceed on the environmental assessment and approvals required to operate the temporary weir, should it be needed. We will also work with the Murray-Darling Basin Commission to determine how much water South Australia is likely to receive in 2007-08 and, on that basis, whether the decision on the construction can be pushed out even further. Mark my words, this government does not want to have to build a temporary weir at Wellington and, if we are able to push out a decision—and, in fact, not make a decision at all—that would be a good outcome for South Australia.

Other work that is being undertaken to prepare South Australia for low inflows is the major pump stations below Lock 1 are being modified at a cost of about $5 million to allow them to operate at lower river levels. Investigations and consultations are also continuing on the potential temporary closure of water bodies from the main river channel. Work is also progressing on the longer-term water security options for South Australia, including desalination. The government has already announced that it will work with BHP Billiton and the commonwealth government on a desalination plant in the Upper Spencer Gulf.

The government is also looking into desalination options for Adelaide. However, I must say that desalination is not a quick or cheap option. In this regard, I have been advised that it would be naive to assume that the desalination plant recently brought on stream in Perth provides a realistic model for Adelaide and, in particular, it does not provide a short-term solution for Adelaide to the current drought situation. Every desalination project is highly site and context specific. The actual desalination plant may account for only half the total project costs, depending on the works required to integrate the plant into the water supply system and on sea water intake and outfall structures and electricity needs. In addition, every city has different water resource options available to it.

The Waterproofing Adelaide strategy seeks security through a diversity of options. While desalination may become a part of the strategy for Adelaide, it is not possible to simply transpose the solution adopted in Perth and apply it directly to Adelaide—the water resource challenges facing the two cities are fundamentally different. The Perth plant had a lead time of around four years from initial planning—

*Mr Williams interjecting:*

**The Hon. K.A. MAYWALD:** I'm coming to that—consideration to its opening in November 2006, and it supplies about 17 per cent of Perth's water. I am advised that the actual costs of the plant have not been made publicly available. However, the published cost of the project was estimated to be $324 million in 2004, plus another $63 million for system integration works. The annual contract cost for operating and plant maintenance is about $19 million per year. The information I have received is that if the Perth desalination plant was constructed today it would cost considerably more because the worldwide cost of desalination projects has risen, due mainly to higher costs for raw materials associated with increased world commodity prices.

If comparisons are going to be made, the desalination plant in Perth is of a similar capacity to the one proposed on the Gold Coast, which is anticipated to deliver an annual volume of around 45 gigalitres, and scheduled for completion in January 2009. This is a project that is currently under scoping arrangements in Queensland, and it is comparative in size to the Perth project.

Cost concept estimates for the Gold Coast plant put its all-up cost at $1.13 billion. A desktop study commissioned late last year indicated that a desalination plant at Port Stanvac, of sufficient capacity to supply half of Adelaide's water needs, would cost $1.47 billion, with operating costs of $50 million to $60 million. The construction and operation of a desalination plant for Adelaide is not a commitment to be made lightly without a proper investigation—a proper investigation; not one visit to a plant—of the costs and benefits for our particular situation.

For this reason, this morning I announced the establishment of a desalination working group, which will build on preliminary investigations already undertaken by SA Water and research: how a desalination plant fits with the Water Proofing Adelaide strategy for an integrated and diversified water supply system; feasible options and optimal technology for seawater desalination; options for sizing, location and integration with existing metropolitan Adelaide water supply systems; the estimated capital cost and operating costs of desalination, as a resource for metropolitan Adelaide, including funding options and implications; the environmental implications of constructing and operating a desalination plant including within the context of climate change; and appropriate arrangements for constructing and operating a desalination plant.

The group will report to me and will be chaired by SA's independent Murray-Darling Basin Commissioner, Mr Ian Kowalick. The group will meet later this week to assess current progress on desalination research and outline a way forward for further investigations.

## GRIEVANCE DEBATE

### NOTIFIABLE DISEASES

**Ms CHAPMAN (Deputy Leader of the Opposition):** Today, the Minister for Health advised us of the importance of dental hygiene and continuing to see a dentist, as requested by the Coroner following his investigation of a recent tragic death. The minister has seen fit to come into this house and give us advice about when we should get influenza shots; he has seen fit to give public statements about how to cook a chook to avoid contaminating bacteria. How to cook a chook—I think that came out in October last year. And yet, he has the audacity to say to us today that it is political interference if he gets involved in any way with his department in relation to notifiable diseases.

These are killers in our community. In the last eight weeks we have had an extraordinary number of E.coli bacteria cases in this state, very serious ones that 0516 has been referred to. Let me tell the house how serious this is. In 1998, an 18 year old, eight-month pregnant woman died from E.coli bacteria, yet the minister tells us that it is inappropriate that he should get involved. There has been a major increase in the number

of persons contaminated with cryptosporidium—a huge number of people have been involved in that.

We have also seen a massive number of cases in the last seven weeks (a third of the total annual time) of people with salmonella, yet the minister comes in here today and tries to make fun of the fact that a 68 year old dairy farmer, who thought he had E.coli, actually had salmonella. We know salmonella is a killer. There are four people a year in this country who die from salmonella, and yet he comes in here and makes fun about a 68 year old farmer who has really got salmonella.

Let me tell you about his problem: he finds out on the 21st that he has what he understands to be E. coli (also a killer); and he gets a notice from his local government advisory health department on the 28th (a week later) before the local government body in his area is advised of this condition. This man has described how he thought he was going to die in relation to the ill health that he suffered in the preceding two weeks. It is too late for them to go out and try to check the suspected food source on that occasion.

So, to come in here and make fun of the fact as to whether he has salmonella or E. coli is a joke, and it is a dangerous joke for South Australians because he has consistently refused to come out and warn the public; pay money in advertising to actually warn and inform people in public baths, in public swimming pools, in schools and in kindergartens and local government, to issue a proper alert as to the dangerous situation that South Australians are exposed to with the massive increase in the number of reported cases of notifiable diseases.

We have these notifiable diseases because we have Garibaldi inquiries, we have coronial inquiries and public health legislation in relation to these notifiable diseases because they are killers. It is an absolute disgrace that the minister comes in here and asserts that, when we say week after week that he should be disclosing this to the public—and the government has plenty of money to get out there and spend tens of thousands of dollars when the Premier gets into trouble over his ratings or issues that he wants to sell—he wants to spend tens of thousands of dollars on when we put our sprinklers on and off and yet not one dollar has gone into public notices in the papers, in local papers, on local radio or on television to warn the public of South Australia that there are dangerous killers out there and what symptoms, if they are recorded or noted, should be immediately reported to the doctor.

We will never get to the source of these killers and we will continue to have people who will die and be exposed to these deadly diseases unless this government is prepared to come clean on the hard news and the hard jobs to be done, and not just float around here and come in and give statements to this house and to the public of South Australia of when to get a flu shot; that is not a responsible government. It is totally unacceptable that the minister comes in here and has fun with a 68-year old dairy farmer who has a serious condition, who (in his words) considers he has nearly died, and yet he makes fun of the fact as to whether he is an E. coli victim or a salmonella victim. These are all killers and it is not acceptable that the minister's department simply comes out and makes a statement—on the very day that the Prime Minister is making a statement on national water, on the very day that we are opening the Clipsal race—in relation to salmonella. That is not acceptable.

Time expired.

## LEUKAEMIA RESEARCH

**Ms BEDFORD (Florey):** No-one takes the health of this state more to heart than the Labor government. I want to talk today on science, which is a very important element of this state's reputation as far as research and development goes. We are at the forefront of new treatments and vaccines and we have a very envied record, worldwide record, which we must protect. I see in today's paper in an article by Clare Masters, originating from Sydney, on a new super vaccine developed by Professor Ian Frazer, a former Australian of the Year. This internationally recognised scientist will today receive the Merck Sharp and Dohme Florey Medal and, of course, I have a great interest in the work of the Florey Foundation.

Professor Frazer will be receiving the medal for his work in cancer prevention. Specifically, he has perfected the vaccine Gardasil, which prevents the papilloma virus which can lead to cervical cancer. His new research looks at the immune response to the flu virus, enhancing the immune system's response (not to any one virus) leading to the hope that other viruses, such as the Hep C virus, can be prevented, along with multiple cancers. While speaking on his remarkable research I must also mention the outstanding work of the Peter Nelson Leukemia Research Foundation and pay tribute and acknowledge the enormous dedication and commitment of Her Excellency Marjorie Jackson-Nelson in the work to conquer this terrible cancer, which is still amongst the 10 most common cancers and still the hardest to cure. It afflicts all age and ethnic groups, is the highest incidence cancer for children and remains harder to treat in older patients because of their inability to cope with the therapeutic treatments. Preventing relapse is the biggest obstacle to curing leukaemia, as most sufferers respond well to initial treatment; however, with most relapsing and many succumbing to the disease, understanding the triggers and developing new therapeutics are vital links to conquering the disease.

At the IMVS in Adelaide we have a team of researchers led by Dr. Mark Guthridge, a recipient of the Peter Nelson Senior Research Fellowship in 2005. He and his team have identified a molecular switch, one of the mechanisms leukaemia cells may use to not only survive but also to then go on to become resistant to the existing drug therapies. The cells remain switched on, seeing them survive and resist the chemotherapeutic drugs. The team is now identifying potential therapeutic targets. In some cases, the work has seen leukaemic cells killed in test tubes. While the results are preliminary and much work needs to be done, it is a very exciting development.

Dr Guthridge has been supported in his important work by the Cancer Council of South Australia since his return from the USA in 1988. The Peter Nelson Fellowship allowed continuation of his work to 2005, and we hope he will continue to make the IMVS his base well beyond this year. Dr Guthridge and another of the IMVS researchers, Dr Angel Lopez, present at major conferences, and they have received a National Institutes of Health grant from the United States. While the unique combination of services at the IMVS allows our researchers to remain ahead of larger and better funded labs in the US and Europe and help keep them here in South Australia, this may not always be the case. One of the reasons that Dr Guthridge's team has an edge is the bank of leukaemia samples held by professors Bik To and Tim Hughes at the Therapeutic Product Facility within the IMVS. Since

1986 the TPS remains the largest bank of leukaemic samples in Australia.

Dr Guthridge gives public lectures on identifying and treating leukaemia and the direction of research in finding ways to treat the disease. It is also possible to tour the lab. Donations are, of course, always welcome via the Cancer Council of South Australia. With the incidence of leukaemia, it is inevitable that we will all be touched by this disease. Our Governor faced this challenge head-on following her family's experience. Establishing the Peter Nelson Leukaemia Research Foundation, her tireless work over many years has seen enormous amounts of funds raised and enormous strides in research and treatment of this killer disease. I know that it is her wish that the great work of Dr Guthridge and his team continue. It is beholden on each of us here, and the government in particular, to ensure that everything possible is done to retain the services of Dr Guthridge and his team and support the magnificent work of the IMVS in South Australia.

## WORKCOVER

**Mr WILLIAMS (MacKillop):** Today we saw the Minister for Industrial Relations and the Premier fail to take the opportunity to convince the house that WorkCover is not in even more serious danger than we had previously thought. A number of members on the government front bench tried to indicate that, because the report was handed down in December last year, the opposition should have been all over this some months ago. The reality is that parliament has sat for only two weeks since then. We all know that the minister received the report at least two months before he tabled it, at least two months before he released it. He sat on it for months and months waiting for the parliament to close down for the Christmas break. So, I think it is a bit churlish of the government to suggest that the Liberal opposition should have been over this is a bit earlier.

The reality is that the report discusses the very serious risk that the WorkCover unfunded liability as at 30 June last year was, in fact, $1 billion and not the $694 million that the minister reported in his ministerial statement to the house last December. I will read from the report for the benefit of the house, because I am sure that the minister will never inform the house of this information. I will read from the WorkCover annual report on page 78. We are talking about the 'Notes to and forming part of the financial statements to 30 June 2006' and the unfunded liability. The report states:

> The valuation of the outstanding claims liability is strongly dependent on the assumptions adopted in relation to the duration of claims and in particular long-term claims. In each of the Scheme's valuations since 2003, the Scheme's actuary has adopted a view in relation to these key assumptions that the discontinuance rates for long-term claims would be better in the future than those that the Scheme had experienced over the short-term as a result of initiatives being developed by WorkCover to reduce the number and cost of long-term claims with a reduced emphasis on redemptions.

I tell the house that that hope and wish have just not occurred. When I question the minister in the house, he tells us time and again that he is trying to get away from redemptions. What he is doing is keeping people on long-term claims into the future and driving up the unfunded liability of WorkCover. In fact, he is challenging the very viability of WorkCover into the future. The report further states that, if there is no improvement in the non-redemption discontinuance or return to work, the actual unfunded liability figure would be between $250 million and $300 million worse than the $694 million unfunded liability we have already heard about from the minister in his ministerial statement.

The minister says that we will get on top of return to work and get more workers back into the workforce. The 2005-06 Australian & New Zealand Return to Work Monitor, which was prepared for the heads of workers compensation authorities and handed down in July 2006, is the experience up to 30 June 2006. Amongst other things, it states:

> South Australia stood out as having the highest proportion of injured workers still receiving workers' compensation payments and well above the Australian national average.

This is the problem with WorkCover: the return-to-work rate is abysmal; and the minister is ignoring it and doing nothing about it. In fact, he put on a new claims manager and, when it took over all the claims on 1 July this year, it was forbidden to offer redemptions to injured workers. The report also states that South Australia has the lowest return-to-work and durable return-to-work rates, at 78 per cent and 67 per cent respectively, compared with the national average of 87 per cent and 80 per cent. The minister suggests that this problem occurred way back in 1995. At that time, the unfunded liability was about $276 million, if my memory serves me well, and by 2000-01 it was down to $22 million.

**The DEPUTY SPEAKER:** Order! The member was given some latitude but took an extra breath. The member's time has expired.

## GOVERNMENT HOUSE

**Mr O'BRIEN (Napier):** With the abolition of the post of State Governor on the near to middle political horizon, it would make a lot of sense for South Australia to follow the lead of New South Wales and have the Governor reside at a place other than Government House. This would mean that Government House, which sits at the very junction of our two major boulevards, could become like its Sydney counterpart—a centre for many of the state's cultural activities. Even before this happens, there is another opportunity to reveal to South Australians the wonderful open spaces that lie hidden behind the walls of Government House and at the very heart of our capital city. It is a proposal that has recently been brought to my attention, and it involves removing the drab brickwalling of Government House along Kintore Avenue as part of a project to create a memorial garden walk for those South Australian servicemen and women who lost their lives in service to our nation.

The memorial garden walk would link the mustering and departure points of South Australian soldiers, the Torrens training depot and parade ground, with the state's key memorial to our fallen, the National War Memorial on the corner of Kintore Avenue and North Terrace. I believe the idea has the support of the RSL. The construction of the memorial garden walk would involve moving the eastern boundary of Government House 40 metres to the west and replacing the forbidding brick wall along Kintore Avenue with a fence.

*Members interjecting:*

**The SPEAKER:** Order!

**Mr O'BRIEN:** The fence would be of a traditional—

**The SPEAKER:** Order! That means you as well, member for Napier. Members on my left may like to consider the nature of the topic being discussed by the member for Napier and show a little respect.

**Mr O'BRIEN:** The fence would be of traditional permeable wrought-iron construction, which would give

panoramic vistas of the grounds and house through parts of North Terrace and all along Kintore Avenue. I envisage that the fence line would also incorporate several gateways and clearly defined entry points into the grounds of Government House so that when the house is no longer used by our Governor South Australians will have multiple access points during daylight hours. Gateways could also be incorporated into the walls on North Terrace without threatening its heritage status, while also giving South Australians better visual, and later physical, access to this wonderful expanse of parkland.

In one significant way this proposal realises part of the vision of the original plans for the National War Memorial. The solid brick wall that runs in an embracing curve behind the memorial was originally intended to be constructed of wrought iron, as will be the case under the memorial garden walk proposal. This will allow views into the grounds of the vice-regal residence and also give a view from the grounds of Government House to the sculpture which stands at the back of the memorial. The sculpture, which is now pretty well hidden from view (in particular to those who visit Government House), depicts an angel cradling a fallen serviceman in the ascent to heaven. As an integral part of the message conveyed by the several images within this monument the sculpture would, under the memorial garden walk proposal, also be given the official prominence that it should have had on the very day of the monument's dedication.

The memorial garden walk could also be a dignified location for the resiting of a number of monuments around the city that have been bypassed with the passage of time. Those that would benefit from relocation to the memorial garden walk include the Australian Light Horse Memorial, the War Horse Memorial and the Royal Australian Armoured Corps Memorial, which are currently all located at a relatively inaccessible spot at the corner of East Terrace and Botanic Road, and the Anzac Memorial located at Lundie Gardens in the South Parklands. This proposal also has the added appeal of strongly complementing the fine landscaping work which is currently underway on the northern side of North Terrace—a fitting memorial to our dead and a fitting prologue to a South Australian republic.

## MURRAY-MALLEE STRATEGIC TASK FORCE

**Mr PEDERICK (Hammond):** Just over 10 years ago the Murray-Mallee Strategic Task Force was formed in response to the identified need for a community-based group to initiate and drive the revitalisation of the region. To achieve this the group utilises departmental advisers in developing strategies to attract support for a wide range of initiatives. Using the Commonwealth/Rural Partnerships Program framework the fledgling group developed a single consolidated submission through which the Murray-Mallee community could access support available from various commonwealth and state programs. Those governments were aware that parts of rural South Australia were experiencing difficulties, including economic and social issues.

In September 1996 invited community representatives attended the inaugural meeting of the Murray-Mallee Strategic Task Force. Their aim was to achieve a long-term unified strategy for the region. The broader community contributed to the task force's endeavours, actively suggesting solutions to problems and identifying potential opportunities. The then state government invested considerable energy and resources to assist the task force to develop a package of sustainable measures addressing rural and regional matters in the Murray and Mallee dryland region. The task force served an area of some 30 000 square kilometres with about 1 750 dryland farm enterprises. This incorporates the district councils of Brown's Well, Coonalpyn Downs, Karoonda East Murray, Lameroo, Mannum, Meningie, Peake and Pinnaroo, as well as parts of Murray Bridge, Ridley Truro, Morgan, Paringa and Waikerie.

As members of the house will know, this whole region is again experiencing great difficulties caused in part by this fierce drought. However, it is also true that many of today's difficulties are the product of this government's half-hearted attitude to the region. I have already raised many of these matters even in the relatively short time I have been in this house: bus services, health services, emergency services, road maintenance, etc.

