HOUSE OF ASSEMBLY

Wednesday 30 May 2007

The SPEAKER (Hon. J.J. Snelling) took the chair at 11 a.m. and read prayers.

PUBLIC WORKS COMMITTEE: NORWOOD PRIMARY SCHOOL REDEVELOPMENT

Ms CICCARELLO (Norwood): I move:

That the 266th report of the committee, on Norwood Primary School Redevelopment, be noted.

In 1999 the Department of Education and Children's Services requested that a master plan be developed for the Norwood Primary School. The redevelopment of the school has an estimated cost of $4.3 million, excluding GST, to accommodate a maximum of 300 students. The facility provisions include relocation of the administration function to a redeveloped and upgraded building on site, redevelopment of a heritage-listed building to provide a new resource centre, general learning and teaching support spaces, redevelopment and provision of additional space in the second building to provide general learning and service learning areas, plus teaching support spaces, and upgrading of a third building to provide an appropriate multipurpose withdrawal space. Significant civil works will improve site stormwater drainage, development of grounds and outdoor activity areas.

The requirements of the Disability Discrimination Act have been considered and the project will be fully certified in accordance with legislative requirements. Site works and landscape upgrades will ensure suitability for intensive use. They will include:

- rationalisation of playground space;
- retention of the sports court area;
- improvements to the grassed play area;
- creation of circulation paths shaded by tree planting;
- creation of external spaces associated with teaching areas where practicable;
- provision of subsurface stormwater drainage; and
- improvements to levels at building perimeters.

General teaching facilities services will be affected and so temporary classes will be provided within the existing accommodation whilst new facilities are constructed. With these plans in place it is not anticipated that there will be a significant impact on the school's teaching delivery during the redevelopment. The staged design can be constructed while maintaining air-conditioning and electrical services to the operating school areas.

The redevelopment and scope of works have been endorsed by the school principal, the staff of the school and the district director. In addition, the governing council and staff of the school have been closely involved with direct representation on the project development group. Heritage listings apply to building 1 and a stone wall to Osmond Terrace and Beulah Road boundary. However, the committee is satisfied that the proposed work will not adversely affect any heritage listed buildings or structure on the site. There has been a significant assessment of environmental issues to ensure minimal impact upon the environment and a major review of existing plant and equipment, with an emphasis on achieving improved energy efficiency. Wherever possible, ESD initiatives have been included.

The redevelopment aims to provide modern, efficient and functional areas for the effective delivery of education to the community of Norwood. Three options were considered. To do nothing was discounted, primarily due to the immediate need to undertake essential upgrading of a number of core buildings in order to maintain essential services and to sustain current and future service delivery levels. Delaying the redevelopment would severely increase the future overall capital costs associated with the redevelopment of core services. Constructing a completely new school for 300 students is the most costly alternative, but was not investigated in detail as the majority of the buildings on site are still suitable for the educational purposes of the school and some hold heritage status with no options to remove.

The redevelopment option will enable the upgrade of core services and minimise the potential for capital costs to escalate if the project was to be deferred. It will provide modern upgraded educational accommodation, meet legislative compliance requirements and deliver DECS benchmark accommodation for the primary school students. In particular the project will:

- allow students to experience a variety of teaching methodologies;
- provide opportunities for enhanced professional learning for all staff;
- improve the amenity of the site for the wider community, and;
- aesthetically improve the presentation of the site.

The project is being delivered in accordance with the project implementation process, relevant Treasury instructions and Premier and Cabinet circulars and statutory requirements.

Norwood Primary School is an example of an excellent school within our community and it provides wonderful education opportunities for people from more than 40 different language groups. I convey my compliments to the Headmaster, Mr Rob Harkin, the school council and the school community for all they have done for this school. Based upon the evidence it has received and considered, pursuant to section 12C of the Parliamentary Committees Act 1991 the Public Works Committee recommends the proposed public work.

Motion carried.

PUBLIC WORKS COMMITTEE: TECHPORT AUSTRALIA COMMON USER FACILITY

Ms CICCARELLO (Norwood): I move:

That the 267th report of the committee, on Techport Australia Common User Facility, be noted.

South Australia has made substantial commitments to an internationally competitive shipbuilding precinct at Port Adelaide to assist building the Royal Australian Navy's next generation of warships and to attract other shipbuilding and repair opportunities. An infrastructure assistance agreement with the Australian government commits the state to deliver infrastructure and other elements to support the air warfare destroyer program and the preferred shipbuilder. This includes development of a common user shipbuilding facility capable of servicing a US Arleigh Burke air warfare destroyer.

The construction contract will be subject to Australian government second pass approval of the air warfare destroyer program and satisfaction of other conditions. These include

satisfactory negotiation and acceptance by the South Australian government of the risk adjusted price.

The Port Adelaide Maritime Corporation has contracted Rolls Royce Marine Australia Pty Ltd to supply, install and commission the shiplift and transfer system. The Phase Two Works is again subject to Australian government second pass approval of the air warfare destroyer program and satisfaction of other conditions. The common user facility works include:

- a wharf;
- a shiplift;
- a runway and dry berth;
- a ship transfer system for the movement of ships and modules to and from the shiplift and around the site;
- an administration and security building and shiplift control building;
- services, fencing and security systems; and
- dredging of Port River adjacent to the wharf and shiplift, and disposal of dredged material.

The development cost is estimated at $243 million (which includes planning, design and construction) and will be fully funded by the South Australian government through the Port Adelaide Maritime Corporation. Dredging will occur at the location of the shiplift and the approach channel to the wharf and shiplift to create an approach allowing large ships to access both facilities.

To minimise turbidity generation and provide for a more environmentally appropriate disposal of material, dredging will be undertaken with a bucket excavator. About half of the dredged material will be deposited within the suppliers' precinct. The rest is likely to be used to create levee banks to support the growth of the northern LeFevre Peninsula.

The common user facility operations will generally involve berthing and transfer of large ships or ship modules from the Port River to the dry berth, and vice versa, via the shiplift and transfer system. Activities on the shiplift, runway and dry berth will involve the assembly and maintenance of large ships and associated activities. The new wharf, 213 metres in length, will allow air warfare destroyers to dock and will be capable of servicing a vessel undergoing final outfitting, test and activation, harbor trials, sea trials, and maintenance and repair activities. The wharf will extend into the Port River approximately in line with the existing ASC wharf north of the site.

Construction also includes installing a new 9 300 tonne shiplift capable of lifting and transferring an air warfare destroyer and other vessels from the Port River to the runway and dry berths. A transfer runway (with embedded dry berth) will be constructed, as well as a separate dry berth to the south of the runway and shiplift. The runway and transfer system will support vessels up to 22 000 tonnes and facilitate the transfer of ships to and from the Port River via the shiplift. The shiplift control building adjacent to the shiplift will be a purpose-built minor structure to meet the requirements of the shiplift supplier (Rolls Royce). Site services will be provided to the wharf, runway, transfer area and shiplift to support the construction and maintenance of naval and other vessels.

Noise modelling shows that operational activities will be below the current daytime criterion. The night-time criterion can be met with appropriate management procedures. The common user facility has a 50-year design life, maximising the durability of the structures and mitigating corrosion to comply with the design life requirements.

The project will minimise the impact on terrestrial and marine flora and fauna. Biodiversity surveys have been undertaken into terrestrial and inter-tidal flora and fauna at the site and the dredge material disposal site. To minimise the potential for the spread of exotic species in the Port River estuary, all dredging equipment will be decontaminated before and after arrival at the dredge site.

The common user facility is the centrepiece of the state's commitments in support of the air warfare destroyer program. This will have priority use, but the infrastructure will allow the state to market and attract other shipbuilding and repair opportunities to Techport Australia. The air warfare destroyer project will have a transformational impact on the South Australian economy. An economic analysis estimates that, once the project is fully operational, it will contribute about $250 million per annum into the state's economy, or $1.4 billion in total during the build program. The project will create, on average, more than 1 000 direct jobs and a further 2 000 indirect jobs in South Australia as part of the build contract. In peak years the project will directly employ up to 2 000 people, and aggregate wages and salaries will be around $100 million per annum.

The state's infrastructure investment will provide sustained direct and flow-on benefits well beyond the life of the air warfare destroyer project. It will strengthen South Australia's attraction for future naval and complementary construction, replacement and/or maintenance programs, and maximise commercial opportunities. The CUF project is aimed at delivering and operating infrastructure for the three air warfare destroyers for staged delivery to the Royal Australian Navy from 2013. Given this, the common user facility will become a national strategic asset. Construction is expected to commence in July 2007 with practical completion of the shiplift to occur in the first quarter of 2010.

Following completion of the cost estimates and further design work, the contractor will prepare a risk adjusted price on an open book basis based on an agreed risk profile. The price and underlying assumptions will be subject to full scrutiny by Port Adelaide Maritime Corporation and independent review. A design and construct contract will be negotiated, and the risk of design errors and omissions will be allocated to the CUF contractor under that contract.

At a strategic level, the key risks identified by PAMC for the project are:

- the Australian government delaying or deferring second pass approval to the air warfare destroyer program;
- procurement of the shiplift and transfer system from a limited number of global suppliers, resulting in reduced competitive pressures;
- procurement of the dredging contract from a limited number of global suppliers, resulting in reduced competitive pressures;
- proceeding with design without knowing the final air warfare destroyer ship design, thereby increasing the likelihood of rework and scope creep;
- availability of resources, in particular labour, resulting in cost pressures; and
- market forces on materials supply such as steel resulting in cost pressures.

Convincing measures are in place to mitigate each of these risks.

This project is certainly one of the hallmarks of the Rann government, and it will be of extreme importance to this state in terms of what it will contribute to our economy. It will certainly put South Australia at the forefront of development. This project is certainly very important to South Australia's economy and in creating jobs for South Australians. Based

upon the evidence obtained during the inquiry, pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public work as a wonderful asset for our state.

The Hon. K.O. FOLEY (Deputy Premier): I thank the honourable member for her contribution, which allows me to say a few words about the shiplift, which I believe was the nature of the report. It is a very significant piece of public infrastructure invested in by this government not only to underpin the construction of the air warfare destroyers but also to ensure that we have the opportunity to make South Australia the logical home and source point for future generations of naval shipbuilding here in Australia.

The government took a decision—we believe the correct decision—to not just simply provide a shiplift to the Australian Submarine Corporation for its exclusive use on the air warfare destroyer. With the recommendations of Robert Champion de Crespigny—who, I should put on the public record, deserves high commendation for his work with this project, as does the next Governor of South Australia, Admiral Kevin Scarce (and his team) who was, of course, the major driver of this project, and now Andrew Fletcher, who has the job of delivering this project—the whole idea came from the intellectual firepower that we had around us in government advising us. There were many others—Admiral Shackleton and quite a few others—all of whom I cannot list here today. The advice to government was 'Let's put in what is called a common user facility. Let's build the shiplift, but let's make it available not exclusively to the Submarine Corporation, but to other potential shipbuilders, should they congregate around this facility.'

Clearly, the Australian Submarine Corporation has first priority and it will have appropriate access to deliver its program but, where we are able to offer opportunities to other shipbuilding companies, we will do that. Surrounding Techport Australia we have, I think, about 60 hectares of industrial land that we will be developing. We will be announcing in the next month or two who the successful tenderer is for that project, as we develop a specific industrial capacity at Osborne for the defence sector: not a general industrial park for all industry, but dedicated to the defence sector; primarily naval, but not exclusively naval.

The air warfare destroyer program, quite apart from the obvious ship build, provides us with a real opportunity to harness the very serious intellectual property and skill base that goes into fitting out these warships. The real value in these projects for the future of our economy, which in no way diminishes the value of the physical construction of the ship, is in the weapons systems, the electronics, the radar system we are having put into these vessels. It is currently the most advanced radar system in the world, the Aegis system. America provides that product to very few countries. You can count on one hand the number of countries' vessels that America allows the Aegis system to be placed into. With the systems integration centre, which will support the integration of the weapons system and Aegis system, we will have hundreds upon hundreds of the best defence computer experts, technicians, electrical experts and weaponry and warfare experts (whatever their correct titles are) based here in Adelaide, South Australia, which means that future generations of naval shipbuilding—and, indeed, aerospace and land-based advanced technology weapons, radar systems and advanced electronics—will have the engineering skill here in South Australia.

We will see, as we are already seeing, a cluster of engineering companies setting up shop here and many existing companies expanding. We are very hopeful that we will get a very solid buyer of the Australian Submarine Corporation: a very aggressive company, which wants to grow the industry here in South Australia. We think we will see that, as this program runs through over the next 15 years, and not just through live support, future naval shipbuilding will occur in South Australia because we will have the best infrastructure, the best skills, the best logistical site and the most advanced shipbuilding site in all the nation. Therefore, Victoria, Western Australia and the Eastern Seaboard will not be able to offer the competitive and comparative advantage that Adelaide will offer for future naval shipbuilding. I think that is an important and extremely exciting opportunity for our state.