The efforts of the Murray-Mallee Strategic Task Force have been pivotal in the region's survival and revival, but, with the changing times, the job is not over yet. There is still a need to build and maintain the community's vision and sense of self value. In this changing world, there is a need to continue to be proactive. Yesterday's solutions are not necessarily today's solutions, and some of today's problems are different. This task force utilises a great deal of local knowledge, expertise, commitment and time, which comes at no cost to the government. It has had many successes including the 'Getting Traction' strategic plan securing regional transport and educational opportunities, drought response strategies and, perhaps most notably, the highly successful Xtreme Leadership Program that PIRSA is now looking to deliver statewide.

This task force has been an apolitical group, initiating many proactive and responsive programs in the Mallee and it has been relied on by government to deliver these programs. However, it cannot all be free. The funding that the task force received provided the community representatives with the framework and fabric required to maintain their crucial role. With this in mind, it is difficult to understand why almost six months ago the government chose not to continue funding administrative support for this cost-effective and valuable program. Despite a promise to discuss future funding possibilities, nothing substantial has happened. As a consequence, at this very moment the group is considering its future.

On top of the withdrawal of government support, there has been a silent trend to transfer some of the responsibilities and expenses of maintaining local services to local governments whose resources are already stretched by rising infrastructure standards and costs and community expectations, compounded by shrinking populations and consequent revenues. It is the old argument of the chicken and the egg: are supports and services to country regions being eroded because of population shifts, or is the population shrinking because of the lack of reasonable support from government? We all like to think of ourselves as tough, sun-bronzed Aussies in a wide brown land, but with the way it is going, the next time some of our city-based government MPs venture out into the real world, they will find it deserted and they will wonder why.

On behalf of all who live in these areas and those who understand and admire their contribution to the fabric of Australian life, I ask the government to reconsider its funding policies in these country areas and give them the modest support they need.

## CLIPSAL 500

**Mr KOUTSANTONIS (West Torrens):** I rise today to speak about the major event held on the weekend here in South Australia. I think the Clipsal 500 was a magnificent success and it was good to see over a quarter of a million South Australians enjoying our Parklands. Given that the Formula One Grand Prix is either this weekend or the weekend after—I am not quite sure, I think it is in two weeks' time—and there will be no Clipsal cars, no V8s, ticket sales are still down by 40 per cent. Currently, only 60 per cent of tickets have been sold and Victoria is about to suffer a loss of $31 million. I would just like to say to the naysayers who say this race is not popular: this race speaks to the heart of working class Australia. Every young boy and girl growing up in this country decides whom they barrack for—Ford or Holden's. It is great to see—

*Mr Hanna interjecting:*

**The Hon. R.J. McEwen:** Don't forget the Jaguar.

**Mr KOUTSANTONIS:** Yes, okay; thank you very much. I think it is just a great success that we get so many South Australians enjoying the race. On the way home from the race I often go along West Terrace and Anzac Highway and, as you are driving south-west, to the right are some abandoned basketball and netball courts on our Parklands near the West Terrace Cemetery. It was argued for and campaigned by the Adelaide Parklands Preservation Society about five or six years ago that they be returned to Parklands. The clubs and the people who used the courts were removed and, if you look at it now, they have had the poles and the nets taken away, and it is just abandoned land. It has not been reused.

Where is the Parklands Preservation Society now? Where are they now in using that piece of Parklands for people to enjoy by walking their dogs, using walking trails, or whatever it might be? They are nowhere to be seen. Perhaps it is because it is on the western side of the Parklands that they do not care about it. Ever since they pushed those kids and those clubs out of those courts, they have left them abandoned because they want more Parklands to be returned to native vegetation, or whatever, and it is just wasted land now. Those children had to find somewhere else to play netball and basketball. It is an absolute outrage.

*The Hon. R.J. McEwen interjecting:*

**Mr KOUTSANTONIS:** Sorry; am I interrupting your time or something? Do you have somewhere to be?

*The Hon. R.J. McEwen interjecting:*

**Mr KOUTSANTONIS:** Great. I think that the Parklands Preservation Society has to look at how to utilise the Parklands properly. Once we get a permanent structure in the Parklands, I would like us to get another event to have in November when we used to have the Grand Prix. Perhaps we could take it away from the Victorians, because they are running it without the V8s and, given that it is out of Melbourne and not so much an essential part of Melbourne, Victorians are not really embracing that race. Victorians are not embracing Formula One the way Adelaide did. When the track was here and when the race was held in November, often it rained but we still got record crowds. Rundle Street and East Terrace were alive with activity and action. People from the country would come to see the V8s and the F1s.

I understand that the cost of getting the licence for F1s is extraordinary and very expensive but, given the declining sales, perhaps we should keep in mind that the biggest revenue that you get from Formula One is from television rights because it is the third-largest rating sporting event in the world after the Olympics and the World Cup. Perhaps the sight of empty seats will encourage Mr Ecclestone, who really enjoys coming to Adelaide, and who has always said that Adelaide was the best place to hold the Formula One race. Perhaps they might want to reconsider and bring it back home where it belongs. Bring it back here to South Australia. Can you imagine having the first V8 race in March and the last Grand Prix in November in the same year and what that would do to Adelaide and how that would energise this state?

**Mr Pederick:** If we had a permanent grandstand.

**Mr KOUTSANTONIS:** And if we had the permanent grandstand, it would lower the cost every year of that race. The one thing that we can guarantee that the Victorians cannot is sold-out venues, bums on seats and the state getting behind the race. We can guarantee that Adelaide will come alive again at the thought of the F1 race. I know that the Treasurer and the cabinet will probably not be as enthusiastic about this as I am given the cost of the licence fee per year to have the F1s there, but my argument is that, if you want to have a good product that is broadcast around the world to the third-largest audience almost monthly, Adelaide is the place to do it.

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## STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

In committee.

(Continued from 22 November. Page 1348.)

Clauses 2 to 16 passed.

Clause 17.

**Mr PENGILLY:** Will the minister explain the clause with regard to what qualifications would be required by a registered agent who is a natural person and who must properly manage each place of business?

**The Hon. J.M. RANKINE:** They will require the qualifications of a registered agent, which are the same as are required currently.

**Mr PENGILLY:** I move:

Page 12, line 7—After 'natural person' insert 'or, in accordance with the regulations, by some other natural person nominated in writing to the Commissioner'.

**The Hon. J.M. RANKINE:** The government opposes this amendment, which would allow agents to nominate a person other than a registered agent to be in charge of an office. It could be staffed solely by a junior sales agent, sales representative or even a trainee. I understand that the Real Estate Institute originally sought the amendment contained in the bill to require all offices to be managed by registered agents, but we recognised that there would be some difficulty in doing that, particularly in rural areas, which is why we have allowed for some alternative procedures to be put in place.

**Mrs REDMOND:** In light of the minister's explanation, is it the case that there will be some sort of statutory exemption for a nominated manager? In the case of small rural offices, where people may not be present all the time—unlike a city office where there may be a full-time staff—you may have an office where a firm runs a part-time office in a little town away from the main office. Is there a statutory mechanism within the legislation, as the minister wants it, that will

enable that situation to be covered and to have a nominated manager? Will that be available?

**The Hon. J.M. RANKINE:** It is proposed to put into regulations requirements around that. There will be proper supervision of trust accounts, signing off on documents and those sort of things, whilst recognising that you cannot always have a physical presence of a manager, but requiring that they are still in control of those procedures. It will be regulated.

**Mrs REDMOND:** So in the major town you may have the head office and the manager and, as long as that person is the person held responsible and keeps an eye on what is happening, checks the books and does all the management, albeit at a distance without necessarily attending, that will be allowed in the way you are structuring this?

**The Hon. J.M. RANKINE:** That will be clarified in regulations, but that is my understanding.

Amendment negatived; clause passed.

Clauses 18 to 30 passed.

Clause 31.

**Mrs REDMOND:** I am curious about why we have lost the use of the punctuation apostrophe in 'bidders register'. It should be 'bidders' register'. I am curious about parliamentary counsel's lack of punctuation.

**The Hon. J.M. RANKINE:** I thank the honourable member for raising that. Just take it up with parliamentary counsel.

**Mr PENGILLY:** I move:

Page 17, line 8—Delete the definition of bidders register

While the opposition supports the principle of using best endeavours to have all potential bidders registered prior to the commencement of the auction, there is concern about the practice being compulsory for the following reasons. Some purchasers for various and perfectly legitimate reasons may wish to remain anonymous prior to making their purchase at auction. This is the right afforded to them, if they are making an offer via private treaty. Similarly, the use of paddles is not supported on privacy grounds. Buyers may attend inspections on the day of the auction and then make the decision to bid. If compulsory registration is necessary, they will not be extended this opportunity which may deny the purchaser of a genuine offer.

A potential purchaser may collude with associates to disrupt an auction by registering during an auction, thus adversely affecting the process. We believe it adequate if agents use their best endeavours to ensure that all potential bidders are registered and, if further bidders take part in the auction, agents should use their best endeavours to have their details recorded at the cessation of the auction. This is the current practice and consistent with the Real Estate Institute of South Australia auction code of conduct. It should be noted that currently most bidders are registered with the agency prior to the auction.

**The Hon. J.M. RANKINE:** The government opposes this amendment which, as the shadow minister said, would make bidder registration voluntary. Mandatory bidder registration really is the only way to police dummy bidding effectively. In fact, Queensland had a system of voluntary registration and a compliance audit actually found a very low level of registration was occurring. In relation to privacy, bidders can remain anonymous by engaging someone else to bid on their behalf, so we do not accept that argument. It has been put to me as well that someone living in the same street might want to bid for the house and they do not want the neighbour to know that they are doing it. Well, they do not have to know they are doing it.

The only person who has to be registered is the person who is doing the bidding, and they can have someone else do that for them. As I understand it, nothing in the legislation requires the use of paddles. It might simply be a case that a tear-off ticket is used, as is the case in New South Wales. As I said, really, it is the only way to police this issue effectively. In relation to collusive practices, provisions within the act specifically prohibit that, as well as imposing quite substantial fines. The government opposes the amendment.

**Mr PENGILLY:** Given the minister's statements following my comments, how will the consumer be better off as a result of what she is proposing?

**The Hon. J.M. RANKINE:** There will be much greater transparency in the auction process. We will not have the neighbour's dog or the stobie pole bidding for the house. It will be very clear who the bidders are in terms of purchasing a property.

**Mrs REDMOND:** I can understand the arrangements as far as transparency is concerned and not having the neighbour's dog bidding, and so on, but how do you overcome the problem—if you must have a registration—of the genuine bidder who comes along at the last minute, arrives at the auction late or once the auction is under way? How do you overcome that problem under this process?

**The Hon. J.M. RANKINE:** The bill includes a provision which specifically allows for the auction to cease so that someone can register as a bidder. They are not excluded.

**Mrs REDMOND:** Does that not lead to the problem that the auction could then fail as a result of that sort of interruption? The nature of auctions is that people are there and they are paying attention. As soon as you have to interrupt it and spend 10 minutes waiting around for someone to fill out a piece of paper and satisfy as to their identity, and so on, is there not a real risk that the auction will be more likely to fail?

**The Hon. J.M. RANKINE:** People are not going along to an auction to buy a secondhand lounge suite, a piece of antique furniture or a box of miscellaneous goods. They are buying a very expensive item. They are purchasing a house. I assume that when someone attends an auction and they put up their hand they are serious about it. The one thing that could happen, however, is that the heat is taken out of the auction, so that people's blood pressure goes down and they think about what they are doing.

Amendment negatived.

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

Page 17, after line 12—Insert:

offer, in relation to the purchase of land or a business, includes a statement of the price that the purchaser is willing to pay for the land or business including such a statement made in a tender process, request for expressions of interest or other similar process, but does not include a bid in an auction;

This amendment inserts a definition of 'offer' into the Land, Business, Sale and Conveyancing Act in order to clarify that responses to tenders and similar forms of sale (as I said, whether or not in the form of tender) are expressions of interest or offers for the purpose of the legislation.

Amendment carried; clause as amended passed.

Clauses 32 to 38 passed.

Clause 39.

**Mr HANNA:** I move:

Page 20, line 15—After 'to a purchaser' insert:

, and to make the required documents for the land available for perusal by the purchaser,

I am speaking today in relation to this legislation to improve and reform the real estate industry. In that context, I bring to South Australia an idea which has worked very well in the ACT.

I commend the Labor government in the Australian Capital Territory for bringing into practice this progressive consumer protection legislation. The essence of the proposal is to require vendors of real estate to obtain three reports and to make them available to all potential purchasers. The three reports cover building inspection, pest and termite inspection and an energy efficiency audit. The way it works in the ACT is that the reports must be obtained within three months of the house being put on the market, and they can be used for a period in time which in practice is limited to six months, so you have that window of opportunity to sell the house and use the reports. In the ACT, the purchaser pays the vendor for the building and pest inspection reports when the property is bought, so the purchaser in that case ends up bearing the cost.

The way that I have drafted the amendment here is to leave that cost with the vendor but, of course, the vendor will seek to transfer to the ultimate purchaser as much as the market will bear in terms of that price. If the vendor wants to clear a certain amount from the sale of a property, the vendor will calculate the conveyancing costs, the real estate agent costs, the advertising costs and the cost of these reports and will try, therefore, to sell at a certain price to get a nett gain. That may or may not happen, depending on the state of the market. The real value in this proposal is to ensure that just about all purchasers of real estate in South Australia have the benefit of these reports. At the moment, we have the unfortunate situation where, if there is the slightest doubt about a house, several purchasers can go off and waste money getting several different reports, so you might have four or five building inspection reports done on a particular house.

Does it not make more sense for a vendor to obtain all the necessary reports, make them available to all purchasers and then everyone is in the know? I should stress that the reports required in the ACT and those that I propose here are based on visual inspection, so they are not a detailed taking apart of the house, which would cost thousands of dollars. I can give the House of Assembly an indication of the cost involved. After the introduction of this legislation into the ACT in October 2004, companies sprang up that would offer all three reports in one, so there were many places where you could have a one-stop-shop, and a typical price for all three reports was between $600 and $800. That is about the cost of a decent building inspection report that you might get in South Australia at the moment, so you were getting three for one in terms of all three of those reports.

People have an understanding about what a building inspection report is and about a termite inspection report or pest inspection, but I will just say something about the energy efficiency audit. The purpose is to give a rating out of six stars, and it would depend on such things as the insulation, whether there are quality curtains to retain heat, whether there is woollen carpet or bare floors, whether the rooms with windows are facing the north and, therefore, able to get the advantage of sunlight, and so on. Obviously, that is not conclusive, but it does give purchasers an idea of how much they might be spending on heating and cooling in a particular house. This has a flow-on effect for the environment in South Australia, because people are going to start preferring houses that have a higher energy efficiency rating. Therefore, such houses will have some slight premium in the market and that will be good for us all because builders and developers will be encouraged to have energy efficient houses.

I take this amendment as a test amendment for the series of amendments I will move. The scheme I have set out in these amendments is a slightly simplified version of the ACT legislation but it has all the essential elements. It covers auctions as well as sale by putting an ad in the paper and having people come along to an open inspection. It requires a prescribed notice which lets potential purchasers know the availability of these reports, where one can find them, and so on. In the ACT they have taken it a step further by having the reports available on the internet. They have an excellent booklet of 47 pages called *Reality Check*, which is a real estate guide for buyers and sellers in the ACT. I do commend our Office of Consumer and Business Affairs because it does have a version of this booklet, but I must say that when the officers read the *Hansard* they might wish to get a copy of the ACT's booklet because it is better and more comprehensive and we could learn something from it.

I conclude my remarks. I summarise this amendment as a consumer protection measure, one which the market will bear. Essentially, a cost will be created for both the vendor and the purchaser, depending on how much of the cost to the vendor is transferred into the sale price. On the other hand, that money will go to a growing industry of building and pest inspectors. No doubt additional jobs will be created in that sphere, and their work will give better protection to people buying houses in South Australia.

**Mr RAU:** I sympathise greatly with the sentiments of the honourable member's remarks. Obviously, it is desirable for anyone purchasing a property to have information about that property at their disposal at the time they purchase it. As an individual who, probably through lack of imagination or other reasons, has spent many weekends looking at houses and going to auctions, I have to say that it is not necessarily readily apparent to a person who is untrained, when they examine a house or look at a house, whether the house has had or has termites or whether it has had or has salt damp or any number of other problems that ultimately might become an expensive and inconvenient problem for the purchaser, should they go ahead with the purchase. I agree with the member for Mitchell that it is desirable that purchasers have this sort of information available at their disposal.

However, having reflected on and thought about this matter for some time I have come up against a couple of difficulties which I think are insurmountable. The first, and probably the most significant, is the conflict of interest problem. The conflict of interest problem is very simple; that is, the vendor is paying for this report, not the purchaser. In practice, what will happen is that the real estate agent will say to the vendor, 'Part of what you have to do, aside from complying with these various other requirements under the act and getting this data so we can put it on the Form 7, and whatever, is that you will have to obtain a report which will be shown to prospective purchasers.' The most likely thing the vendor will say to the real estate agent is, 'Fair enough. Who will I get to do that?' The real estate agent will say, 'I have a mate called George; George is someone we've used.'

**An honourable member:** John!

**Mr RAU:** George or Ivan; I don't know. It could be anyone.

**Mrs Redmond:** Brian.

**Mr RAU:** Brian—any number of them, but I suspect it will be one. And they will say, 'Brian (or George or Ivan; whoever it is I happen to select) is actually very good at this. I use this person all the time. Why don't we get him to look at it?' So we will get the report from this person, the report will be provided by a person to a real estate agent who is that person's major referrer of work, and the report will be for and on behalf of the vendor of the property. You do not have to use a lot of imagination to work out that, no matter how much integrity this individual has, it is in their interests to have as benign a report as possible about the property because that will make the property more attractive. It is not in the interests of the vendor to have sitting on the vendor's file for all the purchasers to examine a report saying, 'This house is riddled with white ants, it is about to fall down and the wiring is no good.'

So, the problem is that getting the vendor to do something that is actually against the vendor's best interests in obtaining the highest price they can get for the property is something that goes counter to commonsense, in my opinion, and it will invite an uncomfortable relationship to develop between these inspectors and real estate agents, whose business it is also to turn over these properties. So, we have a double conflict of interest—the conflict of interest of the vendor and the real estate agent, both of whom are relying on the sale of the property to secure money.

The second concern I have about it is that, aside from that problem, these people are still operating basically in an unregulated market. We are not, hopefully, thinking about putting in a whole range of regulations about the qualifications you have to have to be one of these people and whether you have to have a certificate and all these other bits and pieces. The risk is still entirely with the purchaser, yet they are placing their trust in a report obtained for and on behalf of the vendor. I will give just one example which people might think is a bit ridiculous but I think it is very apposite once you hear it. Many years ago, in the course of some campaigning I was doing, I came to know a butcher who lived in Torrensville. I went into his butcher shop many times and I noticed one day that one of the chaps working in his butcher shop was wearing a chain mail glove and cutting up the meat wearing this chain mail glove. I noticed that this friend of mine never wore one of these gloves. I asked him, 'Why is it that you never wear one of those gloves?' He said, 'Because one day I might forget to put it on.'

In other words, you create a sense of security for yourself by putting up an arrangement which you think protects you, and it stops you taking the ordinary precautions that you would otherwise take for yourself. That is the problem. So, unfortunately, I am of the view that we need to actually have the vendor out of the process of securing these reports, even though I agree with the member that these reports are highly desirable. There is the incidental matter of the additional cost but I think, in the scheme of a property sale, $100 here or there is not make or break stuff. However, I think the conflict stuff is the big issue. The purchaser needs to be satisfied that they have their expert giving a report to them upon which they can rely.

**Mr PENGILLY:** The opposition will not be supporting the amendment. While I understand where the member for Mitchell is coming from, quite frankly, the proposed amendment will add additional costs (about $1 500, as we can best anticipate) and will require a substantial amount of investigation work to be carried out by people with a total lack ability to do it, quite frankly. Therefore, we do not support the amendment. Whilst I once again express my appreciation to the member for Mitchell for moving these amendments, we will not be supporting them.

**Mrs REDMOND:** I reached the same conclusion as the member for Enfield, but via a slightly different route. Whilst I have a lot of sympathy for what the member for Mitchell is trying to achieve, I think there are problems. The problem that I foresee is, in fact, one of privity of contract. It seems to me that, once we have the vendor providing that report (and I also have some concerns about the nature of the report not being one that goes to the engineering and structural soundness but, rather, assessing the curtains and carpets and things such as that), it is the vendor who has the contract with that person. My concern is this: what happens after the purchase has gone through and the purchaser is not satisfied with that report, but is not a party to the contract by which that report was obtained? It seems to me that you then have a privity of contract problem.

I bought a house in Sydney a long time ago, and one of the issues there was that it was very expensive for every successive purchaser to obtain a surveyor's report. The way in which that was overcome in practice was by obtaining a surveyor's report in the first place, and then every new purchaser simply went back to the same surveyor. So, it was a relatively cheap process for them to have that done. As the minister said, in answer to an question with respect to an earlier amendment, people coming along to purchase a house are spending a lot of money in that process. I would be very surprised if people bidding at an auction were doing so without having done some investigation and preliminary work to find out all they could about the house. If they do so, the principle of caveat emptor has been with us for a long time, and rightly so: someone purchasing a house does so at their own risk. Sadly, whilst I think that there is some substance to the member's argument, particularly in the case of auctions, I do not think that we have that amendment quite right at this stage.

**The Hon. J.M. RANKINE:** The government opposes the member for Mitchell's amendment. Certainly, the issues he raised were looked at very closely in the consultation process when developing this bill. The two issues that have been highlighted by both the member for Enfield and the member for Heysen were two of the main reasons why we decided not to proceed in that way. I am advised that (as the member for Heysen said) the purchaser would, in fact, have no recourse with respect to anyone providing those reports, because they were provided for a third party. Certainly, the issue in relation to conflict of interest was a very prominent reason in deciding not to take that route. However, prescribed notices will need to be available at open inspections for people to peruse, which I understand will be annexed to the vendor's section 7 statement. They are about raising issues to which people purchasing a home should be alert, such as structural defects, salt damp, termite problems, illegal building work, and so on. That is the way that we have decided is best to deal with those matters.

In relation to energy efficiency, the member for Mitchell may well be aware that last year legislation came into force requiring that new homes have a five star energy rating. We are concerned about the energy rating of older homes. It is an issue that is being dealt with through the Ministerial Council for Energy in developing a nationally consistent legislative scheme, and we expect to have results of that around December this year. At the moment, I think it is bit prema-

ture, but the government does acknowledge that this is an issue that needs to be dealt with.

**Mr HANNA:** I commend the government for its moves to improve the energy efficiency of new homes. It may be that a ministerial council is looking at the energy efficiency of older existing homes, but that work is not terribly visible. This is a way of ensuring that people not only are aware of the energy efficiency of older homes but also are in a position to make decisions based on that energy efficiency, or lack of it.

I thank the member for Enfield for his lukewarm comments. In his cuts, at least he did not have the chain mail gloves on. However, I must say that his argument derived from his butcher shop experience is an argument against consumer protection of all kinds. It is an argument against any sort of legislation that protects the general public, because it suggests that, really, everyone should look out for themselves, and that is not really the sort of society I want to live in. I think government does have a role in protecting people. In practice, we know that probably only a minority of home purchasers go out and spend the money for building or pest reports. It might be advisable and a wise thing to do, but the fact is that most people do not do it, and every year a number of people are burnt. One constituent told me of his experience purchasing a house, where he put in a low bid and, after a bit of haggling, was surprised to see that he was awarded the house by the vendor for that low price. Within a few weeks of moving in, when he was doing some painting and very minor renovations, he put his hand through the wall to find a huge nest of white ants. One might say he had been foolish in not having had a pest report done prior to purchase, but the fact is that many people, especially purchasers—and especially first-time home buyers—are not in a position to spend many hundreds of dollars on a report. However, if the vendor does that, that is an efficient way for potential purchasers to be aware of the problems.

With regard to the point raised by the member for Heysen, it is important for purchasers to be able to rely on the reports that are produced under this scheme. There is a specific section (section 19) in the ACT sale of residential property legislation that stipulates that, if one of the reports is false or misleading in a material particular, or if it is prepared without the exercise of reasonable skill and care, the buyer can sue that person. However, I do not think it goes any further than restating the common law. There is such a thing as negligent misrepresentation, let alone deliberate misrepresentation, which would form the basis for litigation if a purchaser relied on a report that was false. So, the members for Enfield and Heysen were really not being fair in suggesting that the purchaser would be left without a remedy, or that these inspectors would go willy-nilly favouring the vendor's point of view. The reality is that professionals in that situation do not want to be sued, and that is a valuable corrective motivation in our system. It would work—it is working in the ACT; I am getting good reports about how it works there—and this is an idea that will probably come back because, every time someone is burnt after purchasing a property in South Australia, they are going to wish they had such a report. As I have said, there is a really valuable spin-off effect in terms of getting energy efficiency audits on every house as there is a transfer of the real estate.

The committee divided on the amendment:

**The CHAIR:** There being only one member for the ayes, there is no need for a count.

Amendment negatived; clause passed.

Clauses 40 to 42 passed.

Clause 43.

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

Page 23, after line 31—Insert:

(ab) subject to subsection (5), the offer must not be passed on to the vendor unless it is so recorded and signed;

This amendment is to tighten the requirement that all offers be recorded in writing by providing that the agent must not pass on an offer to the vendor unless it has been recorded in writing and signed by the offerer.

Amendment carried.

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

Page 24, after line 6—Insert:

(ab) subject to subsection (5), the offer must not be passed on to the vendor unless it is so recorded and signed;

This is the same as the previous amendment, except that it applies to sales representatives as opposed to sales agents.

Amendment carried.

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

Page 25, lines 1 and 2—Delete subsection (8).

This amendment is consequential to the amendment to clause 31 that inserted the definition of 'offer'. The definition of 'offer' in this clause is now redundant and should be deleted.

Amendment carried.

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

Page 31, lines 37 to 41—Delete subsection (9) and substitute:

(9) If an agent obtains a beneficial interest in land or a business that the agent is authorised to sell, the agent must not demand, receive or retain commission or expenses in respect of the sale or purchase of the land or business unless—

(a) the Commissioner has approved the agent obtaining the benefit under subsection (5); and

(b) the Commissioner has, when giving that approval, also approved the receipt of the commission or expenses.

Maximum penalty: $5 000.

Currently the situation under the legislation is that agents or their associates are prohibited from purchasing property that the agent is commissioned to sell (section 23 of the Land and Business (Sale and Conveyancing) Act). This can, however, be overturned through ministerial exemption. There is no prohibition currently on agents receiving a commission in connection with the sale. So, they are not allowed to buy it unless they get a ministerial exemption but, if they do, under the current situation they get a commission. This amendment will prohibit agents from receiving commissions or expenses where the agent, or an associate of the agent, is actually purchasing the property. It is just to tighten up the current provisions.

**Mrs REDMOND:** I understand the area about commissions, but when you use the word 'expenses', if, for instance, the agent is acting for a vendor and the purchaser's partner or the agent is buying, are you saying that as the vendor's agent that person cannot then receive reimbursement of actual expenses incurred? I understand the commissions, but so far as actual outlays of disbursements are concerned (which might be, I suppose, most commonly by way of advertising), are you saying that there will be no entitlement under the new provisions for the agent even to recoup the cost of advertising legitimately incurred prior to their even deciding to be the purchaser or to have an associate as the purchaser?

**The Hon. J.M. RANKINE:** When they apply for an exemption, the commissioner can approve the expenses, but it will not be automatic; it is part of the exemption process.

**Mrs REDMOND:** I just want to really understand this, because we see notices in the *Government Gazette* every week, where various agents have applied for exemption, and there is a little notice published in the *Government Gazette* saying that an agent has an exemption. I take it then that it will now be necessary for that agent to put in an application and include in it information as to whatever the expenses or disbursements have been, and make a specific request, in addition to being given the exemption, to be paid the money that they have actually paid out by way of a disbursement.

**The Hon. J.M. RANKINE:** My understanding is that they do not necessarily have to state the amount. They can also apply for exemption to have the commission, but they now must apply for it rather than automatically be entitled to it.

Amendment carried.

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

Page 32—
Line 12—After 'spouse' insert: or domestic partner
Line 14—After 'spouse' insert: or domestic partner
Line 20—After 'spouse' insert: or domestic partner
Lines 28 to 34—
Definition of *putative spouse*—delete the definition and substitute:
*domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that act or not;
Line 35—After 'spouse' insert: domestic partner
Line 40—
Definition of *spouse*—Delete the definition and substitute:
*spouse*—a person is the spouse of another if they are legally married;

These are minor amendments required for new section 24F as a consequence of the Statutes Amendment (Domestic Partners) Act 2006, and they introduce the concept of 'domestic partner' and replace the existing references to the term 'putative spouse'.

Amendments carried.

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

Page 33, lines 25 to 32—
Delete paragraph (a) and substitute:
(a) the standard conditions of auction must be made available for perusal by members of the public at the place at which the auction is to be conducted for at least 30 minutes before the auction is due to commence;
(b) the standard conditions of auction must be audibly announced as required by the regulations by the auctioneer to the members of the public attending the auction immediately before the auction commences;

This amendment makes a slight change to the newest 241, which requires prescribed standard conditions of auctions to be displayed prior to auction and to be read aloud by the auctioneer to those attending the auction. I did have representatives from the Society for Auctioneers and Appraisers come and meet with me to discuss this proposal, and they thought that, in fact, it would be unwieldy and impractical at an auction. So, we are allowing for a sufficient precis to be read aloud at an auction rather than the entire list of requirements for conditions for auction.

Amendment carried.

**Mr PENGILLY:** We will not be proceeding with amendment No. 3.

**Mrs REDMOND:** I am trying to check quickly, but I think that that amendment and maybe the rest are consequential upon the original amendment which dealt with whether or not we had a bidders' register, and that amendment failed.

**Mr PENGILLY:** Would the minister take a question on notice on clause 38, although we have dealt with that clause previously? In relation to page 20, line 8, can the minister advise what the previous penalty was for this offence? The maximum penalty of $20 000 or imprisonment for one year seems to be very severe compared with other penalties in other acts, such as for rape and sexual assault.

**The Hon. J.M. RANKINE:** I am happy to provide an answer while the bill is between the houses.

**Mr PENGILLY:** I move:

Page 37, lines 8 to 11—Delete 'a single bid at an auction of residential land on behalf of the vendor of the land, or 1 or more bids at an auction of land (other than residential land)' and substitute '1 or more bids at an action of land'.

This amendment is consistent with the Real Estate Institute Auction Code of Conduct, which was introduced in October 2003. The success of disclosed multiple vendor bids is demonstrated by the fact that the institute has received no notice of complaints regarding vendor bids from the Office of Consumer and Business Affairs since its introduction.

**The Hon. J.M. RANKINE:** The government opposes this amendment, because we accept the proposal that there is no place for vendor bids at auctions and that they can mislead consumers, effectively, to bid against themselves, thereby driving up the price. Vendors are protected by setting a reserve. I see no benefit in their bidding against themselves in an auction, other than to inflate the price. They are protected by the setting of a reserve. I have had lengthy discussions in relation to this issue with a number of people who have an interest, whether it be the Real Estate Institute or others. We should discourage this practice.

During the debate we had a number of submissions from members opposite arguing about vendor bidding; some were farmers, and I made the point that they do not bid for their own sheep when they go to auction. So, there was really no argument. It has been put to me that agents will choose to take properties to auction because it costs them less and because they may, in fact, be aware that there is only one interested party. It minimises the work for agents but maximises their revenue from advertising and marketing. We do not support this amendment.

**Mr PENGILLY:** I would like to flesh this out a little further. It has been a longstanding convention, and it seems to me rather harsh to strike out our amendment. Will the minister elaborate further on her reasoning for not supporting it?

**The Hon. J.M. RANKINE:** It is simply a case of giving me one logical reason why we should have vendor bids when a vendor has the opportunity to set their bottom line and does not at any stage have to sell their property.

**Mrs REDMOND:** I suggest that the reason is simply to keep the flow of the auction going. As I understand the system, they will not be bidding above that reserve, so all it is doing is keeping the auction going in the hope of reaching a reserve; if and when it reaches that reserve, the vendor would not thereafter be entitled to bid to force it up any further. So, it seems to me that no harm is done by allowing the vendor to put in multiple bids; once the reserve is reached, they have to drop out. If the auction keeps going at that point that is fine but if it does not no-one has been adversely affected, because the house is not going to sell prior to that reserve being reached.

**The Hon. J.M. RANKINE:** It allows scope for misleading people at an auction; it allows people to do exactly what you are saying, bidding the price up unnecessarily when

people could leave the auction and negotiate with the vendor through the agent.

**Mr PENGILLY:** I have attended numerous auctions over the years and I have actually been at auctions where, if the vendor (for some reason, dubious or whatever) had not put in an initial starting bid, the auction would not have proceeded; I have often been there when the vendor has put in an opening bid, and then pulled out, just to get the thing going. Clearly the vendor is not going to interfere in a reserve if one is set, but I can distinctly recall a sale I was at some years ago where the auctioneer could not get a bid, could not get it started, so the vendor put in an opening bid and then pulled out. It seemed to be a way of getting it started.

**The Hon. J.M. RANKINE:** You have actually made my point. Perhaps the property should not have been put up for auction in the first place.

Amendment negatived; clause as amended passed.

Remaining clauses (44 to 52) and title passed.

Bill reported with amendments.

**The Hon. J.M. RANKINE (Minister for Consumer Affairs):** I move:

That this bill be now read a third time.

**Mr PENGILLY (Finniss):** I would like to say a few words and place on record the opposition's disappointment in not having its amendments carried. I believe the bill as it stands, the way that the government wants it, is not really in everyone's best interests and the few amendments the opposition was seeking would have made it a better bill. I will watch with great interest what happens when the bill goes to another place and how it comes back.

The opposition has looked at this long and hard, has done a considerable amount of research and sought quite a bit of consultation on the matter, and it put those amendments forward in the best interests of the bill and of the people of South Australia. Once again, I place on record my disappointment that they were rejected.

**The Hon. J.M. RANKINE (Minister for Consumer Affairs):** I would like to thank all members who have contributed to this debate and I would particularly like to acknowledge the member for Enfield for the enormous amount of work he has done over a very long period of time. I would also like to thank officers from the Office of Consumer and Business Affairs for the work they have done in preparing this legislation and for the consultation work that has been done with all industry stakeholders to get to this position. I think we have legislation that will restore the confidence of South Australians in going through the process of purchasing their homes, and I am sure the industry itself will benefit from the reforms that have been passed in this house today. I hope they progress through the other place in the same manner.

Bill read a third time and passed.

**Mr VENNING:** Mr Speaker, I draw your attention to the state of the house.

*A quorum having been formed:*

## PHARMACY PRACTICE BILL

Adjourned debate on second reading.

(Continued from 6 December. Page 1541.)

**Ms CHAPMAN (Deputy Leader of the Opposition):** This bill was introduced by the Minister for Health on 6 December 2006 to replace the Pharmacists Act 1991. This bill has been a long time coming. It is reform that has been out in the marketplace and before stakeholders for over five years, and its development had some origin from the previous government. I will have a little bit to say about the time delay shortly, but the objective of this bill is to protect the health and safety of the public by providing a registration of pharmacists and to provide pharmacy services and maintain high standards of competence and conduct of those who provide these services.

In the history of our legislation, it is not unusual that we, as parliamentarians, have taken the view that in certain circumstances the management, supervision, retailing, wholesaling and production of certain products and services should be restricted to persons who are registered and who have attained certain standards of competence and conduct. In other words, they must be fit and proper persons. This has not been confined to legal drugs, the dispensing of those drugs and those who dispense them, under this legislation. We have seen it historically in the production and retailing of alcohol, another legal drug. We have seen it in both the production and retailing of tobacco and cigarette products, another legal drug. We have seen it in the ownership, licence holding and sale and procurement of firearms and explosives (dynamite and the like). Historically, parliaments have taken the view that it is important that restrictions apply when persons are in control of these substances, products or services. This is no exception. The opposition supports that there be a standard of competence and conduct which permeates the parameters under which persons may handle drugs and pharmaceutical items.

The bill is one of the health profession registration bills to be reformed in line with national competition policy. This bill was reviewed at the national level on behalf of the Council of Australian Governments. Aspects of this reform have been nutted out by stakeholders over the past five years, but it concerns me that, for such an important reform, it has taken the government so long to bring it to the attention of the parliament to gain support. The bill is based on a model that was provided by the Medical Practice Act 2004—one of a number of health practitioner registration bills and, in fact, one of the early ones to pass this house—which contains some specific and unique issues relevant to pharmacy practice and the conclusions of the national review. The key features which align with the other health practitioner registration bills include:

- to protect the public by the registration of pharmacists, pharmacy students, pharmacies and pharmacy depots;
- to change the composition of the Pharmacy Board to include two ministerial appointments;
- to restrict board tenure to three consecutive three-year terms;
- standards and expectations as provided in the Public Sector Management Act 1995 and the Statutes Amendment (Honesty and Accountability in Government) Act 2003 are to be applied to the Pharmacy Board;
- information on pharmacy service providers must be accessible to the public;
- students must now be registered;
- a codes of pharmacy service provision must be developed by the board and approved by the minister; and
- fitness for practice is now to include mental fitness.