As to the air warfare destroyer program, these vessels are quite extraordinary. I have seen the Spanish vessel, although I have not been on it, and I have been on the Arleigh Burke, both at sea and in dry dock. They are an incredible piece of weaponry. They will provide our nation with the air warfare defence capability as well as the air warfare offence capability that will secure our nation and our sea lanes for decades to come. At least one of these vessels operates with all the US aircraft fleet. They have something of the order of 50 or 60 of these vessels already, maybe more, in the service. We are getting three. These vessels can effectively give us, I think, at least 200 kilometres' security in terms of any hostile aircraft or missile entering into our zone. When an air warfare destroyer is cruising with our fleet, we have at least a 200 kilometre radius of protection of the most lethal nature.

Mr Griffiths interjecting:

The Hon. K.O. FOLEY: No; that is the Aegis cover, which will be on either the Spanish or the American modified vessel. Just recently I was told that—and I assume this is on the public record and, if not, it is about to be—when the Arleigh Burke (the *Lassen*) was in Australia recently, it had some mock trials of potential attack by F-18 strike fighters. It took two or three of those fighters out and it was about 60 or 70 kilometres away from the air base. It detected the aircraft and their certain hostile nature, and I think it took out two or three before they could even take off, and they took out the remaining planes tens of kilometres away from the ship and, ultimately, the fleet. So, these are incredible pieces of modern weaponry, and it is a sound decision by the federal government, supported by federal Labor, to ensure that we have this capacity.

In conclusion, there has been much debate about whether the Spanish design or the Arleigh Burke design should be selected. The Leader of the Opposition has chosen to publicly back the Arleigh Burke. I thought that was an unfortunate decision. I said so to him personally and I said so to him in the media. I understand that perhaps the Leader of the Opposition's colleagues in the federal government have since counselled him on the unwise nature of publicly championing one design over the other.

I spoke to Senator Nick Minchin on this issue at the time the Leader of the Opposition made his statement. He was quite horrified that the leader would make that comment. I have not heard anything since, so I assume that he has been counselled because, ultimately, this is a decision for the federal government. It is a competitive tender. Both the Spanish and the Americans have invested enormous amounts

of money in their bids. Both bids offer great benefits to our state. It is wrong to suggest that the Arley Burke design is a superior outcome for the state in terms of the economy. They are both outstanding outcomes for the economy, and there are reasons for that which I cannot put on the public record at this point.

However, I am confident that, as the minister responsible for our side of the business here in South Australia, the Spanish design, should it be successful, is an outstanding outcome for our state—as will be the Arley Burke modified design should it be successful—but, rightly, this is a decision for the federal government. It is a decision for the National Security Cabinet Committee to make, based on all the inputs it will have as to the best value of those respective bids and what is in the national interest. I, for one, am quite comfortable with endorsing whomever John Howard, Brendan Nelson and the Security Cabinet Committee select, because I believe they will make the right decision.

We then as a state will be in a sensational position to leverage our economic future for decades to come based on that decision. Again, I applaud the federal government for making the decision to locate these vessels here in South Australia. It was done for the right reasons. We should be and are very proud of our role as a state—with non-political, bipartisan and industry support—and that all bodes well for the future of our state.

Motion carried.

PUBLIC WORKS COMMITTEE: COUNTRY WATER QUALITY IMPROVEMENT PROGRAM

Ms CICCARELLO (Norwood): I move:

That the 286th report of the committee, on Country Water Quality Improvement Program—Stage 3, be noted.

SA Water provides about 1 800 domestic customers in 15 small communities and rural areas with disinfected but unfiltered River Murray water. The 15 communities are: Callington/Kanmantoo, Mypolonga, Wall Flat, Cowirra/Neeta, Pompoota, Tungkillo, Palmer, Mannum Country Lands, Blanchetown, Swan Reach, Cadell, Moorook, Kingston on Murray, Glossop, and Monash. The program was to be delivered by 2010 but, in November 2006, the SA Water Board approved the acceleration of the program so that it would be completed by the end of 2007. The primary aim is to provide filtered water supplies to urban standards. Other key aims are:

- to provide for current and future water supply needs of the communities and ensure security and continuity of supply; and
- to mitigate against the public safety and water supply contamination risks associated with algal blooms, associated toxins and cryptosporidium.

The key drivers for the accelerated program are the worsening drought conditions and the predicted deterioration of water quality in the River Murray. In particular, this project deals with the risk of treating raw water containing algae and possible associated toxins. Option assessments carried out in January 2007 identified risks associated with accelerating the project, the unknown nature of the threat posed by toxic algal blooms and contractual difficulties with a project of this scope.

SA Water examined six options. To do nothing would mean that, in the event of an outbreak of toxic algal bloom, the existing water supplies to these communities would be at risk of being declared non-potable and unusable for humans or stock alike. This would impact on the wellbeing and standard of living for the communities. Also, it could substantially prevent the dairy industries from processing any milk if their usual wash-down water were contaminated.

Aquifer storage and recharge, as well as point of entry options, were trialled, but the results were inconclusive, and more time is required to prove their viability. Subsequently, with the accelerated program and high focus on delivering risks, these options were discounted. The option of constructing 15 new water treatment plants, and associated infrastructure to support them, has the highest capital and operating cost and, hence, the worst net present value and benefit cost ratio.

The existing Riverland Water and SA Water waste water treatment plants are operating near their design capacity and can adequately serve existing communities. However, 200 kilometres of new pipeline would be needed and, in most cases, they can supply the additional water required without some form of plant improvement occurring. Aquifer storage and recovery and point of entry options require further research and testing, and cannot be considered within the time frame that must be met by this project.

By the end of 2007 this project will provide reliable filtered water to 15 rural communities. That will provide for their expected long-term water demand and eliminate known public safety and water contamination risks. The estimated capital investment is $54.4 million with annual operating costs of approximately $2.4 million in order to maintain the water treatment plants, pipelines, valves and pump stations. This estimated cost is based on using membrane technology, but the process is to be determined by the contractor and the actual costs for operation and maintenance may differ from the estimate. The estimate is also based on average raw water quality and costs would increase if quality were to deteriorate in, for example, a flood situation.

The preferred option yields a net present value cost of around $70 million and this equates to approximately $6.50 per kilolitre consumed. The construction of these assets will avoid SA Water incurring around $7 million in net present value cost terms for carting water to customers during periods of toxic algal outbreaks in the River Murray. Construction is planned to be completed by January 2007. This extremely tight time frame concerns the committee given the nature and number of significant project risks.

In early 2006 the forward capital works program would have seen this project delivered by 2010. However, by 13 November 2006 the SA Water board had approved an acceleration of the program which required it to be completed by the end of 2007. The board responded to the continuation of the drought during 2006, but the short period between that time and the intended delivery date means that significant project risks may prevent the new time line being realised.

In light of this, the committee was reassured by SA Water that several significant risks can be managed within the time and construction constraints. In particular, it was told that the process of land acquisition is able to occur in parallel with construction in other locations. Pipe construction companies and pipe laying companies have assured SA Water that the construction work is able to be managed within the time line, notwithstanding capacity constraints within the building industry generally, and native title uncertainty in the Blanchetown area is being resolved. However, in the meantime construction can occur on other sites.

Based upon the evidence presented to it and pursuant to section 12C of the Parliamentary Committees Act 1991 the

Public Works Committee reports to parliament that it recommends the proposed public work.

Mr PEDERICK (Hammond): I commend the government for fast-tracking this project in order to get more filtered water into country regions. Several towns, including Swan Reach, Mypolonga and Jervois in my region, are affected. Jervois has had its share of issues in getting filtered water. There were some issues with a contractor who was trying to drill a pipeline under the river and managed to get to somewhere between 50 metres and 100 metres of completion. I know directional drilling is no mean feat, but they lost a drill bit down there and, at the end of the day, the company had a few issues with equipment being stolen so it held up the project for years.

It is pleasing to see that this project will deliver water to the communities. I understand that the Jervois part of the project, bringing piped water from the Tailem Bend side—from the side where the filtration plant is—may begin next month due to contractor availability—which is a good thing. I note that, as a result of my acting on behalf of one of my constituents at Tailem Bend, the government has moved the drill point back to a more suitable location rather than upsetting residents.

I appreciate what the government is doing. It would be nice to see similar action in relation to the leaking barrages at the mouth which are causing water to become heavily salinated. I understand that construction on the standpipe at Hindmarsh Island began this week, and it could not be sooner. There are standpipes at other areas such as Goolwa and water is being piped at Clayton, which has not happened soon enough, and in the future we may have to look at some of the delivery systems at Clayton. But, in general, I support what the government is doing in delivering filtered water to more communities.

Motion carried.

PARLIAMENTARY PROGRAM

Mr WILLIAMS: Mr Speaker, I seek a point of clarification and the benefit of your wisdom. I take it that we are moving from Private Members Business, Committees & Subordinate Legislation to Government Business, but I want to understand how members of the house will know what may come up over the next hour and 20 minutes without the opportunity of having the green Daily Program presented to them so they can know what government business can be expected.

The SPEAKER: The problem that the Clerk has is that the information contained on the green Daily Program is generally not available until midday, so any green notice for the morning session is going to be fairly scant in content. We are looking at what we can do so that members can be advised about what bills will come up in the morning. We are attending to it, but it is a little difficult because most of the information is not available until later in the day, particularly in regard to presentation of papers and so on. We are attending to it.

Mr WILLIAMS: I am concerned that some members may have made other arrangements for the morning and are totally unaware that the house is going to be debating certain issues this morning. I think it is unfair on members to be expected to be debating issues for which they have no notice.

The SPEAKER: The onus is on the government to ensure that the opposition is aware of what bills are to be debated, and I can only presume that that has happened. If it has not, I would like to know, but I presume that the government has told the opposition what bills are likely to come up this morning. Once the government has done that, it is up to the opposition to circulate that information among its members, but we are attempting to attend to the circulation of some document from the Clerk to let members know what is going on.

Mrs GERAGHTY: Mr Speaker, as the member for MacKillop would know, the government sends the weekly program to the opposition in the week prior to the sitting week and that program is agreed to by the opposition or, if there are any problems, they are raised. So, we are aware of the bills that will be coming on that week and what day they will be debated.

Mr Hanna: But that is not right, Robyn. That is not happening.

The SPEAKER: Order! This is not an opportunity for debate. I suggest if the member for MacKillop has concerns it is probably best that he approaches the chair. It is not really regular for us to be engaged in a discussion like this.

Mr WILLIAMS: Yes, I know. I just want to make the point that we have been informed what legislation the government wants to debate today but we will not know until a particular minister stands in his place and starts speaking on a matter what is being brought forward. As far as I am aware, the opposition was told that we would be debating the Occupational Health, Safety and Welfare (Penalties) Amendment Bill today, and that is all. I was informed, only a few minutes ago, that the Minister for Forests is going to bring a matter to the attention of the house and that may happen forthwith. I have not had the opportunity to talk to my colleagues about that and I doubt whether I will be able to inform my colleagues of that inside 10 minutes or half a hour.

The SPEAKER: There is nothing I can do about that now. These things need to be worked out by negotiation between the government and the opposition.

CRIMINAL ASSETS CONFISCATION (SERIOUS OFFENCES) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Assets Confiscation Act 2005.

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

That this bill be now read a second time.

The background to the conviction of David Hicks is well known. The question has arisen whether under South Australian law he may profit from accounts of his experiences. The state government has decided that Hicks will not be allowed to profit from any account of his exploits. The existing structure of the Criminal Assets Confiscation Act 2005 should apply according to its terms to this question. The simple solution is that serious offences should be amended to include any foreign offence declared by the regulations to be a serious offence. It is not a device to prevent Mr Hicks writing about his exploits or publishing his story, but it does seek to prevent him profiting from it. It is not a gag order in any sense of the words.

The device used under the criminal assets confiscation legislation to deal with profits or benefits, obtained by exploitation of illegal activity, is what is called a literary

proceeds order under division 2 of part 5 of the Criminal Assets Confiscation Act 2005. A literary proceeds order is made against (relevantly) the proceeds from the commercial exploitation of the person's notoriety, resulting from the person's committing a serious offence. A serious offence means an indictable offence and some listed summary offences, which are not relevant to this bill. The phrase 'indictable offence' must mean a South Australian indictable offence. Hicks has committed no offence against the laws of South Australia. That being so, the act does not now apply to him.

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: What you have been saying over the past few years tells us a lot about your attitude to the Serbian community, that is, that Hicks can do anything to them with your approval. Other difficulties arise. It may be that Hicks has committed no offence against the laws of South Australia. It is commonly said by the commonwealth government that that is why he could not be brought back to Australia and tried here.