Areas that are unique to pharmacy practice include:

- a strict definition of 'pharmacy service' and 'restricted pharmacy service';
- continuing professional development through the issue of annual practising certificates will continue;
- pharmacists, companies and friendly societies that meet certain criteria may provide restricted pharmacy services;
- regulation can provide for an unqualified person to make provision—for example, on-site pharmacy departments in hospitals;
- non-pharmacists and organisations such as supermarkets that own pharmacies will be excluded;
- regulations to prevent the use of voucher scheme incentives or benefits will be implemented;
- collocation of pharmacies within or adjacent to supermarkets will be prohibited;
- there will be a restriction on the number of pharmacies from which individual operators may provide pharmacy services. For individual pharmacists, this will increase from four to six, which essentially means that one pharmacist can own up to six pharmacy outlets;
- the FSMA (trading as National Pharmacies) can increase its pharmacies from 31 to 40 in the state of South Australia;
- other friendly societies are permitted to operate in South Australia up to a new cap of nine;
- annual registration of pharmacy premises continues;
- there is provision for the registration of pharmacy depots used in rural and remote areas; and
- the sale of animals, food preparation (under our health obligations) and the sale of tobacco and alcohol (based on community harm responsibilities) are prohibited.

I have had the opportunity, as have other members of the opposition, to meet with representatives of National Pharmacies. I acknowledge the submissions presented by Mr Jim Howard, the Managing Director of National Pharmacies in South Australia, and I thank him for his time and for the considerable information that he has provided to the opposition during our consideration of this bill.

I also wish to acknowledge and thank Mr Ian Todd, the President of the South Australian Branch of the Pharmacy Guild of Australia, a person who owns pharmacies in South Australia and as president is spokesperson on behalf of the membership of the Pharmacy Guild, an important representative body of pharmacies in South Australia. I have spoken to a number of other individual pharmacists and have had the benefit of their advice over the long consultation period, which has been valuable. We certainly could not complain on this occasion that we have not had time to consult or that stakeholders were not properly consulted, which is important. If anything, we are concerned as to why it has taken so long.

In any event, what the government has finally presented to the parliament for its approval contains some controversial aspects, but the major peak representative bodies have come to a level of acceptance of what the government has presented. There are some aspects of the bill that I would ask the minister to clarify on the record. I indicate that the opposition will support the bill. Probably the most important aspect of this bill is that the government has acknowledged that it will continue to have a protected group that is properly scrutinised, that is, there has been no move by the government to remove the restrictions we have on the pharmacists and pharmacy distribution of medication and drugs, which has been under some threat over the past 10 years, there having been considerable pressure by other bodies, particularly supermarket owners, to bring about legislative reform to allow them to get into the market.

This would enable Coles, Woolworths, Foodland and others to come in and be able to retail these products, and we believe that that should not occur. It is not just the safety restrictions, but at a national level legislation is very influential because the pharmaceutical benefits scheme that operates federally oversees multi billions of dollars expenditure and we need to ensure equitable and safe distribution in the dispensing of medication and drugs. The federal government is keen to ensure that in a restricted market there is not a flood of pharmacies. Effectively it controls the approval and opening up of new pharmacies.

I understand that historically, on the federal scene, there has been a closure and buying up of a number of pharmacies to restrict the number that operate in Australia. The Prime Minister's view is well known on the importance of ensuring that we do not have a regime that facilitates the selling of drugs and medication that could be in any way a risk to the public in the forums of supermarkets, thereby being accessible to an uninformed member of the public to be able to purchase such products without adequate supervision and advice.

Their position is very clear. I indicate at the state level that we acknowledge and approve of the government's decision to maintain a restriction on who is in charge of dispensing these medications and drugs. It is fair to say that those who have travelled overseas may have seen the corner store (in fact anecdotally they used to be called 'drugstores')—the corner deli, as we might describe it in Australia—which has the capacity to administer quite dangerous medications and drugs (if in the wrong hands) through persons who are unregistered and of whom there is no scrutiny. It is fair to say that it used to be a common joke in the criminal law area about how easy it was to gain access to drugs in the United States, particularly in some of the states because, if you were unable to buy drugs on the street, then all you had to do was buy a local drugstore and you had access to drugs for your own purposes and, more damagingly of course, you could make those drugs available to others.

It is a regime in Australia which I think needs to be continually endorsed. The most controversial aspect of this bill is who gets to have a share of the restricted number of pharmacies operating here. I must say that, in relation to the national position, it should be at least recorded that it is not as though no pharmacy can ever open. There are relocation provisions to enable pharmacies to be purchased and relocated subject to commonwealth restrictions because, quite obviously, we need to acknowledge the fact that there are some regions which become less populated and there are newer developing regions which become more populated. It is important for pharmacies to have the capacity to move from one area to another, even if it is unlikely that they will be given the opportunity to open an extra pharmacy.

In sharing out the pharmacy cake, considerable disquiet has been raised by members of the pharmacy guild and, in fact, the pharmacy guild itself over the past five years, at any proposal to increase National Pharmacies' share of the market. This bill proposes to increase National Pharmacies in South Australia from 31 to 40. Quite obviously, National Pharmacies want more and say that they need more to be able to service their members across the state. I indicate that National Pharmacies (which is the trading name of Friendly Society Medical Association Limited) is an entity which has an annual revenue of $240-odd million a year. It had an

annual profit last year of $4 million and it has net assets of nearly $63.5 million. It is a very substantial player in the pharmaceutical field, in particular for retail outlets, and has more recently acquired approval as a wholesaler to supply pharmacies in South Australia.

It is fair to say that its greatest presence in Australia is in South Australia. It has 31 pharmacies located in South Australia; only one, I think, at Kellyville in New South Wales; and 24 in Victoria. Membership of this friendly society numbers 153 000, which covers some 300 000 persons in all the states to which I have referred. Additionally, Adelaide and Melbourne has 15 optical outlets. Those outlets have a significant workforce, and they particularly play a very important role in the pharmacy business in South Australia.

This organisation is very important to the industry and it should be given significant recognition. As I mentioned, National Pharmacies recently received approval as an accredited community service obligation distributor for South Australia and Victoria. It is one of only five accredited wholesalers for the Pharmaceutical Benefits Scheme (Ethical Drugs) in Australia, which came into effect on 1 July 2006. National Pharmacies is therefore a big player in this industry. It employs something like 850 people in South Australia and its headquarters are located here, which are all important factors to recognise.

Not surprisingly, the government's proposal to increase the outlets of National Pharmacies from 31 to 40 (that is, to allow National Pharmacies to buy other pharmacies and to have up to 40 outlets in South Australia) is one which the organisation applauds. It is fair to say that the organisation is nothing short of delighted with that opportunity in the bill. Also, 28 of its pharmacies are currently located in the city; and, from submissions put to me, it is keen to move into new areas. Currently, it has 8 per cent of the pharmacy market, and it wants to increase that to 10 per cent.

The extra nine outlets will be acquired by buying existing pharmacies as they come on the market and, under the Commonwealth Location Regulations (to which I referred), no doubt it will seek to transfer them to areas of high need which, on its assessment, have been identified as future markets and an opportunity for membership. It is fair to say that, during the development of this bill over the last five years, the Pharmacy Guild has opposed any increase; and, if National Pharmacies were allowed to increase its share it would be minor—perhaps one or two outlets.

Essentially, it has argued that an increase in Victoria (which historically has occurred, and National Pharmacies has been able to increase its share) was justified only, in its view, because there had been an increase in members of National Pharmacies, and that this has not been the case in South Australia. That has been its position, and it may still be the position that it does not justify an increase based on membership. That may still be a valid argument, if it was one previously. I must say that I am a little puzzled as to why Mr Todd, on behalf of the Pharmacy Guild, now indicates that his organisation is prepared to support the bill with that included.

However, I do note a significant amendment which, I suppose, to some degree, makes it a little more palatable to the members of the Pharmacy Guild. That amendment allows individual pharmacists to increase their outlets from four to six. I suppose that is some sweetener for it to support the government's position in terms of extending the number of outlets to 40. Nevertheless, that is their position. They are the individuals most affected by the change in the restrictions.

As I understand it, theirs was a strong objection in the submissions that I read, extending over the ownership of pharmacies to interstate friendly societies. It is to be remembered here that, whilst National Pharmacies is a friendly society with a very significant role in South Australia, the Mount Gambier friendly society operates in the South-East although it does not have a broader statewide interest, so National Pharmacies is not the only one that operates in South Australia as a friendly society. It is to be borne in mind here that these friendly societies have membership and offer their members a discounted price in the purchase of products in the National Pharmacies stores, on the same principle as a friendly society basis where you become a member, eligible for certain benefits. It is not the only operator in South Australia but clearly is the most significant.

My understanding is that the Prime Minister, at the COAG meeting, did not require on competition grounds that there be a restriction in relation to friendly societies coming into our state, but the state government and the minister in this bill have introduced a new cap of nine pharmacies that have been included in this bill. That, again, satisfies the Pharmacy Guild. There has been very strong objection in those two areas which, as I say, appears to have evaporated. The Pharmacy Guild has obtained advice on the implementation and effectiveness of some of the drafting of the bill, and it has raised a number of concerns that I will address in a moment, because I would ask for some indication from the government as to how it has accommodated those. A considerable amount of work seems to have been done in the past few months to facilitate the final draft and introduction of this bill, but I am not sure that all the concerns have been covered, and perhaps the minister will be able to identify that.

There is the question of the effectiveness of the grandfather clause. Members would be aware that there are a number of pharmacies in South Australia, in fact six owners of pharmacies in South Australia for seven different outlets, and we have heard of Carrig Chemists, Birks Chemists in the city, Burden Chemists and Runge. These operate in some of our regional areas in South Australia and they are well-known in the pharmacy world in Whyalla and other regional areas, no doubt providing an excellent service to their local communities.

The question of whether there is any possible loophole in relation to the grandfather clause has been raised. One aspect that has been raised to me is the fact that in New South Wales Coles, I think it is, was able to slip in and purchase a pharmacy, the ownership of which is currently under challenge in the New South Wales court by the Pharmacy Guild. It may be the Pharmacy Guild of Australia or of New South Wales, I am not certain. That is a concern, remembering that one of the most important aspects of keeping restricted practice in this area is to ensure that others outside of the pharmacy world, particularly supermarkets, do not get their hands on these drugs or the capacity to distribute or store them, or anything else.

Everyone concerned wants to make sure that there are no loopholes, and in that regard the Pharmacy Guild had sought legal advice in respect of the bill before the house. One of the issues raised was the grandfather corporations to which I have referred. These structures use trusts in their ownership structure. As I understand it, the guild's advice is that the bill incorporates many of the guild's suggestions to tighten the limitations on the grandfather corporations that are able to

provide restricted pharmacy services. However, there remains one area that may provide a loophole for entry into pharmacy or non-pharmacies; that is, the use of trusts to the ownership structure. They sought a number of amendments, which were not accepted into the bill. It was their view that the bill contained a loophole by which a large retailer may obtain the beneficial interest in a grandfather company pharmacy business through the use of holding companies and a trust. I would like some assurance from the minister. As I understand it, advice has been obtained from the briefings provided by, I think, crown law—but I could be mistaken because I do not have a note in front of me. In any event, there has been some investigation of that issue. There has been advice to the government that that loophole does not exist—

**The Hon. J.D. Hill:** I have an amendment in relation to it.

**Ms CHAPMAN:** As I understand it, the government has an amendment to ensure that is clear. The intent is to ensure that there is no loophole. If that is on its way, then I would be pleased to look at it. The guild's suggestion to ensure that interests held in contravention of the bill are divested in a timely manner has not been incorporated into the bill. The guild requested an increase in the penalties. There had been fines of $50 000. I have just been handed some amendments so I will check whether that aspect is covered. On brief glance there appears not to be, but perhaps the minister can give some indication in relation to this concern. Their position is that it is arguable that each time a pharmacy service is provided the provision is contravened thus increasing the amount of any fine. This interpretation may not be favoured by the courts. They are asking that there be an increase in the board's power for divestiture by persons not within the definition of the pharmacy services provider or in a position of authority that provides pharmacy services in contravention of the act. That may be covered, but I ask the minister to clarify the situation.

In relation to the demutualisation of the national pharmacies, I think that issue has been covered but we do seek some clarification. As a result of the advice received, in relation to demutualisation under section 26(2)(c) of the Pharmacists Act 1991, National Pharmacies is not given any special exemption from the prohibition on providing restricted pharmacy services under clause 43(1) of the bill. Further, it is specifically excluded from the definition of grandfather corporation in clause 3(5)(c) of the bill. They say that, in order to provide restricted pharmacy services, it must comply with the requirements in clause 3(5)(b) to qualify as a corporate pharmacy service provider or be the subject of a special exemption provided under clause 43(3) and (4).

To qualify as a corporate pharmacy provider, a friendly society must conform with each of the requirements set out in clause 3(5)(b) subparagraphs (vii) and (viii) of the bill, and be able to state that, first, it is not carrying on business for the dominant purpose of securing a profit or pecuniary gain for its members; and any object or intention of the friendly society to provide a dividend to its shareholders or members is a limited and not dominant purpose of the friendly society.

If a friendly society such as National Pharmacies was to demutualise and commence to operate as a dominantly for-profit organisation, it would cease to fulfil the requirements in the clause referred to, particularly the requirements in subparagraphs (vii) and (viii). As such, it would no longer be a corporate pharmacy service provider and any provision of restricted pharmacy services by it would be a contravention of clause 43(1), subject to the application of other exemptions in the bill. So I look for some response to that point.

There is a recommendation on the entitlement to receive profits or income. The guild has suggested amendments to the definition of 'restricted pharmacy services' in clause 3 to change the term 'profits or income' to 'profits or takings' to ensure the concept of turnover is caught. I think there is some merit in that, and I ask the minister to indicate whether it will be covered by foreshadowed amendments.

I have spoken about the cap on the number of friendly societies. I think it is very clear what the government's intention is and where it wants to go in this matter. The industry generally is not objecting now to the numbers that have been included: whether or not that is because of some sweetener I do not know but, if that is its position, then the opposition will take that issue no further.

There is an intention on the part of the government, as is evident from the second reading speech, to use the regulations to place restrictions on the location of pharmacies within or adjacent to supermarkets. The concern here is that this will be dealt with by regulation as distinct from being part of the act. The concern of the industry and the concern of the opposition quite often in this chamber has been with where a government has proposed to make law by regulation. Regulations, of course, are an important adjunct to statute law because they allow for flexibility in the day-to-day operation of the law. Ministers, quite properly, need to have the capacity to have flexibility and promptly change the day-to-day operational matters for the enforcement and implementation of what parliament wants. They are under the scrutiny of the parliament by virtue of the regulations being required to be tabled in the parliament which, of course, can be subject to challenge.

This practice does not always ensure that there is full scrutiny, but we have a level of scrutiny. Obviously, the amendment of a statute requires it to be passed through both houses of parliament and assented to by the Governor. This process, which takes some time and deliberation, has a very clear set of rules. Regulations, by their very nature, of course, are able to be much more rapidly introduced and amended.

When there is an issue about supermarkets getting into the pharmacy business and becoming a player, and when all the parties agree, then I would have thought that this would be the one thing that would be iron clad in the statute and not left to the vicissitudes of the regulations. I am hopeful that that will be covered in the anticipated amendments, because it has certainly caused me some concern. If the government is moving in that direction, that is to be applauded. We must remember that we enact this legislation for all future ministers for health—I suppose, to some degree, we are dealing with the lowest common denominator.

I hasten to add that that is absolutely no reflection on the current Minister for Health. I think it is clear from his statement in his second reading explanation that this is an area with respect to which he had a number of concerns, and he is absolutely clear that pharmacies will not operate in supermarkets, next to them, on top of them or in any way be able to be run by them in some sort of subsidiary or satellite facility. If that is contained in the amendments, I am most grateful for that concern being acted upon by the government. I indicate that the opposition will support the bill, with the amendments that I have been briefly glancing at through the course of my contribution.

**The Hon. L. STEVENS (Little Para):** I am very pleased to rise in support of this legislation, which I know has been a long time coming. It certainly was well and truly on the agenda when I was minister for health, and it is really pleasing to see it now before the house and being supported by both sides. The bill is a very important piece of legislation, because it governs the operation of a significant health service industry in our state. As people would know, pharmacies play a very vital role in the provision of primary health care services to our community, a role which I believe has the potential to be further expanded. Primary health care was a very significant policy reform initiative articulated by the Generational Health Review in 2003. In fact, I would say that it was the most significant policy shift articulated in that review. It was, essentially, a shift in emphasis and resources to primary health care services and approaches in order to properly address the health of the entire population of South Australia.

In terms of the importance of primary health care, in the government's primary health care statement in 2003 we stated that those nations with the most robust primary health care systems boasted the most favourable health indicators for their populations. Better primary health care leads to better health—better health for a lower cost and better health care—which is why it is so important to build strong systems of primary health care. We said in that statement that the health system of the future needs to be easier for people to use and must have a greater focus on health promotion, prevention and early intervention. In particular, the more the health care system engages with its community and the more it is able to reflect and respond to its community, the more it is able to protect, promote and advance health.

It is in that context that the role of the community-based pharmacies, which are spread right across our state, is increasingly important, as the need to develop strong grassroots primary health care services increases. Pharmacies provide a whole range of services in our community, with which we would all be familiar, and it is worth mentioning some of them. They provide advice and assistance as well as dispensing prescriptions. They provide advice and assistance to members of the public. They provide a vital education service, which could be expanded further in health provision and health care. They sponsor particular programs, for example, the home medicine review, a commonwealth funded program that has been in operation now for several years, where general practitioners and pharmacists work together to review the medication management and the needs of people in the community who may be at risk of medication errors that could lead to serious consequences. This very important scheme is a very good example of how general practitioners and pharmacists can work together in a community setting to promote quality health care and health care that protects vulnerable people.

Pharmacists also play a part in providing drug rehabilitation services, and they are a point of contact for people to get the medication they require. As I have said, the role of a pharmacist in the provision of primary health care could be expanded even further, and I hope that, with the development of primary health care networks now occurring across our community, pharmacies and pharmacists will be drawn even further into those cooperative networks for the provision of primary health care services to our community. It is particularly important today that people have access to a primary health care service where they can talk to a pharmacists about a range of issues. It is particularly important when one considers that today it is not very easy for people to get in to see their local GP. Having a primary health care service locally available and accessible and having a pharmacist who can provide quality information are things to be protected and developed further for the protection of the community.

As the minister has said, the bill before us is based on the Medical Practice Act 2004, which is the template legislation for the review of health professional legislation under the national competition policy. As the minister said, some parts of this bill mirror other legislative revisions and other parts pertain particularly to the pharmacy industry. I will not go through it in detail, but there are a few points to which I want to draw attention. In relation to being consistent with the other acts, the fact that this bill has as its primary aim (as is reflected in its title) 'to protect the health and safety of the public' by doing a number of things again puts protection of the health and safety of the public as its prime responsibility, as it should be. Again, I am pleased to see consistency with the other acts in relation to better consumer protection and information and, in particular, the transparency and accountability provisions applied to the board in relation to the process of the handling of complaints, which is something that has come through in all the acts.

In terms of the specific issues relating to the pharmacy industry, as the minister highlighted, there is a significant difference here in the operation of pharmacies. For instance, someone other than a doctor can own a medical practice whereas, in the case of a pharmacy, the bill continues to provide that only pharmacists can own and provide restricted pharmacy services—and I think that is entirely appropriate. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

*[Sitting suspended from 6.01 to 7.30 p.m.]*

## PUBLIC FINANCE AND AUDIT (REFUND OR RECOVERY OF SMALL AMOUNTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 901.)

**Mr HAMILTON-SMITH (Waite):** I rise on behalf of the opposition to indicate that we will be supporting the bill, which seeks to amend the Public Finance and Audit Act 1987 to establish a procedure for dealing with small overpayments or underpayments of a fee, charge or other amount that is required to be paid to a public authority or public officer under an act.

Government agencies have, for a number of years, implemented a practice of administrative convenience involving the non-collection of small underpayments or non-refunding of small overpayments. An example of small underpayments occurs when taxpayers base the payment of a fee on forms with outdated fees from a previous financial year. In many cases, the cost of pursuing these small underpayments exceeds the amount being pursued and, for that reason, we understand why the government has brought the bill to us.

The Auditor-General, in his report for the year ended 30 June 2003, noted the practice of administrative convenience and accepted that, where the amount of money is small, the cost of arranging a refund for an overpayment would be greater than the refunded amount. However, the Auditor-General was of the view that, unless the practice is provided

for in legislation, relevant agencies are obliged to refund overpayments and pursue underpayments.

Although some legislation authorises public officers to waive specific fees and charges if it is considered impracticable to collect them, there is no discretionary authority that applies to small overpayments or underpayments under an act more generally. This bill establishes that, where a fee, charge or other amount that is required to be paid to a public authority or public officer under an act is overpaid by an amount not exceeding the prescribed amount, there is no requirement for the public authority or public officer to refund the overpayment unless the person who made the overpayment requests a refund within 12 months of the date of overpayment.

The bill establishes that where a fee, charge or other amount that is required to be paid to a public authority or public officer under the act is underpaid by an amount not exceeding a prescribed amount, an authorised person may waive recovery of the underpayment. The bill does not compel a public authority or public office to accept an underpayment or waive any overpayment of less than the prescribed amount. The bill does not apply to an expiation fee, an expiation reminder fee or a fee imposed by a court or tribunal. The prescribed amount will be set by regulation, and the advice the opposition has received is that it would be set at around $3. This amount, I imagine, would be confirmed by the Treasurer. So, with those few comments I indicate that the opposition fully supports the bill. There is no need to go into committee and we thank the government for bringing it forward.

**The Hon. K.O. FOLEY (Treasurer):** I thank the opposition for their comments.

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

## MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 September. Page 900.)

**Mr HAMILTON-SMITH (Waite):** I indicate from the outset that this will take slightly longer because we agree with the bill but we do have some questions that we would like the government to answer, and that may determine whether we need to go into committee. I will explain the reasons for those questions shortly. Members will be aware, from the second reading and from their general awareness of the issue, that compulsory third party (CTP) insurance covers victims of crashes for personal injury, where the owner or driver of a registered South Australian vehicle is at fault. It also covers injured victims where a passenger is at fault.

This bill seeks to amend the Motor Vehicles Act 1959 to exclude compulsory third party cover for acts of terrorism involving the use of a motor vehicle. Implementation of the proposal will reduce the financial risk to the state, which guarantees the CTP fund, without reducing the scale of CTP benefits provided to South Australians as a result of ordinary motor vehicle accidents. Under the current provisions of the Motor Vehicles Act 1959 there is some uncertainty as to whether CTP claims could arise as a result of terrorism, where that event involved the use of a motor vehicle. I thank the government for providing us with some information and advice, particularly the legal advice received by the government on this subject.

If a very large claim, or claims, resulting from terrorism activity were to arise, the CTP fund solvency would be severely impaired and rectification could involve either significantly increased CTP premiums or a contribution from consolidated revenue, or both. The CTP fund, as members would be aware, is guaranteed by the Crown. As the CTP benefits are defined in law, there would be no flexibility to vary awards of damages to make the overall cost affordable unless an exemption from liability from terrorism claims for the scheme is legislated. I am sure members can imagine that, if a bomb was placed in a vehicle and it resulted in the death or serious injury of multiple persons, that would be a circumstance that would constitute considerable grief for the fund.

The New South Wales, Queensland and Tasmanian governments have passed similar legislation, we note, excluding terrorism insurance cover from the CTP policies in those jurisdictions. I will touch upon the wisdom of that in a moment, because I think we need to come back to it. The definition of a terrorist act in this bill is the same as the definition in the Terrorism (Commonwealth Powers) Act 2002. In excluding terrorism risks from the South Australian CTP scheme, the state government is effectively limiting the scheme to the events it was intended to cover; that is, to provide protection for people injured as a result of 'normal' motor vehicle accidents.

I thank the government for its briefings on this matter, during which we were advised that the reinsurers of the Motor Accident Commission were not able to provide unlimited coverage for terrorism acts, and that, therefore, alternative strategies were needed. Given that a number of other states have passed similar legislation, we note that there is significant precedent for this legislation.

It should be noted by the house that there are many other examples of terrorist acts, which do not involve motor vehicles, where victims do not have access to the CTP fund, or any similar government-backed schemes, to make claims for compensation. Notwithstanding that, there is a concern on this side of the house that governments at all levels should take some level of responsibility at least to set out for the public what insurance circumstances will apply should there be a terrorist incident.

That leads to the principal point of concern that the opposition has with the measure, which, as I said, we are supporting but upon which we seek clarification: that is, simply to raise the issue of who will protect the maimed and the injured in the event of a terrorist act involving a motor vehicle. Already, the opposition is advised that most private insurers have sought to exclude cover for terrorist events from their policies, and it is now very hard to get an insurance policy which does protect you in the event of a terrorist act. We also note that the compulsory third party insurance scheme by its very nature is compulsory; that is to say that there are no options, really, for people to separately insure, as we understand it, with any other party and thus protect themselves in the event of an injury caused by a terrorist incident.

Of course, this begs the question: what happens when a vehicle is used for a terrorist act? To provide the house with an example of this (as we understand it, if this bill is passed, as we expect it to be): if a person in their vehicle careered accidentally or intentionally into a large crowd of people at, say, the Christmas pageant, seriously injuring 20 or 30 of

those people who then require ongoing nursing care, disability services, wheelchairs, and all the various things that go with it for the remainder of their lifetime, they would be protected by the act because it is an accident or an event that occurred within the terms of the CTP's scheme.

However, if that vehicle happened to be driven by a person who claims that that accident or deliberate act was an act of terrorism, then the 30, 40 or 50 people injured by that vehicle would, once this bill is enacted, not be protected by the CTP scheme. In effect, there would be an out for the Motor Accident Commission and the CTP scheme in that they could claim that this was an act of terrorism. Therefore, the 30 or 40 people seriously injured or maimed by this vehicle—whether it was a physical collision, the running over or the ramming of people, or perhaps even terrorists seeking to escape from a scene, or possibly a bomb, or some other device planted in the car—would be left without any device to claim for their subsequent care and needs through the CTP scheme. Is this fair?

I put to the house that, from the point of view of the CTP scheme and the Motor Accident Commission, we understand perfectly why the government would seek to escape responsibility through this scheme in such a case. We ask the government: as an insurer of last resort (noting that almost every other private insurer has abandoned their customers in the event of terrorism), if it is now going to withdraw from protecting the public in events involving terrorism, who will pick up the maimed, the injured and the crushed should such an event occur?

There have been some notable examples involving Australians, such as the London Underground bombing, which did not involve a motor vehicle; it mainly occurred in a train, and a young South Australian lass lost both her legs. We have noteworthy examples of others seriously maimed and injured. For example, a bomb went off on a bus, but it could just as easily have gone off in a car or a taxi covered by the CTP scheme if a similar event occurred here. We could find ourselves in a situation where suddenly the state government has a number of claimants who are seriously hurt and require ongoing care with a CTP scheme unable to help because of this bill having been enacted.

The question I would like the government to answer is: is there an alternative in place? If there is not, it leaves an element of doubt—one that members on this side of the house would like clarified. The answer the government might give us is: that is the responsibility of the commonwealth. I have looked into this and contacted the Insurance Council, which has suggested to me that, for commercial customers, following the withdrawal of terrorism insurance cover by international reinsurers following the events of 11 September 2001, the commonwealth government established a reinsurance pool to provide cover in certain cases.

I checked the link to the Australian Reinsurance Pool Corporation website (www.arpc.gov.au), and it gave me a detailed explanation of how the scheme works. Some insurers do not exclude terrorism cover in the policies they write for domestic insurers. However, there is an issue of being able to source cover for high-rise residential buildings from the market. Various stakeholders in the insurance industry have suggested to the commonwealth that high-rise residential buildings should be included in this pool. However, the recent review of the legislation setting up the pool arrangement rejected the idea. 'High-rise residential' is covered by the pool arrangements if the building in which the residents are located is primarily and principally being used for commercial purposes.

The South Australian CTP and workers compensation schemes are underwritten by the South Australian government. I think that this is an important point for members to note, because both schemes—the compulsory third-party and the workers compensation schemes—are the responsibility of the state level of government, not the commonwealth. This is very pertinent and raises questions as to what arrangements will now be struck in relation to WorkCover should there be a terrorist event. For example, what will be the relationship if a bomb goes off on a bus or on a train, or in a public place, when a member of the Public Service is seriously injured? Will WorkCover cover their ongoing care and needs as they recover from their serious injuries, particularly if they have life debilitating conditions or ones that require a great deal of expensive ongoing care?

I suppose that this is an issue linked at the hip to that which addresses the compulsory third-party scheme. I ask: will we see a similar bill come forward from the government seeking to exempt the WorkCover scheme from covering employees where a terrorist incident is involved? The WorkCover scheme may already provide such an exemption; if so, we are not aware of it. I ask the minister to clarify whether it is the government's intention to come forward with a separate measure that deals with WorkCover.

Members on this side of the house hope that the government has made arrangements to limit its exposure in cases of terrorism events or has amended state legislation to limit its liabilities, whilst also having an alternative in terms of how it will provide cover to these maimed and injured. As I said, I went to the Australian Reinsurance Pool Corporation web site—and I have given details of that to the house, so members may look it up themselves—but I believe it is important for members to appreciate that this commonwealth device really only extends help in cases of property damage linked to a terrorist incident. To my mind it does not seem to provide help for personal injury, for people who are the victims of such awful crimes—although I am open to correction by the minister if there are some other federal devices.

The opposition does not intend to oppose the measure. We understand why the government has brought it forward; as responsible managers of the public purse, the government is sensibly seeking to protect the Motor Accident Commission from claims in such events. However, we are stuck with the question of whether the state government itself has an obligation to reinsure or to provide for the maimed and injured, or whether it has entered into any arrangement with the commonwealth to guarantee that a scheme will be struck to offer such protection. The minister may respond that we should wait until a terrorist incident occurs, and then a one-off set of arrangements would be struck to protect the maimed and injured.

My response (in anticipation) would be that, if it were a Bali-style event, where hundreds of people were involved with masses of injured, it may be swift and simple for the commonwealth to intervene and provide a one-off set of measures to meet ongoing care needs for the injured. However, if it were a smaller incident, if it were an individual terrorist acting alone and using his vehicle to recklessly injure 10 or 20 people in an act of terrorism, it may have less presence, may be less spectacular, and that may be quite different. In that case there may not be the public upsurge demanding that separate arrangements be struck. The

opposition believes that it is reasonable that, before such incidents occur, the government should spell out what insurance cover will be provided should people be seriously injured in these circumstances.

In summary, we support the bill. We think it is a responsible measure, but we seek guidance from the minister regarding what alternative plans the government has to meet these concerns; otherwise, it leaves itself open to the accusation that it is deserting potential terrorist victims. If through this or any other measure the government, an insurer of last resort, is walking away after private insurers have abandoned victims of terrorism then I think the accusation may be levelled that it is being a little heartless and abandoning people. There is a responsibility and a duty of care to provide some alternative arrangement for the maimed, injured and infirm. There would not be a member in this place who has not had someone who is disabled, or the parents of someone who is disabled and who requires ongoing care come to them pleading for help. Members would also know that these things need to be spelt out very carefully; they are very expensive, and unless you are covered by a safety net there is a risk that you are on your own.

Lives can be suddenly interrupted by a terrorist event—whether it involves a vehicle or not—and I believe that the government has some obligation to tell people what will apply in those situations. I ask the minister to respond to the concerns I have raised and, depending on his responses, we may go briefly into committee so I can get some questions and answers on the record, and then we will proceed with the matter.

**The Hon. K.O. FOLEY (Treasurer):** I thank the member for his contribution. The clear intent of this legislation is that the Motor Accident Commission cannot and would not have the financial capacity to be an insurer for personal injury claims that may arise from a terrorist activity. Depending on the severity of such an act, the Motor Accident Commission could be bankrupt, so to speak, although it has a government guarantee. But it could be insolvent, so the entity itself would be crippled overnight.

On the issue of WorkCover, I will take that on notice. I honestly cannot give the honourable member an answer on that. My guess is, though, that it would probably be confronted with similar issues. I want to give an answer that I had prepared for me in anticipation of this question, and then I will elaborate slightly on it. SAICORP (the government insurance corporation) has operated as an in-house insurer to government for many years. It is not an insurer intended to provide compensation directly to members of the public in the same way that the CTP or WorkCover schemes do. SAICORP would only provide terrorism cover where a government agency was being sued and could be proved to be negligent.

Approximately five years ago, there were extensive consultations between the commonwealth and the states to establish a system of terrorism insurance. Property cover is now provided through the Australian Reinsurance Pool Corporation, but negotiations for a system of bodily injury insurance were unsuccessful. Ultimately, of course, governments are highly likely to respond and assist people affected by a terrorism event if one were to occur. The question is whether it is best handled by governments responding in the most flexible way possible to such circumstances after they emerge, or whether something more formal is put in place before the event, which may require a scheme with defined entitlements to be established, funds set aside or funding sources identified. Terrorism events are by their nature unpredictable and, as such, it may be best for governments to respond through disaster-type responses which can be adapted after the event rather than through a predetermined formal insurance arrangement. It is noted that the federal government responded in the case of the recent terrorism acts in Bali, which obviously impacted on many Australian citizens.

What that is saying is that, if a car is used in a terrorism activity, the CTP scheme should not be there to provide support. It would bankrupt the entity and, ultimately, that is not its purpose. We will take the question on WorkCover on notice. I do not know the answer to that one, but my guess is that it would be confronted by the same situation. As I said, five years ago an attempt was made at a national level and by all states to see whether we could put some sort of defined insurance regime in place, but we were not successful. So, what we are saying is that, touch wood, hand on heart, such an event will never occur. However, if such an event did occur, governments of any persuasion would respond as governments in Australia always do, that is, fairly and with compassion. Depending on the nature of the incident, the situation and the circumstances, it almost certainly would involve support at a federal level. Whether it is an aeroplane, a car, a train—whatever the event might be—it would almost certainly involve a response at both the national and state level.

The complexity and problem of putting in place a system for insurance is that there must be a funding source, some defined benefits, some funding put aside, a regulatory regime and an administrative regime for something that may never be used. If we had a set of defined benefits, in the event of a terrorist attack, almost certainly those defined benefits would be inadequate, challenged, insufficient, or people would want some other arrangement. So, we take the view, as have all governments both state and national, that, in a sense—and I know you were not saying this before—we have to trust the government of the day to deal with these things, and that may be this government, it may be your government in the future, or whatever.

Ultimately, these catastrophic events, as and when they occur, have to be dealt with by the government of the day, as we do with drought, floods and storm activity. If there is personal loss, as against property loss, my belief would be that Australian governments would respond as we always have with compassion and speed. All governments five years ago—so it may well have started when you were in office—have had an attempt at seeing whether or not a personal injury scheme can be put in place but have not been able to.

I certainly put on the table here tonight, as much as I can for the present government, that should there be a catastrophic event that caused great harm to our civilians clearly we would respond appropriately. Depending on the magnitude, the reasons and the type of activity, as in any situation where there is a disaster occurring, we would access federal funds and the cooperation of the federal government. That is what we do now with natural disasters. The issue with the building of the weir below Wellington at the mouth of the river to the lake is a case in point. Despite the rhetoric in this house and the politics of it, we are working it through with the national government and we are talking to the federal government should that weir have to be built so that we would have federal financial support for that because it would deem it to be an issue of national importance.

Federal and state governments, of either persuasion, at a time of crisis and of great collateral and personal damage work together. But I cannot be any more specific than that because I think, in fairness, if you were in office you could not be any more specific. Ultimately, society has to put trust in governments and whether you are flavour of the month, and whether I agree or disagree with the member opposite, I think history would dictate and I would be confident in saying that whether it was a Labor or a Liberal government, state or federal, my strong belief would be that we would respond with compassion and speed. But I cannot offer you any more assurances than that.

Bill read a second time.

In committee.

Clause 1.

**Mr HAMILTON-SMITH:** I thank the minister for his response; I think he has gone 90 per cent of the way. Should an event occur on public transport—for example, a bus, train or tram—what insurance provisions will apply to provide for the ongoing care of the maimed and injured in those circumstances? I am not sure that the buses are covered by the compulsory third party scheme. I am fairly confident that the trains and trams are not. How will we provide for the care and nursing and disability services for the maimed and injured in that case?

**The Hon. K.O. FOLEY:** Good question. Buses are covered by the CTP scheme, so under this situation they would then with the terrorism be excluded. Metropolitan train and tram passengers are currently excluded from CTP coverage. Cover for train and tram passengers is provided through SAICORP. SAICORP would respond only if negligence could be proved against TransAdelaide. Our buses and trains would be in the same category of any other incident. They would have to be treated by the good grace of the government of the day. As it was pointed out to me by Geoff Vogt, one of the things we are now provisioning for is a pandemic.