Mr Hanna interjecting:

The Hon. M.J. ATKINSON: I just wish the member for Mitchell would put aside his prejudice against the Serbian-Australian community.

The SPEAKER: Order! The member for Mitchell will not interject. The Attorney-General will not reply to interjections.

The Hon. M.J. ATKINSON: I do not think the Serbs are fair game, as the member for Mitchell does.

The SPEAKER: Order!

Mr HANNA: On a point of order, I seek an apology from the Attorney-General in relation to his comment that I have some prejudice against the Serbian community in Australia—that is false.

The SPEAKER: I cannot demand that the Attorney make an apology. If the member for Mitchell wishes to make a personal explanation, that procedure is available to him. I suggest that the member for Mitchell not interject and that the Attorney-General get on with his speech.

The Hon. M.J. ATKINSON: Yes, sir, I have been sorely provoked. The commonwealth has evidently tried to deal with Hicks. The commonwealth Proceeds of Crime Act 2002 extends similar literary order provisions to foreign indictable offences. The meaning of a 'foreign indictable offence' is set out in section 337A. It covers offences of a law of a foreign country. The section was intended to pick up offences dealt with by the US Military Commission but may not do so now. Section 337A(3) extends the commonwealth regime to an offence triable by a military commission of the United States of America established under a military order of 13 November 2001 made by the President of the United States of America and entitled 'Detention, treatment and trial of certain non-citizens in the war against terrorism.' This is the correct reference to the regime that applied before it was declared invalid by the United States Supreme Court and re-established by subsequent legislation.

The state government is determined that it will not wait upon the commonwealth government, nor will it take the chance that a gap be left unfilled. Therefore, the bill proposes that the Criminal Assets Confiscation Act 2005 be amended so that 'serious offence' includes any foreign offence declared by the regulations to be a serious offence. This will include an offence against the law of a foreign country or an offence against international law. The proposed amendment is, therefore, general in nature and covers not only any prisoners in Hicks' position but also, potentially, an offender subject to foreign law or a norm of international law that may be the subject of any other regulation made in the future. I seek leave to insert the remainder of the second reading explanation in *Hansard* without my reading it.

Leave granted.

The regime of the *Criminal Assets Confiscation Act 2005* is a civil-enforcement regime. It no longer relies upon conviction or proof of conviction in any sense. All that is required is that the court be satisfied on the balance of probabilities that the offence was committed. Nor should it matter when the offence was committed. What counts is when the proceeds or benefits are derived.

A regulation will then be drafted (and subsequently promulgated) declaring any offence triable by the United States Military Commission constituted under Title 10 U.S.C. Sec 948d, the *Military Commissions Act 2006*. That will match the specification of the charge on the indictment to which Mr Hicks pleaded guilty.

That provision will not only apply to works by Mr Hicks. The provision and the legislative regime do not prevent Mr Hicks from publishing whatever he likes. What it prevents is the profiting from it by Mr Hicks in any way, whoever writes or publishes it. The current literary proceeds provisions of the *Criminal Assets Confiscation Act 2005* operate so as to prevent any person profiting on behalf of the defendant. Section 110(3) of the Act says:

A court may, in determining—

(a) whether a person has derived literary proceeds; or

(b) the value of literary proceeds that a person has derived,

treat as property of the person any property that, in the court's opinion—

(c) is subject to the person's effective control; or

(d) was not received by the person, but was transferred to, or (in the case of money) paid to, another person at the person's direction.

It follows that if, for example, Mr Hicks', father or the media profit from the story, the profits will be subject to forfeiture if the profits are controlled by Mr Hicks (whoever actually possesses them or receives them) or if they are directed by Mr Hicks.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

3—Amendment of section 3—Interpretation

This clause amends the definition of ***serious offence*** in section 3 of the Act to include foreign offences declared by regulation (and introduces a consequential definition of ***foreign offence***).

4—Amendment of section 10—Application of Act

This clause amends section 10 of the Act to make it clear that the Act applies in relation to offences declared to be serious offences, whether committed before or after the making of that declaration.

Mr GRIFFITHS secured the adjournment of the debate.

COMMISSION OF INQUIRY (CHILDREN IN STATE CARE) (CHILDREN ON APY LANDS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Commission of Inquiry (Children in State Care) Act 2004. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This Bill seeks to establish an inquiry, which will provide a better

understanding of the nature and extent of child sexual abuse in remote aboriginal communities.

In recent years there have been many inquiries and reports, which point to unacceptable levels of sexual abuse of children in remote Aboriginal communities, but the rates of reporting continue to be consistently low.

The disparity between the levels of abuse suggested by the inquiries and reports, and the rates of reporting, was addressed at the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities held in Canberra on 26 June 2006. Arising from that summit, the Commonwealth and the State governments have agreed to address the apparent under-reporting by extending the Children in State Care Commission to enable it to inquire into the incidence of sexual abuse of children on the APY lands.

It is hoped that this inquiry will provide a process that will help break the cycle of abuse and under-reporting, which has prevailed in Aboriginal communities.

The Inquiry will not only report on the nature and extent of child abuse in APY communities. It will also report on any measures to prevent sexual abuse of children on the APY Lands and address the consequences of the abuse for these communities.

It may also lead to criminal prosecutions.

Rather than establish a separate inquiry the Children in State Care Commission of Inquiry will be expanded to include terms of reference that enable inquiry into the sexual abuse of children in nominated communities on the APY Lands.

The proposed inquiry will be a separate process to the Children in State Care Inquiry. However, the proposed inquiry will function in tandem with it and benefit from using its existing structures and expertise. The Children In State Care Inquiry is already obliged to inquire into allegations of sexual abuse of children in state care in the APY lands and will take evidence on the lands in this regard later this year.

It is intended that the proposed inquiry will be concluded by 31 December 2007 to coincide with the anticipated conclusion of the Children in State Care Inquiry.

The proposed inquiry is an important part of the government's strategy to address child sexual abuse in Aboriginal communities. It will give victims a chance to speak out and provide a clear message to everyone that the sexual abuse of children is unacceptable and will not be tolerated by this government. Most importantly, it will report on appropriate measures to prevent such sexual abuse and remedy its effects.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Commission of Inquiry (Children in State Care) Act 2004*

3—Amendment of long title

The long title is amended to include reference to a second commission to inquire into the incidence of sexual offences against children resident on the Anangu Pitjantjatjara Yankunytjatjara lands.

4—Substitution of section 1—Short title

The short title of the Act is altered to include reference to the subject of the second commission of inquiry.

5—Amendment of section 3—Interpretation

The definition of authorised person is altered so that it is clear that an Assistant Commissioner appointed under inserted section 4A is an authorised person for the purposes of the Act.

The definition of Commissioner is altered so that readers are pointed to section 4A which provides that, in certain circumstances, a reference to the Commissioner may include a reference to an Assistant Commissioner.

6—Insertion of section 4A

4A—Constitution of commission—children on APY lands

New section 4A establishes a second commission of inquiry with the terms of reference set out in Schedule 2. The Commissioner for the Commission of Inquiry into children in State care is to constitute the commission. In addition there are to be 2 Assistant Commissioners. 1 is to be male and the other female and 1 or both are to be of Aboriginal descent.

7—Amendment of section 11—Completion of inquiry and presentation of report

This amendment requires both inquiries to be completed by 31 December 2007. The date for completion may be postponed by the Governor by notice in the Gazette.

8—Amendment of heading to Schedule 1

This is a consequential amendment to the heading of the Schedule.

9—Amendment of Schedule 1

This amendment simply makes it clear that an allegation of sexual abuse may be the subject of both inquiries under the Act.

10—Insertion of Schedule 2

Schedule 2—Terms of reference—children on APY lands

The terms of reference are to inquire into the incidence of sexual abuse of persons who, at the time of the abuse, were children on the APY lands.

The purposes of the inquiry are—

(a) to select APY communities to form the focus of the inquiry; and

(b) to examine allegations of sexual abuse of children on the APY lands; and

(c) to assess and report on the nature and extent of sexual abuse of children on the APY lands; and

(d) to identify and report on the consequences of the abuse for the APY communities; and

(e) to report on any measures that should be implemented—

(i) to prevent sexual abuse of children on the APY lands; and

(ii) to address the identified consequences of the abuse for the APY communities,

(to the extent that these matters are not being addressed through existing programs or initiatives).

Subclauses (3) to (6) are machinery.

Mr GRIFFITHS secured the adjournment of the debate.

PENOLA PULP MILL AUTHORISATION BILL

The Hon. R.J. McEWEN (Minister for Forests) obtained leave and introduced a bill for an act to authorise certain works for the purpose of development of a pulp mill at Penola; to provide a mechanism for the authorisation of other works associated with the pulp mill; and for other purposes. Read a first time.

The Hon. R.J. McEWEN: I move:

That this bill be now read a second time.

In so doing, I apologise to the house for a misunderstanding that has occurred in relation to the *Notice Paper*. The misunderstanding occurred because I believed that once I had introduced a bill we could then move immediately to set up a select committee, which is something that I had foreshadowed as part of the bill. I believed that once the select committee reported we could conclude the second reading debate. The advice that I have received as late as today, though, is that that is not the procedure that I am required to follow.

Kris Hanna, the member for Mitchell, in fairness has pointed out that today's *Notice Paper* does not indicate that we wish to debate the bill; it simply indicates that I will introduce the bill. In now asking the indulgence of the house to proceed and conclude the second reading, it will not take away from anybody their ability to contribute to the bill. Rather, it will add to the bill, because it will allow people, at the time we table the select committee's report, to speak as if it were a second reading speech, which I believe is a more appropriate time for members to contribute to the debate.

It is my understanding that I will have the support of the house to suspend standing orders to complete the second reading without delay and to then move a motion to set up the select committee. The next procedure is that the select committee will take evidence and then table its report, and

that will occur, I understand, before we move into committee. Technically, that is the stage at which every member will have the opportunity to put on record their views, which is not dissimilar to what they would do in a second reading, and you can expect it to be enhanced because they would then have the opportunity to reflect on the select committee's report to the house.

I apologise for the way that it has been presented on the *Notice Paper*. It is my responsibility to communicate to all members how I wish to deal with the matter. I have not communicated as well as I should have because of this glitch. In making those introductory comments, I seek leave to insert the second reading explanation in *Hansard* without my reading it.

Leave granted.

This Government is committed to a policy of promoting economic, social and environmental outcomes for the State. It is also keen to provide applicants for development approval with a high degree of certainty where those applicants have properly demonstrated that their proposal will yield a benefit to the State of South Australia and those who reside within it and requires very significant capital investment.

The Bill being introduced today is consistent with these aims.

The Development Assessment Commission approved a 350 000 tonne pulp mill on land at Penola in 2006. This approval was the end result of an exhaustive process that took into account comments from a wide range of Government agencies including the Environment Protection Authority and the Department of Water, Land and Biodiversity Conservation as well as neighbours who were entitled to make comment under the Development Act.

Approximately six months later, a legal challenge was made to the DAC's approval of the development meaning that for the intervening six months the applicant and the community have faced uncertainty as to whether, if at all, the approved development would be constructed.

With changes in circumstances, the Government has now been informed that the proponent, Protavia Pty Ltd, wishes to establish a larger pulp mill on the same approved site at Penola.

Whilst the application would ordinarily be assessed by the DAC, this, in the view of the Government, could lead to another six months of uncertainty and unnecessary cost for the proponent and wasted opportunity for the State and for communities in the South East.

The Government believes this project to be of such significance that it warrants use of the legislative process to approve key elements of the proposal. This Bill additionally seeks to establish procedures for the assessment of reserved matters and associated applications as well as stringent compliance procedures to ensure that environmental standards are met.

It is important to emphasise that, in taking this approach, the Government is not reducing any of the environmental standards that would normally apply had this proposal been assessed under existing Acts and Regulations.

Whilst the Government supports the normal processes contained within the Development Act, there is precedent for the use of legislation to advance major projects with developments such as Roxby Downs and Olympic Dam being examples of such an approach. This approach, however, must be careful and considered.

The Government is mindful to ensure that there is an appropriate assessment process for reserved matters and variations incorporated into the Bill itself. In addition, the Bill makes the Governor responsible for determining reserved matters and associated applications after consultation with the relevant agencies. The Government seeks to ensure that a robust and considered process is put in place that appropriately balances the interests of the proponents with the interests of the community and the environment, thus the Bill sets a procedure similar to that relating to the assessment requirement of the Development Act.

The details of the works being approved in accordance with Schedule 1 of the Bill are set out in various documents which are specified in Schedule 1 and which I have today tabled in this House.