We are getting a bit away from terrorism, but in the last budget we started to stockpile masks and something else I will not mention, and we are putting many millions of dollars into materials that you would need to have to respond to a pandemic. Members can work out what I am talking about. I hope they will never be used but, on the advice of the government, on the balance of probabilities you want a degree of preparation for that.

The question in terms of a pandemic is how much a government should invest to prepare for such an incident, how much is sufficient and how much is more than you need. Clearly we have to do something. In the horrible event of a pandemic outbreak, whilst there will be no insurance cover in place, governments of the day would be under a fair degree of political and moral pressure to provide financial support to the people affected and because those people have been affected. The same with the bushfires on Eyre Peninsula: there was no insurance scheme in place, but the government responded with an appropriate package of assistance, just as it does with tsunamis, hurricanes and so on. Tragically, terrorism is lumped in with that. We have to put faith in our system of government and the quality of our administrations, regardless of their political persuasion, and believe that they would respond with the compassion and speed necessary. Ultimately our trains and buses would be exposed as much as any other piece of infrastructure.

**Mr HAMILTON-SMITH:** I thank the Treasurer for his answer. I take it that the government's understanding at the moment is that, unless some negligence can be proved on trains or trams, a terrorist event on a train or tram would not be covered, so there would have to be an act of grace by one level of government or another.

**The Hon. K.O. FOLEY:** The issue of negligence would be a difficult one. If somebody claimed that there was a degree of negligence by the train authorities because somebody walked on to a train with TNT visibly strapped to them and they were given a Crouzet ticket to walk through, there would be an argument of negligence. That aside, there is no system in place. I want to put on the record that, as far as this government is concerned, should an horrific event occur related to terrorism, we would respond with compassion, support and speed.

I would be right in saying that a Liberal government, if or when it is elected to office, would respond in exactly the same way, because all the technical and expert advice is that the problems associated with trying to put a scheme in place are too significant to easily overcome. We are saying that when bushfires, massive storms, pandemics or other natural disasters or crises occur, governments respond at the time and after those events with the appropriate level of support and, as has always been the tradition in Australia (be it at state or national level), this is always done, to my recollection, with compassion, speed and solid support.

**Mr HAMILTON-SMITH:** Finally, did the government consider—given that the Crown ultimately underwrites this scheme, WorkCover and other schemes—that, as an alternative to an act of grace or compassion after the event, saying that it will underwrite a compulsory third party scheme (WorkCover, SAICORP) in relation to public transport, accept responsibility, and use the existing mechanisms within those schemes to deliver the services?

One possible weakness in the act of grace or compassion argument might be that the compulsory third party scheme and WorkCover have existing apparatus in place to actually provide the care needed for the disabled, seriously maimed or injured, where an act of grace arrangement might just be a cash arrangement. Given that these people might have the rest of their lives to go through the process of needing care, did the government consider, given that ultimately they have to pay, as the Treasurer has explained, whether it might be better to use the CTP scheme and WorkCover to deliver the services and accept it that way?

**The Hon. K.O. FOLEY:** I think what the honourable member is saying has validity in the sense that you may well choose those agencies. What we are talking about here is modern government and modern state administration. We have set up the Motor Accident Commission and WorkCover and we expect them to run as commercial entities. We do not allow them to have open-ended underwriting in terms of their liabilities. To the best of our ability, we do not allow them to be loss making entities. They have to be profitable entities. Putting aside WorkCover's unfunded liability issues at present, it is a viable trading enterprise.

If we have an unlimited underwrite for terrorism, then why do we not do it for bushfires, storms, hurricanes or earthquakes? We could take the honourable member's argument to the next level. Without wanting to second guess what the honourable member might say, let us put terrorism off the agenda and let us talk about any natural disaster that affects people. The problem then becomes: what is the benefit that we would prescribe? If you are a victim of a horrible incident, how do you define what the benefit will be? With the Motor Accident Commission now or WorkCover, we have defined

the payments that you will receive for certain levels of injury. It may well be that the injury you receive from a terrorism act is not as easily measured as an injury you receive in a motor accident. It could be more psychological. It may be that we want to have a lower test for the trauma of a terrorism act than what we do for a car accident.

I am really talking off the top of my head here, so this could get me into trouble. Without knowing the nature of the incident, I do not know how you could subscribe the nature of the payment. Equally, from a financially responsible government, you simply cannot say that, whatever event occurs, we underwrite it, because there may well be debate about what is and what is not a terrorism act. The traditional sense of a terrorism act may be al-Qaeda conducting an obvious attack in Adelaide. It may be that a horrible situation occurs where some domestic, reckless, foolish people high on drugs blow something up, and then you get a debate about what is and what is not terrorism. I am certainly open to suggestions but we have not found a way where you can easily prescribe benefits for a certain activity.

We are saying that it is not so much the grace of government, but Australian governments of all persuasions throughout our history—I think without exception—have always responded appropriately in these types of situations, and I think governments need that flexibility. There are examples and I refer to the honourable member's profession as a military person. I have never quite understood this, but there is still ongoing litigation between sailors on the destroyer that was carved up by the Americans. It is 35 years later and they are still arguing about personal liability issues. The tragedy of these things is that it is a horrible process, but I do not think any level of government has been able to get a neat fit on this. That is the best and most honest answer I can give the honourable member.

Clause passed.

Remaining clauses (2 and 3) and title passed.

Bill reported without amendment.

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

That this bill be now read a third time.

**Mr HAMILTON-SMITH (Waite):** I thank the Treasurer for his consideration of the bill. We understand the points the government has made and we understand the difficulty of the issue. On behalf of opposition members, can I say that, perhaps, this is an area where there can be further consultation between the state and the commonwealth to strike a scheme. Difficult though it may seem, it might be worth trying to provide some guidance to people as to what cover might be there for them if they are injured, though I note the point the Treasurer has ably made that they must have faith and trust in state and federal governments to meet their needs, and I think he is right. I think that, perhaps, this is an area that could be tightened up between the state and the commonwealth. We are happy to agree with the bill, and we look forward to its swift passage.

Bill read a third time and passed.

## PHARMACY PRACTICE BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1926.)

**The Hon. L. STEVENS (Little Para):** When the dinner adjournment was called I was speaking about the fact that the bill before us includes strict restrictions about who is permitted to provide restricted pharmacy services. The bill reflects the government's policy position that the public interest is best served by restricting the provision of pharmacy services to those operated by pharmacists or by corporate pharmacy service providers who have satisfied prescribed criteria. Of course, this will preclude non-pharmacists and organisations such as supermarkets from being pharmacy service providers, and I think that is a very important point.

Anyone who walks down the supermarket aisles these days could not help being flabbergasted at the range of medications currently available on supermarket shelves. Of course, there has been controversy in terms of some medications such as Nurofen, which is currently available in supermarkets. There is some controversy about whether Nurofen should be available in supermarkets because, of course, when people pick it up off the shelf they do not have the benefit of any advice about whether they should have this medication or whether they are taking other medications that could cause some problem with the different medications reacting with each other.

The issue of keeping pharmacies in the hands of pharmacy service providers is very important. This was brought home to me very recently when I was discussing with someone these changes to the Pharmacy Practice Act and the fact that the point of this bill is specifically to preclude supermarkets from being pharmacy service providers. This person recounted an experience in her own family where her husband was feeling fairly severe pain and he had gone to a pharmacy to get some pain relief. The pharmacist questioned him and said very clearly, 'I will not give you any pain relief. You must get to a doctor or a hospital immediately.'

She took her husband to a hospital. He was on the verge of having a very serious heart attack and was then taken by plane to the Royal Adelaide Hospital where, in the end, he had to have heart bypass surgery. This is just one example, and I am sure that other people are aware of other examples where—and this is a fairly extreme example—a person's life could have been at risk if he had been able to walk into a supermarket and did not bother to go to a place where somebody could give him competent advice. This person could have lost his life. So, it is very important when we are talking about drugs and about people's health that we have competent people who know what they are talking about and who are operating in the public interest.

I noted that the minister has also put a further amendment to be considered in relation to the registration or renewal of registration of premises as a pharmacy, saying that the board must not register or renew the registration of premises as a pharmacy unless the board is satisfied that members of the public cannot directly access the premises from within the premises of a supermarket. That is just an extra safeguard, making these two entities completely separate. No bones about it: the government's position is very clear. In spite of the fact that different sections of the pharmacy industry have differences on a range of matters, I know that this is one matter on which they are at one.

**The Hon. J.D. Hill:** Ad idem.

**The Hon. L. STEVENS:** Ad idem; thank you, minister.

*Members interjecting:*

**The SPEAKER:** Order! Members on my left seem to have forgotten how to converse quietly.

**The Hon. L. STEVENS:** The other matter I wish to mention relates to the restriction on the number of pharmacies

from which an individual operator can provide services. That restriction has been kept in this bill, and I know that this is one of the most contentious issues that occurred throughout the consultation on this legislation because, when I was minister, it was also occurring. In fact, it was this matter that laid bare some strong disagreements between the Pharmacy Guild (representing community pharmacies) and National Pharmacies (which, of course, is the very large friendly society based here in South Australia). I am pleased to say that the reasonable compromise position that we arrived at has now been accepted, so there has been an increase for both sides of that equation and we can now go forward with some unanimity in terms of agreement or, at least, being able to live with what is in this bill.

Finally, I would like to pay tribute to all the people involved in finally bringing this to fruition. I acknowledge the work and the application of the Pharmacy Guild through its president Ian Todd and, in particular, National Pharmacies, through its CEO Jim Howard. I am sure that they did the same with the current minister, but they were constant in putting their position and being there to provide information in the best interests not only of the profession but also of the community. With those words, I commend the bill to the house, congratulate the minister on bringing it forward and look forward to its also passing through the other place.

**Ms SIMMONS (Morialta):** I am pleased to support this bill. As a former provider of services to those with chronic illnesses such as cystic fibrosis, as well as clients in the disability and aged-care sectors—all of whom are represented as high users of pharmacy services—I believe that this bill will support the needs of these South Australians at a practical level. It has taken us a while to get to this stage. In my previous capacity I was part of the consultation process that helped to prepare the bill, so I am pleased to be part of the process to bring it to fruition.

The bill is based on the Medical Practice Act 2004 and other recently passed health practitioner registration acts, and provides for the protection of public health and safety through the registration of pharmacists, pharmacy students, pharmacies and pharmacy depots. However, pharmacy is different from other registered health professions in that pharmacists provide a health service and have a direct commercial interest in the health products central to that service. This has required the maintenance of ownership restrictions on pharmacy businesses to ensure that public health and safety are not outweighed by commercial considerations. However, there is provision in the bill to prescribe by regulation the circumstances in which an 'unqualified person', such as happens in hospitals that have on-site pharmacy departments servicing hospital patients, may provide restricted pharmacy services.

One of the most important aspects of this bill and one which I support wholeheartedly is clause 43, which prevents a company such as a supermarket from operating a pharmacy. A supermarket does not fulfil the definition of a corporate pharmacy service provider which is contained in clause 3(5). This definition supports the views of pharmacy stakeholders who are concerned that the quality of pharmacy services will be negatively impacted should large corporate entities such as supermarkets enter this market. The concern is that their commercial interests will override public health interests. In my opinion, the relationship that is often forged between pharmacists and their regular users or customers could be compromised by these services being supplied by impersonal supermarket providers. Non-supermarket ownership of pharmacies is consistent with the Wilkinson review, which was completed in 2000 as part of the national competition policy review. The Wilkinson review concluded that there is a net benefit to the community in restricting the ownership of pharmacies to pharmacists. This bill is also consistent with the situation that exists in other jurisdictions.

In addition, the dispensing of PBS prescriptions falls under commonwealth control and therefore approval for a pharmacist to supply pharmaceutical benefits at or from particular premises is the role of the Australian Community Pharmacy Authority (ACPA). Schedule 2 of the National Health (Australian Community Pharmacy Authority Rules) Determination (No. PB23 of 2006) prevents approvals being granted to pharmacies that are directly accessible by the public from within a supermarket. In line with the provisions contained in the above commonwealth determination, the government will be moving an amendment to the bill (as mentioned by my colleague the member for Little Para) to include a provision preventing premises from being registered as a pharmacy if they are located within a supermarket, and I commend that amendment to the house.

The second aspect which makes this bill different from the other health practitioner registration acts is the changes to caps on ownership of pharmacies. In order to create opportunity for new entrants into the pharmacy market, caps on the number of pharmacies that may be owned by individual pharmacists and friendly societies has been increased. The cap for pharmacist ownership of pharmacies has been increased from four to six. This will allow pharmacists to operate or have interests in not more than six pharmacies. Retaining the cap will ensure that the public benefits from pharmacists providing professional oversight and therefore they can be properly managed.

In this bill the cap on the number of pharmacies that Friendly Societies Medical Association (trading currently as National Pharmacies Group) may operate has been increased from 31 to 40. The bill also establishes a total cap of 49 on the number of friendly society pharmacies that may operate in South Australia. This number is based on the proportion of friendly society pharmacies in the SA market when the cap on Friendly Society Medical Association (National Pharmacies) was introduced in 1947. This provision means that Friendly Society Medical Association can operate up to 40 pharmacies. There is currently one friendly society operating in Mount Gambier and this leaves an additional eight pharmacies that can be operated by other friendly societies to be taken up in the future, thus opening up the market.

The third key issue that I would like to raise concerns about is the grandfathering provisions. The bill contains grandfathering provisions which allow those pharmacy businesses where the restricted pharmacy service is provided by a natural person who is an unqualified person that was in operation before 20 April 1972 to continue to operate so long as the service is provided through the instrumentality of a natural person who is a qualified person. That means that those outlets that were providing this service prior to 1972 will not be disadvantaged in any way and that staff may continue to work under the supervision of a qualified pharmacist.

The bill also extends the scope for grandfathered companies to continue to be corporate pharmacy services providers notwithstanding the death of a director of the company or the transfer of shares. The bill provides a 12 month grace period in situations such as these in which the

pharmacy business can continue to operate, irrespective of the fact that they no longer meet the definition of a corporate pharmacy services provider, and this will allow time for a director position to be filled by a person who is a pharmacist or for the shares to be sold to a person who is a pharmacist. I believe that this bill has received the approval of the pharmacy association and practitioners in South Australia, and I commend it to the house.

**The Hon. J.D. HILL (Minister for Health):** It is a great pleasure to be able to close this debate and I thank members who stood and supported the legislation proposed by the government. The Deputy Leader of the Opposition made the point that it has been a long time coming, and I agree with her. We have gone through an enormous amount of consultation in relation to this legislation and it has been difficult to get a bill which has been largely supported by the industry. So, I take this opportunity to thank all those involved in pharmacy in South Australia for their general support for this legislation. There is a range of issues which have been addressed by members and I will not go through all of those. However, I would like to talk about a couple of the issues.

In relation to the amendments to the existing legislation and the substantial elements in this bill which allow the increase in ownership of pharmacies by the National Pharmacies and also by individual pharmacists, it took a lot of time and effort to get everyone to agree—they may not agree, but at least they have allowed this particular set of propositions to go forward. The way I approached this was to look at the original resolution of this issue many years ago and substantially apply the compromise that was reached decades ago to the current situation. I just inflated the proportion of pharmacies owned by particular groups to bring it into the current day arrangements. It was hard for me, as minister, to find a set of principles on which to base the new arrangements, so all I did was look at the compromise that was reached decades ago and say, 'What would that compromise mean now? What would the balance be between National Pharmacies and the guild pharmacies now?', and the elements in this bill reflect that. So, that is really the basis of the legislation.

Of course, the legislation also picks up all of the reform agenda that is supported by COAG. It protects pharmacies and pharmacists in a range of ways in that the pharmacies have to be owned by pharmacists. We will have grandfather pharmacists where that did not occur many years ago and we will have some provisions to allow that to transition into the current rules. We have obviously picked up the issue about supermarkets taking over the pharmacy role, or incorporating pharmacies within their business arrangements. I have some amendments that pick that up as well.

I apologise to the opposition for the late tabling of these amendments. There was some sort of a technical problem, which I do not really understand, which meant that they were not delivered to the parliament until recently. The amendments only do a few things. They pick up the language changes from the Family Relationships Act, which was passed recently by the parliament, in relation to this bill and also the dentistry legislation. They also pick up some suggestions that were made by the Pharmacy Guild in relation to supermarkets and grandfather clauses. We were happy to pick up those suggestions; they make explicit what was always intended by the government to be included in the legislation.

After a very long process of consultation, I think there is general acceptance that this is a reasonable compromise and a reasonable way to go. It picks up all the issues about which the commonwealth was concerned and to which the state agreed. I spent many hours talking to the Pharmacy Guild, National Pharmacies and other interested parties, and I am very confident that this legislation embraces a reasonable way of reforming the pharmacy sector without getting those involved in it unduly offside. I would like to thank everyone who has participated in this great discussion and the Pharmacy Guild and National Pharmacies for their advice to me. I would also like to thank members of the Department of Health, in particular, Nicki Dantalis and Kellie Tilbrook, and parliamentary counsel, Christine Swift and Rita Bogna, for their assistance. I indicate to the house that there are about 14 government amendments, but I think they can be dealt with pretty swiftly.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

**The Hon. J.D. HILL:** I move:

Page 5, after line 13—Insert:

'domestic partner' means a person who is a domestic partner within the meaning of the Family Relationships Act 1975, whether declared as such under that act or not;

Page 6—

Line 18—After 'spouse' insert 'domestic partner,'.

Lines 24 to 30—Delete the definition of 'putative spouse'.

Page 7, line 12—Delete the definition of 'spouse' and substitute:

'spouse—a person is the spouse of another if they are legally married'.

Page 8—

Line 24—After 'spouse' insert 'or domestic partner'.

Lines 27 and 28—Delete subsubparagraph (B) and substitute:

(B) in the case of a domestic partner—on the cessation of that relationship,

Following the Statutes Amendments Domestic Partners Act 2006, the Family Relationships Act 1975 and various other acts were amended to provide for recognition of certain domestic relationships. This amendment ensures consistency with the new terminology by including the definition of 'domestic partner', deleting the reference to 'putative spouse' and defining 'spouse' as a legally married person only. It also ensures that the definition of 'prescribed relative' incorporates a new definition of 'spouse' and 'domestic partner'.

**Ms CHAPMAN:** The opposition consents to the amendments.

Amendments carried.

**The Hon. J.D. HILL:** I would like to thank the opposition for supporting these amendments, particularly since the opposition did not have an appropriate amount of time to consider them. I move:

Page 9, line 29—After 'company' insert ', or a related body corporate of the company,'.

The purpose of this amendment is to further tighten provisions that prevent a company, such as a supermarket, from entering the pharmacy market in South Australia through purchasing an interest in a grandfather company.

The addition of the words 'or a related body corporate' will ensure that a non-pharmacist company such as a supermarket will not be able to gain entry into the pharmacy market through the use of trusts in the ownership structure. The amendment was provided to the current grandfather companies for comment to ensure that they would not be adversely affected. All of the grandfather companies have indicated that they are supportive of the amendment as proposed.

**Ms CHAPMAN:** The opposition welcomes the amendment and indicates its support for it.

Amendment carried; clause as amended passed.

Clauses 4 to 36 passed.

Clause 37.

**The Hon. J.D. HILL:** I move:

Page 25—
Line 24—After 'must' insert ', subject to subsection (4a),'
After line 27—Insert:
(4a) The board must not register, or renew the registration of, premises as a pharmacy unless it is satisfied that members of the public cannot directly access the premises from within the premises of a supermarket.
After line 39—Insert:
(9) In this section—
'supermarket' has the meaning assigned by the regulations.

These amendments prevent the board from registering or renewing the registration of premises as a pharmacy unless it is satisfied that members of the public cannot readily access the premises from within the premises of a supermarket. The word 'supermarket' will have the meaning assigned to it by the regulations.

These amendments will further prevent a supermarket from gaining access to the pharmacy market in South Australia by preventing pharmacy premises from being registered by the board if they are located within a supermarket. 'Supermarket' will be defined in the regulations because this will provide flexibility around updating the definition of 'supermarket' to be in line with the commonwealth definition contained in the National Health (Australian Community Pharmacy Authority Rules) Determination (No. PB23 of 2006). It was our original intention to have this in the regulations but, on the basis of advice from the Pharmacy Guild and others, we have decided to put it within the legislation, and I am very pleased to do so.

**Ms CHAPMAN:** The opposition rejoices in the government's acceptance, albeit belatedly, that this is a matter that needs to be in the substance of the statute and not to be left to the vicissitudes of regulation. I thank the minister for finally seeing the light and moving these amendments. The opposition supports the amendments.

Amendments carried; clause as amended passed.

Remaining clauses (38 to 82) passed.

Schedule 1.

**The Hon. J.D. HILL:** I move:

Page 47—
Line 34—Delete 'Repeal' and substitute 'Related amendments, repeal'
After line 34—Insert:
Part 1—Preliminary
A1—Amendment provisions
In this schedule, a provision under a heading referring to the amendment of a specified act amends the act so specified
Part 2—Related amendments to Dental Practice Act 2001
B1—Amendment of section 3—Interpretation
Section 3(1), definition of 'domestic partner'—delete the definition
C1—Amendment of section 69—Interpretation
(1) Section 69—before the definition of 'health product' insert:
'domestic partner' means a person who is a domestic partner within the meaning of the Family Relationships Act 1975, whether declared as such under that act or not;
(2) Section 69, definition of 'prescribed relative'—after 'spouse,' insert 'domestic partner,'
(3) Section 69, definitions of 'putative spouse' and 'spouse'—delete the definitions and substitute:
'spouse'—a person is the spouse of another if they are legally married.'
Part 3—Repeal
After line 36—Insert:
Part 4—Transitional provisions

The purpose of these amendments is to insert a schedule into the bill that will amend the Dental Practice Act 2001, as amended by the Dental Practice (Miscellaneous) Amendment Act 2006. These amendments are a result of the Statutes Amendment (Domestic Partners) Act 2006. They ensure consistency with the new terminology by including the definition of 'domestic partner', deleting the reference to 'putative spouse' and defining 'spouse' as a legally married person only. It also ensures that the definition of 'prescribed relative' incorporates the new definition of 'spouse' and 'domestic partner'.

**Ms CHAPMAN:** The opposition supports the amendments.

Amendments carried; schedule as amended passed.

Title.

**The Hon. J.D. HILL:** I move:

Page 1—After 'it;' insert:
to make related amendments to the Dental Practice Act 2001;

Amendment carried; title as amended passed.

Bill reported with amendments.

**The Hon. J.D. HILL (Minister for Health):** I move:

That this bill be now read a third time.

In so doing, I would like to thank, once again, the opposition for its support, and the pharmacy industry for its support after a long period of consultation and discussion. I think we have actually reached a settlement which everybody can agree to.

Bill read a third time and passed.

## CRIMINAL LAW (SENTENCING) (DANGEROUS OFFENDERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 February. Page 1745.)

**Mrs REDMOND (Heysen):** I indicate that I will be the lead speaker for the opposition in relation to this bill and, as far as I know at this stage, indeed, the only speaker for the opposition in relation to this bill, at least in this house. I indicate that the opposition will support the bill, although it does so with some misgivings about particular aspects of the legislation, and I will deal with those as I speak to the various aspects of it. In essence, there are three components to this bill, and I will simply deal with each of them in turn. The first is the protection of the public as a primary consideration in sentencing; the second is the introduction of minimum non-parole periods in relation to certain offences; and the third is removing non-parole periods for certain offenders and thereby leaving them incarcerated and unable to apply for parole.

Regarding the first one, in order to understand what the government is doing, one first of all needs to look at the general sentencing powers contained in section 10 of the Criminal Law (Sentencing) Act 1988. What the government has said is that it is going to amend it so that there will be an additional policy at the beginning of that clause to say that a primary policy of the criminal law is to protect the safety of the community. To understand that in context, under the

heading 'Matters to which a sentencing court should have regard', section 10(1) starts out by providing:

A court, in determining sentence for an offence, should have regard to such of the following matters as are relevant and known to the court.

It then lists a whole series of things, including the circumstances of the offence; other offences that have been committed by the offender; injury, loss or damage resulting from the offence; and a whole range of things, including a number which already deal with this issue of the need to protect the community. For instance, section 10(1)(i) provides the need to protect the community from the defendant's criminal acts. Then the three subsections that are added, (2), (3) and (4), all put in place separate primary policies in relation to separate offences. Subsection (2) deals with:

A primary policy of the criminal law is to protect the security of the lawful occupants of the home from intruders.

Subsection (3) provides:

A primary policy of the criminal law in relation to arson or causing a bushfire is to bring home to the offender the extreme gravity of the offence and to exact reparation from the offender to the maximum extent possible.

Subsection (4) provides:

A primary policy of the criminal law is to protect children from sexual predators by ensuring that, in any sentence for an offence involving sexual exploitation of a child, paramount consideration is given to the need for deterrents.

So, we already have within the sentencing act, as it exists at the moment, provisions which require the court to have regard to those sorts of factors and, in particular, the need to protect the community from the defendant's criminal acts. This bill moves that consideration, which currently appears in 10(1)(i), to the top, so that it will be the opening statement, as it were, of this area of matters to which a sentencing court is to have regard, and provides that 'a primary policy of the criminal law is to protect the safety of the community'.

I have gone to the bother of asking members of the legal profession and, in particular, some members on the bench, how they think that will make a difference in terms of actually considering the sentence of a person. Quite frankly, each of them was at a loss to give me any precise answer because it really is quite difficult to figure out why beginning your policy with that statement, 'a primary policy of the criminal law is to protect the safety of the community', will make a difference, instead of having it as simply one of the considerations of the existing provisions. Nevertheless, it is the government's right to spell out more clearly that a primary consideration—not the primary consideration—is to be the protection of the public and, clearly, the public want to feel safe.

I do not know that it will actually make them any safer but, nevertheless, that is the way it is headed and worded within these provisions. I do not make any objection to it. I simply wonder how, in practice, it will make any real difference to the way these matters are dealt with when an offender is before a sentencing judge, has been found guilty and the sentencing judge, with or without that primary consideration stated at the top of the heading, has to take into account all these other matters, and included in the other matters is the need to protect the community from the defendant's criminal acts. That is the first component of this legislation.

The second component is that of minimum non-parole periods. The government promised to introduce minimum non-parole periods for major indictable offences which resulted in death or total permanent incapacity. This bill adds some extra provisions to section 32(5) of the current legislation. That section already provides that the above provisions, which are about the setting of non-parole periods, are subject to certain qualifications, such as that a non-parole period can only be fixed in relation to someone whose total term of imprisonment is going to be at least a year. The next qualification provides:

(b) where a person who is subject to a sentence of life imprisonment is further sentenced to imprisonment by the Magistrates Court or the Youth Court, the question of whether a non-parole period should be fixed or extended must be referred to the court by which the sentence of life imprisonment was imposed;

So, I would suggest that that actually arises in very few cases. The third qualification about the setting of non parole periods provides:

(c) a court may, by order, decline to fix a non-parole period in respect of a person sentenced to imprisonment if the court is of the opinion that it would be inappropriate to fix such period because of—
  (i) the gravity of the offence or the circumstances surrounding the offence; or
  (ii) the criminal record of the person; or
  (iii) the behaviour of the person during any previous period of release on parole or conditional release; or
  (iv) any other circumstance.

So, within the legislation there is already (in that particular clause in section 5C of section 32) a provision that allows the court to decline to fix a non-parole period in a sufficiently serious case, particularly where there is a prior history, and so on. This bill provides that, in the absence of exceptional circumstances, first, the non-parole period of murder must be at least 20 years and, secondly, the non-parole period for other serious offences against the person must be at least four fifths of the length of the sentence.

If memory serves me well, there is a provision to prevent the judges from adjusting their sentencing to overcome that provision. I have a couple of problems with this. First, the term 'total incapacity' is defined as 'permanently, physically or mentally incapable of independent function'. That is okay, I guess, although I can see circumstances where that might not be an adequate definition, but it does seem to narrow the scope of where this will apply. But, more importantly, no definition or guidance is offered as to what constitutes 'exceptional circumstances'. If, for example, we had an 87 year old who has been married to his wife for 60 something years, and she is dying of cancer, and he assists her but is charged with murder and is found guilty of murder, is that in exceptional circumstances?

I suggest that, increasingly, we will have these sorts of situations. I did not find any reference to any attempt to explain what is meant by exceptional circumstances in the Attorney's second reading explanation. I worry about whether these are exceptional circumstances. Is it just the court, and the court will decide? And is it an exceptional circumstance if, for example, a woman who has been battered for most of her married life by her husband turns around and actually murders him? What constitutes exceptional circumstances for those purposes? More importantly, I think, in a letter sent by the Law Society it actually goes through a lot of the detail about proportionality principle—

**The Hon. M.J. Atkinson:** That Titus Oates was wrongly punished.

**The SPEAKER:** Order!

**Mrs REDMOND:** The society's human rights committee sent a response. In fact, I notice in the covering letter from the President of the Law Society that she anticipates that the society's Criminal Law Committee and possibly other committees will wish to provide comments on this and other bills that are before the house, and suggests that it might be appropriate to leave these lie. I know that the Attorney has indicated that he will lay the other two—the evidence amendment bill and the rape and sexual offences bill—on the table to allow for a period of consultation.

This bill, however, seems to be being hurried through, when the Law Society has indicated its wish to make further comments. The committee made the comment that it strongly opposes the proposed amendments. In particular, in the area of murder, it talks a lot about the history of the principle of proportionality and the common and well-known phrase 'the punishment must fit the crime'. In fact, the committee traces it back to the Magna Carta, the United States' Bill of Rights, and so on. It produced quite an extensive paper which basically points out that, because there are so many varieties of circumstances, no two murders will be alike and that the range of circumstances is such that it is almost impossible to put into one bucket the offences that constitute what can be classified as murder. Murder can be everything from the most awful torture of an innocent child to someone who lovingly assists a longstanding partner who is terminally ill to die—and I mentioned that previously.

That whole range of circumstances which can be involved in murder makes it dangerous, at the very least, to say that we will now require that there be, in effect, mandatory sentencing. Indeed, the committee states:

> No simple formula can take account of the innumerable degrees of culpability, and no formula which fails to do so can claim to be just or satisfy public opinion. . . the crime of murder embraces a wide range of offences with widely varying degrees of criminal culpability.

The Human Rights Committee of the Law Society reached the conclusion that it was unsafe to proceed with this legislation because the punishment imposed on a convicted defendant should be proportionate to the gravity of the crime for which he or she has been convicted. It points out that, in fact, a regime for sentencing serious repeat offenders is already established in sections 20A to 29 of the Criminal Law (Sentencing) Act. Where a person is declared to be a serious repeat offender, the sentence to be imposed for a serious offence does not have to conform to that principle of proportionality which should apply in most cases. So, in that committee's view, the proposal by the state government would remove a basic and fundamental principle of sentencing law.

I have some misgivings, but I am not here simply to please members of the legal profession but to try to think about how this measure will work in reality. In the committee stage, I expect to explore the issue of what constitutes exceptional circumstances and, in practice, what constitutes total incapacity, which I have already noted is defined as 'permanently physically or mentally incapable of independent function'.

The third component of this legislation is the one of most concern to me: that is, the removal of nonparole periods for certain offenders. When the government trumpeted this legislation and issued press releases and so on, it made it quite clear that it is aimed particularly at Mr von Einem. I do not think that anyone on either side of this house, or anyone of any party in the other chamber or anywhere else, is seriously suggesting that Mr von Einem is likely to be recommended for parole. In its submission the Law Society pointed out that the government has already, on a number of occasions, rejected recommendations from the Parole Board for the release on parole of prisoners serving life sentences for murder, so one wonders why the government could not simply rely on the power it has already exercised.

In any event, this legislation changes the way things operate. The Criminal Law (Sentencing) Act currently provides that where a court, on convicting a person for an offence, sentences the person to imprisonment it must fix a non-parole period. There is also a provision that the DPP or the presiding member of the Parole Board or the Training Centre Review Board (which is, effectively, the young person's parole board) can apply to the sentencing court for an order extending the non-parole period. So there is already, to some extent, an ability to extend a non-parole period. The bill proposes to change that fundamentally so that the Attorney-General can apply to the Court of Criminal Appeal to remove the non-parole period for a prisoner considered to be a dangerous offender.

As I understand it, the process will be that, first, the person has to be convicted of the offence of murder in prescribed circumstances. The word 'prescribed', of course, indicates that the circumstances in which the murder has been committed will be contained within a regulation, but I could find no clue—either in the bill or in the second reading explanation—regarding what these prescribed circumstances might be or how they will be defined in the regulations. Nevertheless, the person has to be convicted of the murder in prescribed circumstances; it will not apply to a whole range of other things, only to the offence of murder and only a murder committed in prescribed circumstances. One of my questions is: will the prescribed circumstances be so explicit that they will define von Einem and no-one else? I will be interested, in due course, to hear the answer to that question.

So, we have someone in prison because they have been convicted of murder; they have been sentenced and the murder was committed in prescribed circumstances as defined in the regulations. Once that person comes up to within 12 months of the date on which they would be eligible to apply for parole, the Attorney-General may apply to the full court to have that person declared a dangerous offender. I have some problem with the fact that it is the Attorney-General. I know that some other states also have the Attorney-General, but I think that at least one uses the DPP for that application, and I think that we should also use the DPP if we are to have that application.

Nevertheless, the bill says the Attorney-General may apply to the full court to have the person declared a dangerous offender, and the court can seek a report from various people—from the Parole Board, or it can hear from the offender (in person or through a legal counsel), the DPP or the commissioner for victims rights (I am curious to hear who that might be, because I do not recall this parliament passing any legislation to establish a commissioner for victims rights).

The bill then prescribes a series of matters that the court must consider and, just like in the earlier part of the bill, the paramount one is the safety of the community—whether as individuals or in general. That is to cover the situation we saw in Cable's case (which I will discuss shortly) where Cable, whilst he was in prison, was writing to individual people and threatening them—he was not threatening to go out and kill people at random, but particular individuals. So

the paramount consideration of the court in deciding whether to accept the Attorney-General's application for declaring someone a dangerous offender must be the safety of the community, and that might be the public at large or it might be a specified individual or individuals.

Where we really get into what I think is quite a dangerous area is if the court is satisfied on the balance of probabilities that the release of the person would involve a serious danger to the community or to an individual, the court must first declare the person to be a dangerous offender and, secondly, remove the non-parole period of that offender. I am at least happy with the aspect of the non-parole period being removed, so that they are not being kept in there indefinitely under this legislation. For instance, if a person has a 20-year sentence and a non-parole period of, say, four-fifths of that (16 years) and they apply, and this application is made by the Attorney-General and accepted by the court, then my understanding of the way this will work is that the person could be kept in for the next year and the next year and the next year, but eventually they would get to the end of their 20-year sentence and—

**The Hon. M.J. Atkinson:** But if they're sentenced to life?

**Mrs REDMOND:** —then they would be able to apply for parole. As the Attorney correctly points out, if the person is sentenced to life imprisonment, then the removal of the non-parole period would mean that they would just be in there indefinitely. However, for anyone who has a specified sentence, theoretically, it would work that way. The effect of that is that the offender will then have to serve the full sentence without parole unless he successfully applies for parole at a later date—after 12 months.

This legislation is pretty clearly established, on the government's own admission, to ensure that von Einem stays in prison, although, as I said, first, I do not think anyone is about to recommend von Einem for parole and, secondly, even if they did, I can see no reason why the government could not use the powers it has already used on previous occasions to ensure that parole is not granted.

One of my concerns with this legislation, however, is that it flies very close to Kable's case. Kable lived in New South Wales and he murdered his wife, but the Crown accepted a plea from him for manslaughter on the basis that he was suffering from depression at the time. So his sentence, I think, was only four years for that particular offence. He also had some 'threaten life' offences which added another one year and four months, so he only had a total of five years and four months. In 1994, he was close to being eligible for parole. He became quite a political issue in New South Wales, and the New South Wales government passed the Community Protection Act. The interesting thing about this act is that it specified in section 3(3):

> This act authorises the making of a detention order against Gregory Wayne Kable and does not authorise the making of a detention order against any other person.

The act specified that it only applied to that particular person. It then went on and provided various things: that the New South Wales Supreme Court could detain him basically if they were satisfied that he was more likely than not to commit a serious act of violence and that it was appropriate for the protection of a person or persons, or the community generally, that he be held in custody. Under that legislation, the initiating party was, in fact, the DPP.

There were no guiding criteria as to what the court had to consider in that. Essentially it was argued that that particular piece of legislation was unconstitutional because it violated, amongst other things, the principle of legal equality, because Kable was treated differently from all other prisoners, even those with similar characteristics. In due course, the matter went up to the High Court and by majority the High Court declared the New South Wales act to be invalid. Interestingly, Chief Justice Brennan dismissed the appeal and found the legislation valid but just about everybody else, I think, found the act invalid. I want to quote a couple of the comments that were made during the judgments in that. Gaudron, for instance, said:

> Public confidence in the Courts requires that they act consistently and that their proceedings be conducted according to rules of general application. . . public confidence cannot be maintained in a judicial system which is not predicated on equal justice.