Schedule 1 of the Bill provides approval for the proposed development as well as the associated conditions and reserved matters the proponent must adhere to. Full consultation has occurred with representatives of the relevant technical agencies and statutory bodies that would have ordinarily been consulted under other Acts has occurred in the development of these conditions imposed on the proponent.

Schedule 1 also sets out the clear environmental standards the mill must meet. The proponent must satisfy requirements, as an essential precondition of approval for the project. In addition, the proponent will be subject to an EPA licence for operation of the mill under the EPA Act.

Additionally, Schedule 1 contains a list of reserved matters which must be addressed by the proponent and determined by the Governor after appropriate technical advice by statutory bodies and technical agencies. Thus Schedule 1 is akin to the gazette notice associated with approval of a Major Development assessment approval under the Development Act.

It is not intended that the special development assessment procedures established by the measure should continue to be available to the proponent for an indefinite period. For this reason, clause 13 of the Bill provides that—

- once particular works are certified by the Minister as completed, the special authorisation provisions in clauses 4 and 5 will cease to operate in relation to such works (so that any further alterations to them would have to go through the normal processes) and once the project is certified by the Minister as completed, the special authorisation provisions in clauses 4 and 5 cease to be of any effect at all; and
- if the Minister does not certify completion of the project within 3 years (or such other period as may be prescribed by regulation), the entire Act will expire.

The Bill seeks to provide a greater degree of certainty for the proponent, the community and Council in relation to matters associated with the project. For this reason, the Bill includes provisions ensuring a process for approval of necessary road and rail infrastructure upgrades and sets out the water allocation that is to apply in relation to the licence issued in respect of the pulp mill under the NRM Act. The amount of water guaranteed is equivalent to that which was approved by DWLBC under the original pulp mill application as approved by the Development Assessment Commission. As a safeguard, the Bill provides that, if the project is not completed and the Act expires in accordance with the procedures in clause 13, the water licence granted in respect of the pulp mill will be cancelled and the water allocation will vest in the NRM Minister.

For the sake of transparency, the Bill also sets out the Government's Forest Threshold Expansion policy (in Schedule 2) and seeks the Parliament's approval of that policy. As such, there is a provision reaffirming the Government's commitment to maintain the Forest Threshold Expansion value of 59 416 ha. Of course, this expansion must not be in management areas that are over-allocated and, as such, unsustainable.

Included in the list of conditions attached to the authorisation is a condition relating to greenhouse emissions associated with the mill.

The imperative to reduce greenhouse emissions is well understood by this Government.

The energy needed for this project is substantial and we wish to ensure it is provided in a greenhouse friendly manner. The Government has committed in this legislation to working closely with the proponent to develop a project that minimises its carbon footprint as much as possible.

This Government does not use special legislation for significant projects in a rash or unconsidered manner. It will not shy away from doing so, however, when it believes the best interests of the State and, in this case, communities of the South East will be furthered. In taking this deliberate and considered approach the Government recognises the great opportunity to the State presented by this development but also takes the appropriate measures to ensure that the myriad considerations that are part of a major development are subject to the appropriate and necessary scrutiny through specific provisions as enshrined within the Bill.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure and in particular defines the project the subject of the measure as being the construction of a pulp mill on certain land (the ***project site***) and the carrying out of associated works on and in the vicinity of the project site.

4—Authorisation of certain works

This clause provides for the authorisation of certain works (specified in Schedule 1 Part 1 of the measure) for the purposes of the project. The works are authorised subject to the conditions, reservations and other requirements specified in Schedule 1 Part 2.

5—Application to Governor for other authorisations

This clause provides for the making of other applications for the authorisation of works for the purposes of the project (works not covered by Schedule 1 or variations of Schedule 1). Such applications are lodged with the Minister who then undertakes consultation with the EPA and the Wattle Range Council before submitting a report and recommendations to the Governor. Notice of the Governor's determination on the matter must be given to the applicant and published in the Gazette. The clause also provides for delegations to be made by the Governor and the Minister.

6—Effect of authorisation

This clause provides that the authorisations granted in relation to works under clauses 4 and 5 of the measure have effect as if they were major development authorisations under Part 4 Division 2 of the *Development Act 1993*.

7—Declarations in respect of road and railway works

This clause allows for the making of declarations by the Governor (on the recommendation of the Minister, after consultation as set out in the clause) in relation to road and railway works. If road or railway works are declared to be works that are necessary for the purposes of the project, the declaration will be taken to authorise the works, subject to any conditions specified in the declaration (and no further consents or authorisations are required in respect of the works). Notice of an instrument under the clause must be published in the Gazette.

8—Water allocation

This clause provides that a licence granted under Chapter 7 of the *Natural Resources Management Act 2004* in respect of the pulp mill must have endorsed on it a water allocation of 2 677 500 kilolitres per annum and that allocation can only be varied by the Governor on the recommendation of the Minister.

9—Forest Threshold Expansion

This clause approves the Forest Threshold Expansion Policy set out in Schedule 2 and provides that a person or body exercising powers under the *Natural Resources Management Act 2004* must not exercise those powers inconsistently with that policy.

10—Governor may direct bodies for the purposes of this Act

This clause gives the Governor power to issue directions to prescribed agencies and instrumentalities of the Crown (on the recommendation of the Minister) for any purpose connected with the administration or operation of the measure, the operation of the pulp mill constructed as a result of the project or the cultivation of timber or supply of other materials for use in the pulp mill. Directions may not, however, be issued to the Environment Protection Authority in relation to facilities of the pulp mill once those facilities have commenced operations.

11—Judicial review not available

This clause provides that no proceeding for judicial review or for a declaration, injunction, writ, order or other remedy may be brought to challenge or question decisions, determinations or procedures under the measure or matters incidental or relating to the measure.

12—Immunity provision

This clause provides immunity from liability for persons engaged in the administration of the measure.

13—Expiry of Act or provisions of Act

This clause allows the Minister to certify, by notice in the Gazette, that particular works authorised under this Act have been completed or that the project has been completed and, if such notice is published, clauses 4 and 5 of the measure can no longer be used to authorise the particular works or any works (as the case may be). If, on the expiration of the prescribed period (being 3 years or another period determined by the Governor) no notice has been published certifying completion of the project, the measure will expire and the water licence referred to in clause 8 will be taken to be cancelled.

14—Regulations

This clause provides for the making of regulations for the purposes of the measure.

Schedule 1—Authorised works

This Schedule specifies the works authorised under clause 4 and the conditions, reservations and other requirements to which that authorisation is subject.

Schedule 2—Forest Threshold Expansion

Part 1—Statement of Forest Threshold Expansion Policy

1—Forest Threshold Expansion Policy

This clause sets out the forest threshold expansion policy which is that, within the hundreds specified in Part 2 of the Schedule, the Forest Threshold expansion area is not less than 59 416 hectares (measured from 1 September 2002).

Part 2—Hundreds constituting the relevant part of the State

Part 2 sets out the hundreds constituting the relevant part of the State for the purposes of the forest threshold expansion policy.

The Hon. R.J. McEWEN (Minister for Forests): I move:

That standing orders be so far suspended as to enable the passage of the bill through to the completion of the second reading without delay.

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

An absolute majority of members being present:

The SPEAKER: Does the minister wish to speak to the motion to suspend?

The Hon. R.J. McEWEN: Yes, Mr Speaker, just very briefly for those who were not present when we explained earlier what we are intending to do. It is desirous, I believe, of the whole house that we conclude the debate on the second reading of the Penola Pulp Mill Authorisation Bill at this time, simply so that we then do have a bill to refer to a select committee, and that when we receive the select committee report, then every member will have the opportunity to speak to that report as if it were the second reading debate. That is why we are seeking the indulgence of the house at this stage to conclude the debate to allow this matter to be referred to a select committee.

Motion carried.

Mr HANNA (Mitchell): I am speaking briefly today to the Penola Pulp Mill Authorisation Bill. I appreciate that the Minister for Forests has placed on the record the reasons for this part of the process in relation to this bill being rushed through today. Unfortunately, due to a misunderstanding, the minister has felt it necessary to proceed to the point where a parliamentary committee is set up to look at the issues. Normally, members would have more of an opportunity to speak to the bill at this point. Unfortunately, notice of the bill was not given to opposition and Independent members last week indicating that it would be dealt with in this way this week. Normally, Robyn Geraghty, the Government Whip (who is a very good and fair organiser of government business) gives notice to the opposition and Independent members of the bills that are to be dealt with, and that was not done in this case.

It is an exception, but I appreciate that it arises from a misunderstanding—and that has been set out by the minister. However, the result is that I have the opportunity at this point to comment on the Penola Pulp Mill Authorisation Bill, and I have been handed a copy of the bill only just five minutes ago. Clearly, it is difficult to speak in any detail at all to the bill, but I do want to place one thing on record; that is, my account of the meeting which was held in Penola 1½ weeks ago. To the credit of Greens MP Mark Parnell, a member of

the Legislative Council, a meeting was organised in Penola to deal with community concerns about the proposed Penola pulp mill. I went along to that meeting out of an interest in this issue. My interest was twofold: first, because it seems to fit into a developing pattern of this Labor government's rushing through or fast-tracking major developments. It has happened in the urban context and now it is happening in the rural context.

Of course, there are reasons for the development to proceed—and the economic benefits of the development have been put to me and there is a plausible case for that. The main opposition to the development from the local community arises from its demand for the water resource in the area—and plausible arguments have been put to me about the unfair and unsustainable depletion of the local water resources should the development proceed. I have not made up my mind about either of those issues, but they both need to be explored very carefully; and so it is appropriate that there be a parliamentary committee to look into the issues. In short, I support the minister in what he is doing. I do not have a problem with this aspect of the bill being rushed through today. I note that, once a report has been delivered to the parliament by the committee investigating the issues, there will be an opportunity for members to speak on the issues with some more evidence available to them.

I support the bill at this point so as to allow investigation of the issues. There are concerns about the issues themselves, and there are concerns about the process the Labor government has followed in order to get the bill to this point. In other words, instead of the usual planning processes taking place in the Penola region, this particular development proposal has been brought to the parliament, and there are real questions about why that has happened, why that is seen to be necessary. I do not draw any conclusions about it at this stage, but I think that is an issue for the committee to consider.

Mr WILLIAMS (MacKillop): I will be very brief. I want to put on the record a couple of things. First, the opposition has had discussions with the minister and is aware of the circumstance which has led us to where we are today. The opposition supports the minister. Indeed, I am aware that, when it was in government, the Liberal Party used a similar process to achieve a select committee to look into a bill. There is precedence for what we are doing today. Again, like the member for Mitchell and because I am the local member and Penola is in the heart of my electorate, I look forward to the select committee inquiring into this matter.

I inform the house that I believe there is a lot of misunderstanding by many people about this proposal, and I hope that the select committee will significantly enhance the process. Having already read the minister's report (which he inserted in *Hansard* without reading it), I think it is worth the house noting that this proposal already has received approval from one source but the proponent has changed the scope of the project. However, it did receive approval from the Development Assessment Commission more than six months ago. For the minister's information, Roxby Downs and Olympic Dam are the same project. They are referred to in his report as 'examples' of indenture bills.

I come back to some of the matters raised by the member for Mitchell, who talked about the recent meeting which was held in Penola and which was called and run by the Greens upper house MLC the Hon. Mark Parnell. As I am sure all my colleagues in this place would agree, quite often (particularly at short notice) we have difficulty getting to functions and events that we would otherwise like to attend. I found myself in that situation at the time that meeting was held. I express publicly my thanks to my colleague the member for Frome, who undertook to represent me and who has given me an extensive briefing on the meeting.

I reiterate that the opposition supports the process we are adopting, and we look forward to the committee's deliberations.

The Hon. R.J. McEWEN: I thank the members for Mitchell and MacKillop for their comments at this stage. Again, I put on the record the fact that we all expect there will be an insightful, thorough and robust debate on this bill at the appropriate time; and doing this now in no way lessens anyone's ability to engage in that process at the relevant time. Equally, on behalf of all members, I acknowledge that, in allowing me to do this today, they are not in any way indicating any view about where they stand in relation to the bill. Nothing can be assumed by allowing me to proceed in this manner today in relation to an individual honourable member's view about the substance of the bill.

I thank the member for Mitchell for reporting on the Penola meeting and the member for Frome for attending. I chose a very good reason not to attend that meeting. I asked the Hon. Mr Parnell to put that meeting off for a fortnight because I believed it would then have allowed me to put before the public the very material that will appear in *Hansard* today. Equally, as a consequence of that, it would have allowed me, ahead of the select committee's visiting Penola, to convene in Penola a public meeting so that anyone could question any of the matters in the bill, as well as questioning the technical agencies and individuals responsible for matters in the bill.

That meeting has been set up for 14 June in Penola. The public commitment we gave at the time of the most recent meeting was that, at the appropriate time, all the information would be put in front of anyone who wished to engage in the process, either through a briefing and a question and answer session with key agencies and experts or in terms of making a submission to the select committee. I also acknowledge that the member for MacKillop and the member for Mitchell have agreed to be on that select committee, and I am grateful to them for doing so.

Bill read a second time and referred to a select committee consisting of the Hons R.G. Kerin, S.W. Key and R.J. McEwen and Messrs Hanna, Kenyon and Williams; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 24 July.

The Hon. R.J. McEWEN: I move:

That standing order 339 be and remain so far suspended as to enable the select committee to authorise the disclosure or publication, as it sees fit, of any evidence presented to the committee prior to such evidence being reported to the house.

The SPEAKER: There not being an absolute majority of members present, ring the bills.

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

Motion carried.

The Hon. R.J. McEWEN (Minister for Forests): I table the Penola Pulp Mill Pty Ltd report, May 2007, by the Penola pulp mill proponents, for the Penola Pulp Mill Authorisation Bill.

COLLECTIONS FOR CHARITABLE PURPOSES (MISCELLANEOUS) AMENDMENT BILL

The Hon. P. CAICA (Minister for Gambling) obtained leave and introduced a bill for an act to amend the Collections for Charitable Purposes Act 1939. Read a first time.

The Hon. P. CAICA: I move:

That this bill be now read a second time.

The Collections for Charitable Purposes Act 1939 provides for the regulation of persons soliciting money or goods for certain charitable purposes. The Collections for Charitable Purposes Act 1939 does not regulate gambling, but is committed to the Minister for Gambling because many of the charities that conduct gambling activities under the Lottery and Gaming Act 1936, which is also committed to the Minister for Gambling, are licensed under the Collections for Charitable Purposes Act 1939.

There has been concern from the public regarding the lack of disclosure by charities and their collectors. Information about the cost of collections is generally not provided or made available to donors. Concern has been expressed about whether collectors are volunteers or paid collectors, and about the application of donations to the charitable purpose. The recent appeals for Tsunami and Eyre Peninsula bushfire victims and the Cherie Blair visit also raised the profile of this issue.

The bill provides for increased disclosure requirements for charity collections and a number of other administrative and technical amendments. The new disclosure requirements for charities in the amendment bill focus on the overall use of funds by the charity and improved disclosure at the point of collection of funds. The public availability of this information via the annual income and expenditure statement on the Office of the Liquor and Gambling Commissioner web site would also put pressure on charities to ensure they maximise the proportion of the donations received that are applied to the intended charitable purpose. The annual income and expenditure statements submitted by licensees will be simplified for this purpose.

The amendments also propose that collectors have information available to provide to prospective donors when soliciting for donations, whether by door to door, telephone canvassing, collection tins and by the sale of tickets in public places. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

At the time the collector invites a potential donor to contribute to a charity, the prospective donor should also be able to seek sufficient information to make an informed decision about that donation.

The Cherie Blair function raised the same disclosure issues for events and entertainment. The amendments equally propose to improve transparency and consumer information in those circumstances. Specifically it is proposed to make it a requirement that when a charity sells tickets to an event the advertising and tickets must display the estimated amount and the proportion of intended sales revenue that will be provided to the specified charity.

The Bill also includes amendments of a statue law revision nature to update the language of the 1939 Act.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Collections for Charitable Purposes Act 1939*

4—Amendment of section 4—Interpretation

This clause amends section 4 to insert definitions used in the measure.

5—Substitution of sections 6, 6A and 7

This clause substitutes new provisions as follows:

5—Delegation by Minister

This provision provides a delegation power for the Minister.

6—Collectors must be authorised by licence

This provision is a rewrite of the current section 6. Because of the introduction of new defined terms in section 4 and the proposed new evidentiary provision (section 18C), much of the current detail in the section is no longer necessary.

6A—Licence requirements where collection contract entered into

This provision is a rewrite of the current section 6A (because of the introduction of new defined terms in section 4).

6B—Disclosure requirements for collectors—unattended collection boxes

This provision provides new disclosure requirements relating to unattended collection boxes (being boxes placed for the collection of money and not attended by the holder of a licence under the Act) and, in particular, requires such a collection box to be marked with the name of and contact details for the holder of the relevant licence under the Act and certain other specified information. The provision creates an offence for collectors who fail to comply with the new requirements (punishable by a Division 7 fine), however this offence applies only to paid collectors and not volunteers. The provision also requires licence holders to take reasonable steps to ensure collectors are aware of the new requirements and to provide the necessary information and documents to collectors (whether paid or volunteers). Failure to comply is an offence by the licence holder (punishable by a Division 6 fine).

6C—Disclosure requirements for collectors—other collections

This provision provides new disclosure requirements for other collectors and, in particular, requires collectors to disclose their name, or an identification number, and whether or not they are being paid. In addition, the provision requires certain other information to be provided on request. The provision creates offences for collectors who fail to comply with the new requirements (punishable by a Division 7 fine), however these offences apply only to paid collectors and not volunteers. The provision also requires licence holders to take reasonable steps to ensure collectors are aware of the new requirements and to provide the necessary information and documents to collectors (whether paid or volunteers). Failure to comply is an offence by the licence holder (punishable by a Division 6 fine).

7—Licence required in relation to certain entertainments

This provision rewrites the current requirements of section 7 (as has been done for the other licensing provisions of the Act in sections 6 and 6A) and introduces new disclosure requirements in relation to certain charitable entertainments to which the provision applies. If a speaker or performer at an entertainment is to be paid a fee or commission, or provided with other consideration, of an amount that exceeds, or is likely to exceed, $5000 (or an amount prescribed by regulation), the licence holder must, on request, disclose the amount. Failure to comply with the provision is an offence punishable by a Division 6 fine. In addition new disclosure requirements will apply to advertising for such entertainments and failure to comply with these requirements is an offence by the person conducting the event (punishable by a Division 6 fine).

6—Amendment of section 12—Conditions of licence etc

This clause amends section 12 to update the language used in the provision, to give the Minister power to vary licence conditions or add new conditions and to extend the Minister's power to revoke a licence in section 12(4)(b) to a situation where excessive commission has been paid to a person acting in connection with the conduct of an entertainment to which the licence relates.

7—Substitution of section 15
This clause inserts new provisions as follows:
15—Accounts, statements and audit
This provision sets out the requirements for licensees in relation to accounts and audit, and the provision of accounts and other financial information to the Minister. Failure to comply with the section is an offence punishable by a Division 6 fine. The provision also requires the Minister to publish information received under the provision on a website.
15A—Appointment of inspectors
This provision allows the Minister to appoint inspectors for the purposes of the Act and for the inspectors to be provided with identity cards (which must be produced on request).
15B—Powers of inspectors
This provision sets out the powers of inspectors.
15C—False and misleading statements
This provision makes it an offence to make a false or misleading statement in information provided under the Act (punishable by a Division 6 fine).
15D—Dishonest, deceptive or misleading conduct
This provision makes it an offence to act in a dishonest, deceptive or misleading manner in the conduct of an activity that is, or is required to be, authorised by a licence under the Act (punishable by a Division 5 fine or Division 5 imprisonment).
8—Substitution of section 18
This clause substitutes new provisions in the principal Act as follows:
18—Exemptions
This provision allows the Minister to grant exemptions.
18A—Immunity of persons engaged in administration of Act
This provision is consequential to the new provisions on inspectors and provides for immunity from personal liability for persons engaged in the administration of the Act (with liability instead lying against the Crown).
18B—Service of notices etc
This provision sets out the manner in which notices and other documents may be served under the Act.
18C—Evidentiary
This provision provides an evidentiary presumption in relation to certain matters alleged in a complaint.
Schedule 1—Statute law revision amendment of *Collections for Charitable Purposes Act 1939*
The Schedule makes various amendments of a statute law revision nature to the principal Act.

Mr WILLIAMS secured the adjournment of the debate.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

In committee.
(Continued from 26 March. Page 2263.)

Clauses 2 and 3 passed.
Clause 4.

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

Page 2, lines 16 to 20—
Delete paragraphs (a) and (b) and substitute:
(a) In the case of an offence where the defendant is a body corporate or an administrative unit in the Public Service of the state—a fine not exceeding the amount in column 3; or
(b) in any other case—a fine not exceeding the amount in column 2.

This creates an offence for a body corporate and the public sector. That is probably all I need to say about that at this stage. What we have established is a separation between fines for an individual and fines for a corporation, and also included the public sector in that.

Mr WILLIAMS: This clause raises a number of questions, the first one being, as the minister said in his second reading, that this arose from a recommendation. From memory, I think he said it was recommendation 30 (but I suspect it was actually recommendation 31) of the Stanley report, which recommended that the government look at the penalty regime within the act and referred to another piece of legislation, which I think was the dangerous goods legislation, and suggested that we use a similar approach. Notwithstanding that, the penalties under this act were last increased by a bill, the second reading of which was given on 28 November 2000. At that time the penalties were doubled from the 1986 position. I understand, on reading that second reading speech, that the penalties had remained unchanged from 1986 to 2000. They were doubled at that point and shortly thereafter, within a couple of years, the Stanley report recommended that we look at them again.

The minister, in his second reading, claimed that one of the reasons for doing so, other than the recommendation of the Stanley report, but I guess second-guessing where the Stanley report recommendation came from, was that it would bring us into line with other jurisdictions. I pointed out in my second reading contribution that, in South Australia, section 19 differentiates our legislation quite markedly from that which occurs in other states, in so much as section 19 states that the penalty can be applied in respect of each person that is endangered by an incident. I pointed out that you may have an incident where there are 10 or 15 people who are endangered, and I used the example of a forklift with a leaky gas pipeline, or something was leaking gas into a warehouse, and you might have 10 people working in the warehouse. The penalty, as I read the act, under section 19 could be applied 10 times in the case of that incident, whereas interstate acts talk about 'the endangering incident' rather than the number of people involved, and consequently their penalty might only be applied once to each single incident.

There are two points I am making here and I would like the minister to respond. First, the Stanley review came only a couple of years after the last increase in penalties, which at that time was a doubling of the penalties. Secondly, how is it that we can compare the South Australian situation to that interstate, when section 19 of the act clearly states that the penalties are applied in a completely different fashion than they are interstate? What evidence can the minister give to the committee to suggest that there is a need to increase the penalty, that is, that the existing penalties are just not working and that, in fact, the interstate experience indicates that a higher penalty may achieve a better result?

The Hon. M.J. WRIGHT: There are two components. Yes, what the shadow minister puts forward is the case, that an offence can occur per individual. However, courts do have regard to the single course of conduct and discount the penalty. So, it is very much with the jurisdiction of the court as to whether that which is the case in theory would occur in practice.

In regard to the second issue that has been raised by the shadow minister, he is right: I think he said 2000, but I think it was 2001 that penalties were last increased. Since that time, most, if not all, other jurisdictions have increased their penalties. We do lag behind other jurisdictions. If this bill was successful, it would put us into the middle of the pack. Although the shadow minister has not asked the question yet—and he will ask the question anyway—I think he is also

asking why we increase it for corporations and not for individuals. There is a range of reasons. If we look at other jurisdictions, we see that most of them have recognised the distinction that exists between corporations and individuals.

Mr WILLIAMS: Obviously the minister is very wise: he pre-empted my very next question. He said that most other jurisdictions have recognised the distinction between corporations and individuals. I presume 'individuals' refers to people who run a business as a sole trader and/or as a partnership, as opposed to a corporation. He said that they have recognised the difference. I do not recognise the difference. I fail to understand the difference.

In his second reading explanation, the minister indicated that the preset on which our legislation is built is that it is not about retribution: it is about establishing that people will do what they can to ensure that workplaces are safe. So, it is encouraging people to have a safe workplace rather than being retributive after the event, when something has gone horribly wrong and somebody has been injured.

I would have thought—and, again, I discussed this in my second reading contribution—that it made no difference as to what was the business structure behind the employment, in terms of whether or not the person concerned provided a safe workplace. I cannot, for the life of me, understand how we can claim that, because a business operates as a corporate entity, it should face a different penalty than another business that operates as a sole trader or a partnership. My understanding of the business world is that there are some very big corporations. One might be forgiven for thinking that they had substantial economic power and that, if a penalty was going to be imposed, it had to be significant to have an influence on that particular business.

The reality is that there is a handful of very large corporations, but the Australian business scene is characterised by small and medium enterprises. I think something like 85 per cent of employment in this nation is through the small and medium enterprise sector. That involves corporations, sole traders, partnerships—a whole variety of business set-ups behind the operation. But I contend that all of them should have the same obligation to provide a safe workplace. I still fail to see why the minister says that there has been a recognition of the difference between a corporation and another business entity. I do not believe there is any, except at the very large end.