I already know from answers that the Attorney gave me last year in answer to some questions I asked in this place that he does not see the need for people to be treated equally before the law in this state. But that is what Gaudron thought: in order to have confidence in a judicial system, it has to be predicated on equal justice, and she allowed the appeal. McHugh said:

> The Act has a tendency to undermine public confidence in the impartiality of the Supreme Court of New South Wales.

He points out that the act states:

> The need to protect the community is to be given paramount consideration.

The object of the act 'is to detain the appellant not for what he has done but for what the executive government of the State and its parliament fear that he might do'. It 'expressly removes the ordinary protections inherent in the judicial process'. It further states:

> Instead of a trial where the Crown is required to prove beyond reasonable doubt that the accused is guilty of a crime on evidence admitted in accordance with the rules of evidence, the Supreme Court is asked to speculate whether on the balance of probabilities, it is more likely than not that the appellant will commit a serious act of violence.

They are the sorts of comments that were made in relation to the Community Protection Act by the High Court when it considered this legislation. I know that those who drafted this act have tried to take that into account in drafting it, and certainly this act does not name von Einem as the intended recipient of the government's legislative process. However, as I said, they have made it publicly fairly clear that that is who they are directing this to and, in spite of the Attorney saying that this is an act of general application, that will remain to be seen when we see how the prescribed circumstances are to be defined in the regulations in due course.

It concerns me that the court is being asked to make judgments on the balance of probabilities. Once they make a decision, it appears to me that just like Kable's case the court, having reached the conclusion that on the balance of probabilities the release of the person would involve a serious danger for the community or to an individual, the court must declare the person to be a dangerous offender. There is no discretion for the court to exercise there. Once the court has decided that, on the balance of probabilities that could happen, then it must declare the person to be a dangerous offender and it must remove the non-parole period of that offender.

That seems to me to be a dangerous path to tread and, again, the Human Rights Committee of the Law Society felt that it was an inappropriate way to go. That committee opposed the proposal as it would require judges to impose potentially very unjust and excessive mandatory punishments.

Sadly, there does not seem to be any escaping the fact that the court loses any discretion, and someone is being kept in gaol on the balance of probabilities about something that they might do rather than having been proved beyond reasonable doubt to have done something.

For a number of reasons I think there are other ways to deal with the particular problem. I am not trying to argue that someone who is clearly dangerous should simply be let go, but parole can be managed in such a way that people are under supervision and people have very strict conditions. It just seems to me to be unsafe to proceed in that way but, nevertheless, the government has the numbers to pass this and we will not oppose it. Indeed, we will be supporting the legislation as a whole.

That probably sufficiently covers my comments on this legislation. There are some problems in the breadth of it and some problems on the other hand with insufficient definition of who will be caught by these various things. The aspect of the primary consideration of the protection of the public is already there as far as I can see and, from my discussions with people on the bench, it appears that in reality it will not make much difference and, if the government thinks that what essentially seems to me to be window dressing will make a difference to the way in which people are sentenced, then who am I to try to stop them? I have already indicated that the government seems to be rushing this legislation a little—and I do not understand why because I believe that von Einem will not be even nearly eligible for parole in the next couple of years at least, so there seems to be no great reason for this to be rushed and pushed through without waiting for further comment.

I am not altogether satisfied as to the constitutionality of it, but I am not the person who has to make that judgment at the end of the day, and others far better versed in these matters will in due course come to some conclusion about whether it is constitutionally sound. I do not think it is necessarily safe to proceed on the basis that, just because the legislation is stated to be of general application as opposed to naming the actual person it is aimed at, I do not know that that by itself makes it constitutional—

*The Hon. M.J. Atkinson interjecting:*

**The SPEAKER:** Order!

**Mrs REDMOND:** —or constitutionally valid, but that said I indicate that I was proposing to prepare and move an amendment in relation to who may make the application to the Full Court to have someone declared a dangerous offender and kept in indefinitely, but that was on the basis that other states appeared to use the DPP. I have had a further look at that and it now appears that at least some other states use the attorney-general for that application. At this stage I propose to further consider that matter between here and the other place and, if we are still of a mind to move that amendment, we will do so in the upper house rather than in this place. With those few comments I will conclude my remarks and look forward to a brief but informative committee stage as I would like to ask a number of questions in relation to those aspects I have highlighted.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

**Mrs REDMOND:** As I said, I think I understand the intention of clause 5 which seeks to amend section 10. Subclause (3) provides:

> Section 10—After subsection (1) insert:
>
> (1a) However, a court, in determining sentence for an offence, must disregard any mandatory minimum non-parole period prescribed in respect of the sentence under this act or another act.

Will the Attorney explain how that will work in terms of what one anticipates the judge's thinking has to be to operate that particular section?

**The Hon. M.J. ATKINSON:** The government has announced that, absent extraordinary circumstances for murder, the minimum nonparole period should be 20 years, and for other offences falling into the category covered by this bill, it should be four-fifths. If the judiciary were minded to defeat that intention, they could discount the head sentence to avoid the consequences of the law. What we are doing by this provision is preventing that ruse.

**Mrs REDMOND:** Subsection (1b) provides:

> A primary policy of the criminal law is to protect the safety of the community.

That appears to be inserted after the whole of subsection (1). I have some difficulty understanding the obligations imposed on a judge in relation to sentencing in section 10, which seems to me to say, first, the court in determining the sentence has to have regard to paragraphs (a) to (o) in subsection (1); then, secondly, deal with the fact that they have to disregard any mandatory minimum nonparole period; and then, thirdly, you get to this provision that a primary policy of the criminal law is to protect the safety of the community. I am curious as to how the Attorney sees that as differing from the obligations already imposed, for instance, by section 10(1(i)—the need to protect the community from the defendant's criminal acts—given that it will appear below that in the way this has been structured.

**The Hon. M.J. ATKINSON:** We are facilitating the newest primary policy and allowing it to take its place as one of those factors that would override what may appear to be the presumption against imprisonment.

**Mrs REDMOND:** Could the Attorney explain that again? I did not quite catch the sense of that.

**The Hon. M.J. ATKINSON:** Previous parliaments have created what is in effect a presumption against imprisonment, and criteria need to be fulfilled before a judge is compelled by the Sentencing Act to impose a period of incarceration. We are introducing a new policy of giving principal effect to the need to protect the public. Therefore, the provision on which the member for Heysen concentrates is designed to cross-reference the new policy so that it can prevail over the presumption against imprisonment.

**Mrs REDMOND:** Is the government therefore moving towards not having the presumption against imprisonment?

**The Hon. M.J. ATKINSON:** Only to the extent of the primary policies.

Clause passed.

Clause 6 passed.

Clause 7.

**Mrs REDMOND:** I want to be sure that my understanding of this clause is correct. We have already the area of the act that deals with sentences of indeterminate duration. In particular, section 23 deals with offenders incapable of controlling or unwilling to control their sexual instincts. Subparagraph (2a), because of its numbering, clearly identifies itself as being a subsection which has been inserted and which provides:

> If a person has been convicted of a relevant offence the Attorney-General may, while the person remains in prison serving a sentence

of imprisonment, apply to the Supreme Court to have the person dealt with under this section.

My recollection of the explanation I received from the Attorney's officers is that, in fact, this provision is simply to make it clear that you could make a subsequent application.

**The Hon. M.J. ATKINSON:** Yes.

Clause passed.

Clause 8.

**Mrs REDMOND:** How does the Attorney interpret the term 'exceptional circumstances' in subparagraph (ab) and the subsequent subparagraph (ba) in that clause because, as I said in my second reading contribution, I am a little confused by what amounts to exceptional circumstances? I would have thought it was perfectly arguable, for instance, to say that the 87-year old man who assists his terminally-ill wife is not necessarily what one would classify as an exceptional circumstance, although it is undoubtedly one for which people would have a great deal of empathy and sympathy.

**The Hon. M.J. ATKINSON:** On this matter I have confidence in judicial discretion, and the example given by the member for Heysen certainly sounds like an exceptional circumstance.

Clause passed.

Clause 9.

**Mrs REDMOND:** Both clauses 8 and 9 include a paragraph that makes reference to an offence of murder, which includes an offence of conspiracy to murder and an offence of aiding, abetting, counselling or procuring the commission of a murder. Does that encompass attempted murder or is that a separate offence and, if it is, why would that not be included?

**The Hon. M.J. ATKINSON:** There is a separate section on attempts to murder. Conspiracy to murder, by comparison, has always been regarded as as serious as murder.

**Mrs REDMOND:** I am still a little curious about that. I would have thought that you could have a situation where someone actually attempts murder and causes absolutely grievous bodily harm and they are not going to be caught by these provisions, but someone who conspires to murder but in fact causes no actual harm is caught by them. I want to be very clear about whether that is the Attorney's understanding of the intention of the bill.

**The Hon. M.J. ATKINSON:** Attempted murder would be caught by the four-fifths rule.

**Mrs REDMOND:** I understand that, but where I am heading is when you then have this provision about the dangerous offenders and whether a person has been convicted, whether before or after the commencement of this division (so it is someone who is already convicted), of an offence of murder, in this section there is this interpretive provision that says that the offence of murder includes conspiracy to murder or aiding, abetting, counselling or procuring the commission of a murder, so all those things presumably are caught by the offence of murder. The first part of the question is: is it the intention that the people who can be convicted of conspiracy to murder or aiding and abetting conspiring to murder can be declared dangerous offenders and kept under the dangerous offenders provision, but that someone convicted of attempted murder will not be caught?

**The Hon. M.J. ATKINSON:** A person convicted of attempted murder may be caught by the dangerous offenders provision, but it is not necessarily so. A person convicted of attempted murder may be sentenced to life imprisonment but they may not be. Attempted murder most commonly will not be caught by the dangerous offenders provision because they are not sentenced to life imprisonment. 'Dangerous offenders' applies to mandatory life sentences so it will catch murder but not attempted murder.

**Mrs REDMOND:** Will the Attorney-General indicate what will be prescribed as the 'prescribed circumstances' for dangerous offenders as set out in new section 33A(1) if a person has been convicted of the offence of murder and the offence was committed in prescribed circumstances? That would indicate that there will be a regulation which sets out the circumstances in which the murder must have been committed in order for it to be captured by this section. I assume before proceeding to bring in the legislation some thought was given to what the description would be in the regulations.

**The Hon. M.J. ATKINSON:** What will become section 33 prescribes the circumstances. If the honourable member reads that, she will have the answer to her question.

**Mrs REDMOND:** Section 33(6) lists the people entitled to appear and be heard in proceedings under the section. I was curious about the reference to the commissioner for victims rights. My recollection is that we do not have any such person at this stage on the statute. There has been no legislation to create a commissioner for victims rights. We seem to be pre-empting legislation that we do not have by including that person in this legislation.

**The Hon. M.J. ATKINSON:** Not yet, but he is not far away.

Clause passed.

Clause 10 passed.

Title passed.

Bill reported without amendment.

Bill read a third time and passed.

## ADJOURNMENT DEBATE

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

That the house do now adjourn.

## KOONIBBA FOOTBALL CLUB

**Mrs PENFOLD (Flinders):** Kooniba Football Club is one of a number of Eyre Peninsula football clubs that celebrated their century last year. Koonibba is well known in Australian rules football circles for its successes and the many champion players it has produced over the years. There is even more reason for pride and for making this club a topic of a speech in parliament so that through *Hansard* some of its achievements will be recorded in the state's history.

Established in 1906, Koonibba Football Club is the oldest indigenous football club in Australia. It is based on the community of Koonibba situated about 40 kilometres north-west of a Ceduna. With a population of only 200, the club does a fantastic job to remain a competitive force in the Far West Football League. In fact, it went through the 2006 season undefeated. But, such is the unpredictability of Australian Rules football, the club, despite being top of the league ladder, lost the grand final. However, that does not detract from the club's remarkable performance over a century of competition.

Retired teacher John Gascoyne, who has chosen to live at Ceduna, has immortalised many of the indigenous champions in his book *A touch of magic: A history of Aboriginal football on Eyre Peninsula*, which was released at the end of the 2006 football season. It is usually difficult to pinpoint the start of a story so, for our purpose, let us begin in 1897 when the Lutheran synod decided to set up a mission station in South Australia. A suitable area was identified at a rock hole in mallee scrub some 40 kilometres from Denial Bay where a small European settlement existed. The synod leased 16 000 acres of land (about 650 hectares) from the state government and work began on the development of the land in 1898. Social football matches were played in the region, leading to the establishment of the first Koonibba team in 1907. To select a few sentences from John Gascoyne, he writes:

> Speed, durability and enthusiasm were attributes the mission boys had in abundance. The game came naturally to them and they were instant drawcards. Koonibba went top in the first year of the County of Way competition, ably led by Mr E.E.E. Lutz. Several of those original team members are the ancestors of present day players. Dick Davey, at 14 years of age, was a member of the first premiership side and later went on to become a true legend of the game. Among Dick's progeny are the recipients of some 13 Mail medals, a Brownlow Medal and various other prominent awards.

Dick Davey became a gun shearer, who annually shore sheep with blade shears for the Proude's Tewinga merino stud at Louth Bay for many years. In his eighties he blade shore sheep in a demonstration at Poonindie. That goes some way towards explaining the physical capability and therefore football prowess of possibly his best-known descendant, grandson Gavin Wanganeen. Great grandson Aaron Davey plays for the Melbourne Demons. It is impossible to name all those who have become stars. However, Eyre Peninsula is well represented in the national AFL competition. Eyre Peninsula is proud of its representation through brothers Byron and Marcus Pickett, Graham Johncock, brothers Peter and Shaun Burgoyne, Harry Miller Junior, Eddie Betts, Daniel Wells and Elijah Ware.

The Mortlock Shield Carnival, the longest running regional football carnival in South Australia, is played annually at Port Lincoln. Many Koonibba players feature in the league teams from the Far West club. One of the most colourful was Norman Wombat, who was prominent in the years from 1945 to 1958. He sometimes played barefoot, and could run faster than the ball could be kicked. He is fondly remembered by my colleague the member for Stuart, for whom he shore sheep. He would taunt opposing players with comments such as, 'Have you ever seen a wombat fly? I'm going to jump right over you.' In his book Gascoyne wrote:

> After receiving a lengthy massage at Mortlock in 1957, he asked a trainer for a pair of scissors. When quizzed on why he might need them, he promptly replied, 'I need them to trim my wings, as I will be flying so high today that I may not come down again.'

The Johncock name is well known in Eyre Peninsula football. When Roger and Trevor won Mail medals for the Far West and Port Lincoln leagues respectively in 1995, they became the first pair of brothers in South Australia to win the award in the same year. Their brother Barry 'Jack' Johncock (father of AFL star Graham) is still playing an excellent game of footy. This year in the Port Lincoln Football League he was the leading goalkicker in the reserves, while his son Barry Junior won the leading goal kicker award in the league.

Families feature in this tribute to our indigenous footballers, who most often are role models for their people. Evelyn Johncock and Iris Burgoyne of Port Lincoln, who were both awarded Order of Australia medals (OAM) in 2004, and Joy Reid of Koonibba, are three who epitomise the support and work that goes on in the background. Former Ceduna councillor Mitch Dunnett and the late Glenmore Miller are two more citizens of note who come to mind.

The Koonibba story has plenty of lows as well as highs, which we all prefer to remember and which flow over into the wider community. The more recently established Mallee Park Football Club in Port Lincoln owes some of its success to the Koonibba community and its achievements and the good example it sets. I hope that this club and all our clubs on Eyre Peninsula may continue for another 100 years and produce many more footballers of renown.

To this end, I spoke recently to renowned football guru Mr Leigh Whicker, and I was delighted today to receive an email in response to mine, which I will put on the record. It states:

> Dear Liz,
>
> Leigh Whicker has asked me to contact you in regards to the recent email that you have sent him in relation to the Eyre Peninsula Aboriginal Football Project. We would be delighted to offer assistance and support to such a worthwhile project and as a football league are very keen to be involved with this region. In recent times (late 2006) we have, with the support of the AFL, begun work preparing a proposal with a Federal Government Agency seeking funding to introduce field officers to help us implement programs on the Eyre Peninsula region and the APY lands.
>
> We have been dealing with Steven Baz—Strategic Interventions Task Force, Office of Indigenous Policy Coordination who has been very helpful and supportive. However, this initial proposal has subsequently been directed to commence in the APY lands and has been seen as the priority location to go ahead with the planning of a football field officer with associated programs. We would welcome any further support to ensure we could tailor our program to meet the needs of the Eyre Peninsula region.
>
> Leigh is very keen as are we, to provide meaningful programs that would be of benefit for the young aboriginal men in the region. One of our aims would be to provide a career path for those elite players and believe that the introduction of an Eyre Peninsula Aboriginal football project would go a long way to obtaining this goal. Thank you for the interest that you have in supporting this concept, I would be delighted to discuss this further with yourself, Perry Will and John Easton.
>
> Very best regards,
>
> James Fantasia, General Manager, Game Development, SA National Football League Inc.

That, of course, was a huge thrill to me, and such enthusiasm from the state National Football League augurs well for the future of Aboriginal footballers on Eyre Peninsula. I was also delighted to receive a long letter from Mr John Easton outlining some of the opportunities that he sees and some of the footballers he has coached along his way. He said:

> Some footballers I have coached [like] Greg Phillips Port Adelaide, Milky Vivian who I recruited to Central Districts, Tim Masieroski who I recruited to Central Districts. The best footballer I have coached and strongly believe was as good as Tony Lockett and Jason Dunstall was an Aboriginal player Robert Jackamurra. Robert was sought by most WAFL and VFL clubs but did not like going to cities or towns where there were a lot of people. Robert was still kicking 130 goals a season at 32 years of age, until his untimely death in a car accident in Western Australia. Whilst coaching Tasmans, Cummins Red, Eyre United and Thevenard, I had approximately 50 per cent of the teams players [that] were Aboriginal.

He went on to say:

> Once again I believe a Sporting Academy can be established, but it will have to be created in stages, localised, then maybe a progression to Port Lincoln for more competition and then on to Adelaide once a suitable standard has been attained. These are my thoughts on what I believe you may be looking for on reflection of what Perry Will has outlined.

I am quite optimistic that perhaps we will be able to go forward and once again get some very good footballers from Eyre Peninsula to Adelaide for the AFL.

Motion carried.

At 9.55 p.m. the house adjourned until Wednesday 7 March at 2 p.m.