The reality is that there are many corporations or business enterprises working as a corporation that are barely making a go of it, and they go bankrupt on a regular basis, as do sole traders and partnerships. On the other hand, there are undoubtedly a number of sole trader businesses that are quite significant and do have quite considerable economic power. So, I still fail to understand the distinction (I would love the minister to express it here in the house) and why we would want to build that distinction into the legislation—particularly in light of the fact that the minister stated that our legislation is predicated on providing a safe workplace and not on being retributive after the fact.

The Hon. M.J. WRIGHT: That is true—we certainly do want safe workplaces, and prevention is the best form of cure—however, as I have said before in previous debates, with occupational health, safety and welfare we put a range of measures in place, whether they be educative or punitive.

I think there are a few points here which will not necessarily convince the shadow minister but which will, I hope, at least demonstrate a difference in philosophy. Having higher penalties for a body corporate and the public sector recognises the difference between their resources and economic circumstances compared to an individual. What goes with that is the acknowledgment of the responsibility of corporations and the public sector to lead the community by example and adopt a culture of safety in their respective organisations. Of course, it also addresses community concerns about the inadequacies of the current penalties. That theme has come through strongly, and what we cannot argue with (because it has been demonstrated) is that, in 2004-05, 25 of 28 convictions were of corporations.

The other point, which I made earlier, is that most jurisdictions have recognised the distinction between corporations and individuals. I think we have a difference in philosophy here, so those points will not necessarily convince the member but they will perhaps demonstrate some of the reasons we have separated individuals and corporations. The last point I would like to make relates to partnerships. Every member of a partnership could be liable, so, if you had half a dozen partners they may all get hit with that particular fine, and that would, of course, amount to a much larger number.

Mr WILLIAMS: In listening to the minister's answer, I note that he has again failed to outline the distinction between a body corporate and a sole trader or a partnership—to my mind, at least. However, another point I want to raise (again, I canvassed this in my second reading contribution so the minister should be aware of it) is that one of the things the standing report noted was that any increase in fines should not be taken in isolation. It talked about a range of other initiatives that might be taken in this area.

The minister would be well aware of this because he brought the legislation through the house back in 2004 when he introduced non-pecuniary penalties for breaches of the act. On 15 September 2004 during his second reading speech on that piece of legislation the minister said:

> Consistent with contemporary practices being considered or implemented in interstate jurisdictions, the bill proposes that a new provision for a non-monetary penalty regime be established to provide further options for the courts when convictions for occupational health and safety breaches occur. The non-monetary penalties contained in the bill include:
> - requiring specified training and education programs to be undertaken;
> - requiring the organisation to carry out a specified activity or project to improve occupational health and safety in the State, or in a particular industry or region; or
> - requiring that the offence is publicised—this could include a requirement to notify shareholders.

The standing report recommends that increasing penalties should not be taken in isolation. Back in 2004 the minister introduced legislation and amended the act to allow for non-pecuniary or non-monetary penalties. I am also told (I am assuming that my information is correct) that the court has, to this point, not used those non-monetary penalties in any case. Why is the minister now doing just what the Stanley report suggested he not do? Why, some two years after having a different penalty regime, the effectiveness of which has been untested, are we going back to saying, 'Let's increase the penalties'?

Going back to my earlier point, minister, one of the reasons I fail to see the difference between a corporation and another business entity is that, in making that distinction you are asking the court to make a determination on the ability of the business to pay the fine. Again, I believe you are ignoring what you said in your second reading explanation about the act being predicated on encouraging people to have a safe workplace and going down the path of being vindictive and

imposing a fine, which is about retribution rather than ensuring that we do our utmost to make sure that injury does not occur in the first place. Again, I do not believe that the committee has received a proper answer on that point.

I put to the committee a second point: that the non-pecuniary or non-monetary path does not seem to have been tested in the South Australian context. Why has the minister not encouraged the courts to test that particular set of penalties to show the effectiveness of it before taking the path of simply increasing the penalties, and increasing them in a way which I think is discriminatory and dependent on the way the business enterprise has been set up?

The Hon. M.J. WRIGHT: It is true that we do not have a prosecution in place as a result of the penalties to which the member refers, but what is important is that they are in place. It is an option for the defendant or prosecution to advocate. I am sure, as time goes by, we are likely to see (whether it be in any of those components to which the shadow minister referred) that option being taken up. Sometimes, as the member would be well aware, once legislation is introduced it takes time before it is implemented.

It is not correct, however, to make an assertion that we are simply now coming forward with some sort of legislation which, in isolation, increases penalties. Not only did the 2005 legislation put in place non-monetary penalties, but it did much more. I will not go through them all but, for example, one of the big ticket items was that it brought occupational health, safety and welfare under the one umbrella.

Members would be aware, particularly members who have an interest in this area, that previously some occupational health, safety and welfare was being done by WorkCover and some by Workplace Services, as it was then called. By bringing it under the one umbrella under the new SafeWork SA, what has been provided is not only greater efficiency but greater certainty for employees and employers. We have increased training as a result of that legislation.

Of course, the other thing that is fundamental to this debate—which this government has supported by putting forward money—is to increase expenditure considerably in regard to occupational health, safety and welfare inspectors. We increased the number of inspectors by 50 per cent, providing an additional $3.5 million per annum each and every year. So, a whole range of things has been done already, whether it be a significant increase in the budget for inspectors who are out there at the coalface, whether it be a major policy change by making sure that all occupational health, safety and welfare comes under the one umbrella, or whether it be by increasing and changing the training requirements for delegates and others, including officers that work for businesses.

The other thing, of course, as the member has indicated, is that we have made changes to non-monetary penalties. Now we are making changes to monetary penalties to, in the main, differentiate between individuals and corporations, as is the case in most other jurisdictions.

Amendment carried; clause as amended passed.

Clause 5.

Mr WILLIAMS: Before I move my amendment, I note that clause 5 is an extensive clause, and it inserts new sections 59, 59A, 59B, 59C and 59D, each of which has quite substantial amendments. I ask that the committee treats those separately.

The CHAIR: Yes, the committee will, especially given the number of amendments.

New section 59.

Mr WILLIAMS: Thank you, Madam Chair. I think it will make it easier for everybody concerned. I move:

Page 3, lines 5 to 13—
Delete proposed subsections (1) and (2) and substitute:

(1) A person must not, without lawful excuse, recklessly act in a manner that places, or may place, another person who is at a workplace in danger of serious injury.

Maximum penalty:

(a) in the case of a natural person—imprisonment for 5 years or double the Division 1 fine;

(b) in the case of a body corporate—double the Division 1 fine.

With regard to my amendment, I offer the minister a small apology because I think in my second reading speech I indicated that we would not bother moving the amendment in this place and that we would reserve our right to move this amendment in the other place. In the time elapsed between the minister's putting his own amendments on file, which caused further delay in getting to this committee debate, I have taken the decision to bring on my amendments in this house to test them. That is the explanation of why I have had a change of heart since my second reading speech.

Principally, I am seeking that the committee do to the bill what the SafeWork SA Advisory Committee recommended. It is my understanding that the minister sought advice from the SafeWork SA Advisory Committee, and that committee, as the minister has attested to himself in the house, was the subject of significant debate. At that time, both here and in the other place, the government gave what I think the parliament could only consider as the impression that this was a very important committee and that it would be important for the minister to have the committee and its wisdom to hand when making decisions. This is one of the principal functions of the committee in the current act, to come up with recommendations and draft legislation to improve the legislation.

As to section 59, I accept that there has been a failure because I do not think there has been one conviction in the history of this act under this section. The opposition and the members of the business community that I have discussed this with do not have any problem with fixing up this section to allow prosecutions to be carried forth and to be successful in the instances when there are serious breaches of the act. Let us not lose sight of the fact that section 59 is about an aggravated offence. It is designed to catch those very serious breaches which fall through the cracks of the other provisions of the act. It is about being able to come along basically as a sweeper to collect the offences that have fallen through the cracks that have been unable to be successfully prosecuted under other parts of the act, and to act as a sweeper or a general cure-all for those offences.

As to the proposition the minister put in the bill that was first tabled in the house, the opposition and the business community are both somewhat pleased to see the amendments the minister has since tabled. The bill has been described to me as 'not so bad', but it has still been described to me as quite a bad piece of legislation. I am endeavouring to reflect what the minister's own advisory committee recommended to him; that is, to put it in verbatim what is in the Victorian act.

The amendment I have presented to the committee I suspect is lifted word for word from the Victorian act, although there may be slight changes, as parliamentary counsel may have tinkered with it around the edges. I am told that the Victorian act, particularly this part, works very well. It has been tested, precedents have been set by the courts, and they do not have any problems with it. It is working in that

jurisdiction. That is, indeed, why the SafeWork Advisory Committee recommended that we go down this path.

At this point, I will speak to my amendment and not to the minister's original clause or his amendment. I will come back to those after we have tested this amendment. I want to assure the committee that this amendment is what the SafeWork Advisory Committee recommended. The committee is made up of an equal number of members representing the union movement and the business community. It is not a Mickey Mouse committee. It looked at this issue in a very professional manner and came up with what it believed was a fair and reasonable change. It recognised that, under the existing section 59, the burden of proof had never been met and was unlikely to be met in the court situation, and it was quite happy to see that it be changed to capture those people who can only be referred to as OH&S cowboys.

I seriously urge the minister to accept my amendment and, in doing so, accept the advice he has received from his own advisory committee and at least put it into the principal act and see how it works. I will come back to this point in a moment, because the alternative of the minister's bill is to put into the act, I believe, another set of words which, I am told, the legal fraternity will struggle with and which will most likely fail again, as the current wording has failed for the last 20 years.

The Hon. M.J. WRIGHT: The government does not support the amendment put forward by the opposition for a number of reasons. The removal of the term 'knowingly' from such a serious offence is not consistent with established criminal law principles, as it does not cover all forms of a person's conduct. Also, the amendment does not classify the offence. Is it meant to be an indictable or a summary offence? Knowingly to act in a manner with disregard to the safety of others is reprehensible, and why you would want to take that out I am not sure.

The shadow minister refers to the Victorian provision (section 32, I believe). What we have done is to build on that and come up with a better clause. I think what is in dispute here is whether or not the word 'knowingly' goes in. I would have thought that, if someone does something knowingly, it is more reprehensible than doing it recklessly. We have a clear point of difference here. The shadow minister refers to the SafeWork SA Advisory Committee. They have referred to the Victorian legislation, but they have not suggested that I need to follow it slavishly. In fact, we believe that without the word 'knowingly' we would be going forward with legislation which is less than what it should be; and for that reason we do not support the amendment put forward by the shadow minister.

Mr WILLIAMS: Unfortunately, I am not legally trained, but my understanding is that it is a principle of criminal law that every criminal offence must be composed of two elements: the physical act and the mental act. The only reason I am aware of this is that I did a fair bit of research, probably nine or 10 years ago, when I first came into this place. The then opposition attorney-general (the now Attorney-General) was raising a matter about the drunks defence—a matter which I raised in my maiden speech in this place. The then opposition attorney-general approached me after that, and I spent a considerable amount of time researching this legal principle. It is one of the few principles of which I have an understanding. I totally disagree with what the minister has just told the committee. My understanding of criminal law is that, in order to gain a conviction, the 'knowingly' part is automatic. The court has to determine in every case that the mental aspect of the crime was a part of the crime.

The problem that the minister has with his proposition is that he moves into a whole new field. My understanding is that there is no legal precedence for the phrase 'knowingly or recklessly'. The problem to date is that we have had 'knowingly and recklessly' and the courts have been unable to interpret it, or the prosecution has been unable to prove the case with 'knowingly and recklessly'. The minister is now calling it 'knowingly or recklessly'. Again, it is terminology which to my understanding has no legal precedence; and that is why I say that I do not think we are improving section 59.

We will be treading water and the courts, after much consideration and deliberation, will fail to achieve convictions under new section 59. The term 'reckless act' (as used in the Victorian legislation) does have plenty of legal precedence. It is understood by prosecutors and the courts, and when there are prosecutions before the courts I believe everyone involved will know what is happening and will be able to proceed down that path with some confidence that they all are talking about the same thing and the same meaning of what parliament is trying to establish, whereas the minister's 'knowingly or recklessly' opens up a new area of debate and introduces uncertainty into the legal process.

The Hon. M.J. WRIGHT: We are talking about replacing the old aggravated offence, which was 'knowingly and recklessly', where we never had a prosecution and it simply was not working. The clear advice is to have knowingly or recklessly. They are two different concepts. They are alternatives. Both involve the need to demonstrate a level of knowledge but are different concepts and well established in the criminal law. So, the advice that we received from Crown Law is, unlike the old aggravated offence which simply did not work, that this will work. The other advice is that we have built on the Victorian legislation. I am not so sure, by the way, how well that Victorian legislation has worked. So, we think this provision is perfectly sensible and that it will work in practice.

Mr HANNA: I would say to the member for MacKillop that all sides in this chamber are agreed that there is a problem with employers who recklessly act in a manner seriously endangering the health of their employees. So, the word 'recklessly' is not in issue. What the government is adding is the concept of knowingly creating a danger. Knowingly creating a danger must be more serious than recklessly doing it, because this is a situation where a person actually knows they are doing the wrong thing. It is not that they do not care or think about it, but they actually know they are doing the wrong thing. So, I wonder why anyone would object to adding to that clause a word which captures a more serious form of behaviour. In other words, I cannot really understand why the Liberal opposition would want to take that out.

Mr WILLIAMS: I thank the member for Mitchell for making that point, because it reminds me of the following piece of information that was again put to an untrained legal mind, as mine is: what does the word 'knowingly' refer to?

Mr Hanna: It means you are knowingly doing something wrong.

Mr WILLIAMS: No, it does not. The clause says that a person must not knowingly or recklessly act in a manner. Does it refer to the fact that you knew that you acted but you did not know the act was going to cause an endangerment, or does it mean that you knew you did the act and you knew that in doing so you caused the endangerment? The problem that

has been put to me is that the way the court may interpret it is that you knew you did the act—obviously, if you had done the act the reality is that you would know you had done it—but you may have done it in complete innocence of knowing that in committing the act it was going to cause endangerment. That is how it has been put to me, in that if we insert the word 'knowingly' with the word 'recklessly' it opens it up to uncertain legal interpretation.

The word 'recklessly', as I have said and repeated a number of times, already has legal standing. People know what it means and, as the member rightly pointed out, under the basic principle of criminal law both the physical element of the act and also the mental element of the act are already something which courts know their way around. They already know that if you recklessly do something it is implied that you recklessly did it knowing that you were doing it. In fact, you would have to establish that you did it knowingly as part of building the case that you were reckless, that the mental act was part and parcel of the total act being those elements—the mental act and the physical act. So, I argue that just using the word 'recklessly' does in fact cover all the instances and does not introduce a new offence and a new element for lawyers and courts to try to grapple with.

Progress reported; committee to sit again.

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

POLICE, PORT NEILL

A petition signed by 184 residents of South Australia, requesting the house to urge the government to provide a full time residing police officer for the township of Port Neill for up to three weeks commencing from 30 December 2007, annually, was presented by Mrs Penfold.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

South Australian Council on Reproductive Technology—Report 2006

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

Rules—

Workers Rehabilitation and Compensation—Conciliation Conference.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens): I bring up the second report of the committee.

Report received.

QUESTION TIME

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): My question is to the Premier. Why has the Premier decided to defer legislative changes to WorkCover until 2008, despite the urgent action needed to rescue the scheme from $1 billion of unfunded debt; and why has he decided that a review must be held to report late this year, thus ensuring that legislative changes are unlikely to come before the house before 2008?

The Hon. M.D. RANN (Premier): There is a sense of deja vu about this. The press release that was put out by the Leader of the Opposition today is very reminiscent of some that he put out a few weeks ago when we dealt with this issue. The government has already announced a major review of WorkCover. The government has recognised, following advice from the board, that there are issues in WorkCover that need to be addressed to make it more competitive. We have announced a review of WorkCover, and we are going to fix it.

CRANFIELD UNIVERSITY

The Hon. L. STEVENS (Little Para): My question is to the Premier. Will the Premier say how Cranfield University's decision to establish in South Australia will benefit the state, especially in relation to our burgeoning defence industry?

The Hon. M.D. RANN (Premier): I thank the member for—

Ms Chapman interjecting:

The Hon. M.D. RANN: The Deputy Leader of the Opposition has just attacked South Australia's universities. Perhaps if she bothered to find out, she would know that the University of South Australia has actually been partnering with Cranfield University. Cranfield University is one of the world's great defence universities: it is a specialist university on defence.

Ms Chapman interjecting:

The Hon. M.D. RANN: She is now criticising Carnegie Mellon, which the Prime Minister and Alexander Downer say is one of the great things that are happening. So, again, there is another split in the Liberal Party.

Ms Chapman interjecting:

The Hon. M.D. RANN: Of course, the Liberals are delaying a joint sitting of the upper and lower house to avoid appointing a senator, because they have a monumental blue going on about who will be the senator. I understand that they have even commissioned a lawyer to try to sort it out.

Mrs REDMOND: On a point of order, Mr Speaker.

The SPEAKER: Order! I think I know what the point of order is—

Mrs Redmond: I am sure you do, Mr Speaker.

The SPEAKER: —and I uphold it. The Premier must answer the substance of the question.

The Hon. K.O. Foley: They can't be loyal to their leader.

The Hon. M.D. RANN: That is right; they cannot be loyal to their leader, and now they cannot pick a senator. I am happy to offer my services as a negotiator.

Members interjecting:

The SPEAKER: Order! I have already directed the Premier to go to the substance of the question.

The Hon. M.D. RANN: Okay. I am delighted that Britain's top defence industry institution, Cranfield University, will establish a branch in Adelaide offering special courses in defence education. The feedback from the defence industry—Australian, US and British companies that are here and involved in a series of defence projects—has been outstanding. It will be only the second overseas university to establish anywhere in Australia, following the opening last year of Carnegie Mellon University, offering US degrees in Adelaide.

Cranfield offers only postgraduate degrees. So, there is no competition for undergraduate placements, which is the case with Carnegie Mellon. In fact, Cranfield University is a British university that offers only postgraduate degrees.

During a special tour of Cranfield's Shrivingham campus, I joined Cranfield's Vice-Chancellor, Professor Sir John O'Reilly, in signing an agreement to jointly fund the Business Development Office in SA to kick-start its Australian operations at a cost of $1.5 million over three years. The deal comes a year after I first visited Cranfield University and signed an initial heads of agreement. That agreement led to the delivery in Adelaide of two short-course executive programs—integrated logistical support and electronic warfare—in March and April this year.

Following the new agreement, Cranfield will immediately seek to register in South Australia as a foreign university under Australian federal law. I want to pay tribute to the Prime Minister, John Howard, and to Alexander Downer and the federal Labor Party who combined to change federal law to allow Carnegie Mellon to come here. Bipartisanship at the federal level: what a shame it does not happen here! During the initial three-year business development period, Cranfield will continue to teach a wider range of executive short courses, begin teaching dual postgraduate degrees with existing South Australian universities, and commence teaching specialist defence-related masters degrees.

When I first visited Cranfield about 12 months ago, I was impressed with the university's close ties with the military and defence companies, and how their research and courses are designed and taught to cater for precise capability requirements. This is exactly the model Australia's burgeoning defence industry is following. The decision to bring one of Europe's top defence institutions to Adelaide to address not just specific military capability gaps but to underpin a growing reputation as Australia's university city of the future was not difficult.

Whilst I in London, I also met with the University College London (UCL) Provost, Professor Malcolm Grant, and agreed to fund a major market research report as one of the final pieces in a feasibility study, which we hope will lead to UCL also establishing a campus in Adelaide. Because I want to be fair to the other side, presumably members would know that University College London, along with the London School of Economics, rates after Oxford and Cambridge as one of Europe's great universities, and would be aware of its Nobel Prize winners. They would also be aware, of course, that Mahatma Gandhi was one of its graduates.

Along with Oxford and Cambridge, as I say, UCL is one of Britain's top five universities and counts 19 Nobel Prize winners among its former staff and students. UCL has great strength in areas such as environmental law and energy and economics, and this year has 19 300 students enrolled across 72 departments and eight faculties.

Senior UCL academic staff will be visiting Adelaide in the coming weeks. I am delighted that both Cranfield and UCL see the strength of the state's vision to become a leading global education city and that they are keen to join Carnegie Mellon in Adelaide as our next foreign university. I say to the opposition: look at the results of today's Bank SA survey in terms of confidence. Look at the results of the KPMG Australia-wide survey. Once again, Adelaide is No. 1, and what we have to do is keep our foot on the accelerator to ensure we keep getting results, because the people of this state are saying to the doom watchers and the whingers, 'Stop knocking our state and join with us in moving forward for the benefit of all South Australians.'

VISITORS TO PARLIAMENT

The SPEAKER: I draw to members' attention the presence in the gallery today of students from Para Vista Primary School, who are guests of the member for Florey.

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): My question is again to the Premier. Has not the Premier's political game over WorkCover cost South Australian taxpayers over $1 million a day since he first received advice in November last year from the board on actions he needed to take to fix the scheme; and is that not an act of negligence which could have been avoided if responsible action had been taken by the minister and the Premier? South Australian employers have been publicly cited, indicating that by 30 June 2007 the unfunded liability of WorkCover will reach $1 billion, up from $722 million in November 2006—a gap of over 200 days from first notice to government of the fiscal blow-out until 30 June 2007.

The SPEAKER: Before I call the Premier or the minister, I point out to the Leader of the Opposition that standing orders prohibit the use of argument or debate in the question, as well as the answer.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): The government has already announced a landmark review of the workers compensation scheme. This will be the first of its kind in the 20-year history of the WorkCover scheme. Two leading experts, Alan Clayton and John Walsh, will be heading this review. It is interesting what the Leader of the Opposition now says, because what he said on Leon Byner's program recently was that he would have to wait to see what the review came up with. However, he now seems to be wanting to pre-empt the review. The Leader of the Opposition needs to be reminded that this is a review of the system. WorkCover has put forward some recommendations regarding legislation. That is an important starting point, but we are now embarking upon an assessment of the fundamentals of the scheme. We are looking at how we can increase the return to work. We are looking at the organisational capabilities of key players. We are looking at the fundamentals that this former government (the current opposition) never looked at—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: —and fundamental to the core problems of the unfunded liability of WorkCover is the poor return to work factor which the former government never addressed.

Members interjecting:

The SPEAKER: Order!

MIGRANTS, ASIAN

Mr KENYON (Newland): My question is to the Treasurer. Will the Treasurer advise what measures the state government is taking to achieve population growth and, in particular, attract business migrants from Asia?

Ms Chapman interjecting:

The Hon. K.O. FOLEY (Treasurer): Yes, the deputy leader is correct, bringing foreign universities into our state—

Ms Chapman: Which we pay for.

The Hon. K.O. FOLEY: —by bringing Cranfield and Carnegie Mellon—I understand its first graduation was last week.

Mrs Redmond: Six graduates.

The Hon. K.O. FOLEY: It is a new university. They are now ridiculing the Carnegie Mellon—

Members interjecting:

The SPEAKER: Order!

Ms Chapman: It's a joke.

The Hon. K.O. FOLEY: The Deputy Leader of the Opposition is calling Carnegie Mellon a joke. We have a very narrow-minded, small-town attitude opposition which is more suited to local council and local government than representing the Liberal Party in this parliament. They are more suited to the Burnside council chambers than the state parliament of South Australia.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Point of order, Mr Speaker: the debate that the Deputy Premier is entering is neither relevant nor allowed in question time, as you just ruled a few minutes ago.

Mr Venning interjecting:

The SPEAKER: Order! I do not require the assistance of the member for Schubert. The Treasurer was entering into debate, but I point out to members on my left that, if they persist interjecting and heckling while the minister is attempting to answer a question, it is a bit rich for them to complain when the minister responds to those interjections by way of debate.

The Hon. K.O. FOLEY: Thank you, sir. I am just trying to lift the quality of debate in this parliament. The deputy leader said that she is staying here; she is not going anywhere. Trust me—I do not want her to go anywhere. As long as she is my counterpart over there, I look forward to every day in this parliament.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Get used to it? Yes, I will. I will get used to you being over there and me being here. Trust me, I am used to it and I am happy to remain used to it. The Department of Trade and Economic Development undertakes many activities to contribute towards the state's population and migration targets.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Mr Speaker, the opposition over there is the equivalent of the Burnside City Council. The biggest threat confronting this state is the ageing of our population.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Where did they get her from?

Mr Koutsantonis: Burnside!

The Hon. K.O. FOLEY: Burnside, okay.

Ms Chapman interjecting:

The Hon. K.O. FOLEY: Just keep writing your bills there and signing cheques. Obviously question time is important to the deputy leader—she is paying her bills. Jeepers!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: How can I take an opposition seriously when the deputy leader is paying her bills and writing cheques?

Ms Chapman: It is your tax, actually.

The Hon. K.O. FOLEY: Fair dinkum! Anyway, the government is aggressively promoting migration into our state. Last year, in particular, we had the best immigration into our state than we have had for many decades. In particular, a prime target market for us is Asia and, clearly, China. Last year 900 permanent migrants from China arrived in South Australia, an increase of some 700 per cent in the three years since 2002-03. To address the ageing of our population and, importantly, the skills shortage, an active program bringing people from around the world to Adelaide and to South Australia is vitally important.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: Recently when I visited China the government held a number of business seminars promoting South Australia as a migration centre. In fact, in Adelaide now 60 potential business migrants are looking at investment and wealth creation opportunities, and our Department of Trade and Economic Development is showcasing many business opportunities for these business migrants. As appears on the front page of *The Advertiser* today—one of the only front pages that has been correct for the last couple of weeks—South Australia's—

An honourable member interjecting:

The Hon. K.O. FOLEY: —well, believe me, or not—economy is in strong shape, confidence is very strong and members opposite say that it has nothing to do with this government. What did the Chairman of Business SA and CEO of BankSA say this morning? He said there was a great level of optimism. Hard decisions have been made by this government, such as the Makris development in O'Connell Street. We have made hard decisions, such as the Victoria Park grandstand and the tram system. Since coming to office, this government has given 23 projects major project status, and we are proud of it. We are developing this state like no other government has in the past, and that means that when Chinese and British migrants, as well as migrants from all around the world, are looking where to invest, Adelaide, South Australia is first on their map. The excuse for an opposition, the pseudo local town council over there, can have their small-town attitudes, they can have their narrowness and their whinging. For as long as they wish to do that, they will forever remain in opposition.

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): When will the Premier prepare a response to Business SA's Program for Reform of WorkCover in SA, recently released? You answer it, Premier. You are the Premier. How many of the 14 recommendations in the report will the Premier agree to? During the 2006 election campaign, the Premier was quick to respond to Business SA's blueprint. He wrote to Peter Vaughan, the Chief Executive of Business SA, and stated:

> We are pleased to support 69 out of Business SA's 78 recommendations.

But so far in regard to Business SA's WorkCover report, the Premier has remained silent.

The Hon. M.D. RANN (Premier): I guess it is a bit like the message that we are supposed to be receiving from the Leader of the Opposition—when he went off 18 months ago to Borneo and Thailand and was going to immediately come back and inform us of the business opportunities. We have been waiting for 18 months. However, let me just say this: Business SA's critique of WorkCover and ideas and advice for WorkCover are being fed in to the current inquiry, and

being mindful that Peter Vaughan, the CEO of Business SA, is a member of the WorkCover Board, which has also given advice to the government, as has been highlighted by the minister. I think that has already been revealed to opposition members. Being desperate and dateless, as they are, they hope that this has been forgotten by the media, who they feel do not have a memory longer than four weeks. I know that that is not the case.

SENATE VACANCY

Mr O'BRIEN (Napier): Will the Premier advise what procedures are in place to select a senator if the relevant political party cannot make up its mind on who shall fill the vacancy, and can the Premier intervene to help?

The Hon. M.D. RANN (Premier): I am from the government and I am here to help. Every member of parliament has just received this, 'Parliament of South Australia—Deferral of Joint Sitting of the Legislative Council and House of Assembly', which states:

> Members are notified that the Joint Sitting of the Legislative Council and the House of Assembly to be held on Thursday, 31 May 2007, at 10 a.m. has been deferred until Wednesday, 6 June 2007, at 10.30 a.m. in the Legislative Council chamber.

I have never seen a joint sitting being deferred before. However, I have taken some advice because I want to help in the interest of bipartisanship. The notice continues:

> Mode of choosing a Senator:
> The President will call for nominations of candidates. (A candidate's written consent to act, if chosen, is a prerequisite of nomination.)
> If only one candidate is nominated, the President will declare him/her to be chosen.

That is what normally happens. Normally, the political party from which the person has just stepped down submits a nomination and we, in a bipartisan way, say, 'Yes, that's the right thing to do.' So, if only one candidate is nominated, the President will declare him/her to be chosen. It continues:

> If two or more candidates are nominated, a ballot will be taken and, if necessary, a further ballot, until one candidate obtains the majority of the votes of the members present—

including the Labor members. It continues:

> In the event of a tie—

and obviously we will have to caucus amongst ourselves—

> there will be a fresh ballot and, if this be ineffectual, the matter will be determined by lot.

Basically picking the name out of a hat. Now, please, sort this out.

The Hon. K.O. Foley: Do we get a conscience vote?

The Hon. M.D. RANN: No, it is not a conscience vote. Well, maybe it should be. That is a good idea. I guess what I am saying is: if you cannot run your own party, how can you ever hope to run a government or a state?

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): Does the Premier agree with the Business SA recommendations for incremental reductions or step-downs in weekly benefits to employees, cut off benefit payments to employees at 104 weeks based on their capacity to work and reducing the maximum weekly benefit? Is that his opinion?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): We value extremely highly the contribution made by Business SA. As the Premier has already announced, that forms one of the submissions that goes to the two leading experts, John Walsh and Alan Clayton, who are undertaking this important body of work for the government. What also underpins this work is the recommendations that have been put forward by the WorkCover Board. The two leading experts have already called for expressions of interest. I think we have received something like 80, they have advertised for submissions, and when I last checked 10 submissions or more had been supplied at that time. I am sure there will be a number of additional submissions, including from other business organisations. That is not to underestimate the importance of the work that has been put forward by Business SA. Needless to say, whether it be a particular point of view by Business SA or a particular recommendation from the WorkCover Board, or from anybody else, the government will not to pre-empt the work being independently done by John Walsh and Alan Clayton.

WANDERING STAR SERVICE

Mrs GERAGHTY (Torrens): Will the Minister for Transport advise the house if there have been criticisms of the changes made by the government to the Wandering Star service? What have been the outcomes of those changes?

Mr Hamilton-Smith interjecting:

The Hon. P.F. CONLON (Minister for Transport): When the Leader of the Opposition is quiet, I am going to do him the credit of referring to some of the comments he has made. It is true that the Wandering Star service (or as it is now known the After Midnight service) has been around in various guises for a long time, and I was concerned towards the end of last year or early this year when the Motor Accident Commission—and we would recall that the Motor Accident Commission funds about half the service—approached us to say that it was concerned about continuing funding because the service was not providing value for money in its view. So, we set out to work with it and, instead of cancelling the service, we set out to make some changes that would make the service more attractive to people, and we made those changes. Those changes were described by the Leader of the Opposition—

Mr Hamilton-Smith: You cut it from two nights to one night.

The Hon. P.F. CONLON: —we cut it from two nights—as a cut. Let me put it in context, this was when the Leader of the Opposition was engaged in his busy campaign to hack down Iain Evans, so he may say different things now, but they were described, first, as a cut. He said in his press release, 'In effect, what the government is doing is chopping in half this safe after hours service to save money.' Of course, not one dollar was cut out of the service, as he should have known and, if he did not, he should have. He said, 'Again, it seems money is driving the agenda.' Above all, he described it and me as being stunningly stupid in making this decision. Whenever the member for Waite describes you as stunningly stupid, you do get worried! When the member for Waite reckons you are dumb, you are in big trouble. One of his other comments was that it would cut safe journeys home from the city to places like Mount Barker. The new Wandering Star, which has not had a dollar cut out of it—

Mr Hamilton-Smith interjecting:

The Hon. P.F. CONLON: Since he wants to say so much, does he still hold to that view that it was a stupid decision and that it was a cut? Do you still—

Mr Hamilton-Smith interjecting:

The Hon. P.F. CONLON: No, he does not want to say that now. In fact, Mr Speaker—

Mr Hamilton-Smith interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: He can hector and heckle but he has to hear the answer eventually. In fact, this stunningly stupid decision, according to the member for Waite, in the short time it has been operating has seen that the number of people travelling on that service has increased by, in total, 92.6 per cent, which is virtually twice as many people.

That is the sort of outcome they were hoping for when they got rid of Iain Evans to get this bloke. Wouldn't they have loved an outcome like that—stunningly stupid! Well, I have to say that one of the decisions was stunningly stupid, but I do not think it was the Wandering Star service. In fact, you know how we lost trips to Mount Barker? The number of people riding the service in the Hills has increased by 375 per cent. Above all, not only are twice as many people now avoiding driving home, we hope—which is the purpose of this service—but it means now that in such a short period of time, in discussions with the Motor Accident Commission, they are now happy with the return this service is giving and will fund it into the future. It is a very good outcome. I have to say that if this is stunningly stupid, long may we make such stunningly stupid decisions.

Members interjecting:

The SPEAKER: When there is order!

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): My question is to the Premier. Why has he, through the device of yet another review, simply postponed until after the federal election his own plans to cut workers' entitlements, while he accuses the federal government of doing the very same thing on AWAs, and is not the result of his delay a bill of $300 million—or over $1 million a day—to be paid by the taxpayers of South Australia?

The Hon. K.O. FOLEY (Treasurer): You are bizarre. You have already asked that question, you goose. You are not very clever.

WORKCHOICES

The Hon. S.W. KEY (Ashford): My question is to the Minister for Industrial Relations. What are the implications in relation to the take-home pay of South Australian workers who rely on state awards for their employment rights and are being forced into WorkChoices?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I thank the member for her question. I know she has a vital interest in this area. Based on recent ABS figures, SafeWork SA advises that there may be up to 100 000 South Australians caught by the WorkChoices legislation who rely solely on South Australian state awards for their employment conditions. Many of these people employed by smaller or medium-sized businesses have not entered into statutory agreements, and have traditionally relied on our state awards.

Under WorkChoices, state awards were given a three-year stay of execution which ensures that the full impact of WorkChoices is not felt until after the federal election. State awards provide critical rights at work, including overtime pay, night shift loadings, public holiday pay, rights to have fair notice of changes in work hours, redundancy pay and other fundamental conditions. Without those conditions, thousands and thousands of working families could face massive cuts to their income. They face more and more uncertainty, making it harder to plan their lives.

Without their rights under state awards, thousands and thousands of workers would have nothing to tide them over if they were made redundant. For workers forced into the WorkChoices system, many of their most important rights at work will simply disappear in March 2009. In March 2009, because of WorkChoices, thousands and thousands of South Australian families will face a massive slashing of their income—all because, under WorkChoices, the protection of state awards for these workers is permanently abolished in March 2009. This is another example of the Howard government's disgraceful attack on working families.

WORKCOVER

Mr HAMILTON-SMITH (Leader of the Opposition): My question is again to the Premier. Would not the $1 million a day of unfunded liability being accrued by WorkCover be better spent on health, education and police, and how bad does the financial mess need to be before the Premier sacks the underperforming Minister for Industrial Relations?

The Hon. P.F. CONLON: I rise on a point of order, Mr Speaker, concerning the point you made earlier and what happened yesterday. Whenever the Leader of the Opposition asks a question he cannot help wandering into some invective or debate before he even seeks leave to explain it. To refer pejoratively to the Minister for Industrial Relations is to engage in debate and, if the Leader of the Opposition does not want debate in the answers, he should not put them in questions.

Members interjecting:

The SPEAKER: Order! When a member asks a question and inserts debate the chair is left in a difficult position, where I can rule the question out of order, in which case the allegation made by the member asking the question goes unanswered, or I allow the question and perhaps give the minister a bit of latitude with regard to his or her answer. I do not propose to rule the question out of order. I do draw to the Leader of the Opposition's attention that using argument or debate in his question is out of order and that his doing so will give latitude to the minister in responding to what the leader has said. You are seeking to make an explanation?

Mr HAMILTON-SMITH: Yes, Mr Speaker. That $300 million would provide funding to employ a combined total of 850 police, 400 doctors, 600 nurses and 800 teachers.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): Sadly, the Leader of the Opposition does not understand what an unfunded liability is. It is not a loss of income; it is not a debt. It is precisely that: an unfunded liability. Of course, what has happened with the unfunded liability is that the actuary has caught up with the past bad business practices of the former government and, just as it can go up, it can come down.

ABORIGINAL APPRENTICESHIPS

The Hon. P.L. WHITE (Taylor): I direct my question to the Minister for Employment, Training and Further Education. What is the government doing to support Aboriginal people in the uptake and completion of apprenticeships?

The Hon. P. CAICA (Minister for Employment, Training and Further Education): The state government is investing more than $1 million through the South Australia Works program to support over 160 Aboriginal people in various stages of their apprenticeships. The Aboriginal apprenticeship program is focused on assisting Aboriginal people into trade based apprenticeships in the private sector. This program also provides extensive monitoring and support to both employers and employees for the full three or four year term of their contract of training. To date, the program has assisted over 240 people into apprenticeships, with 56 having graduated and a further 15 due to complete their training later this year.

The program has grown from strength to strength, with the 2006-07 target of 50 new apprentices being exceeded and the retention rate remaining at 70 per cent. That is an outstanding retention rate, when we look at our apprenticeships and traineeships here in South Australia. It is something that we are looking at transposing into other areas. Currently 58 Aboriginal people from across South Australia, including 18 from the Upper Spencer Gulf, have commenced apprenticeships in 2007. Apprenticeships being undertaken now through the program include fitting and turning, engineering operations, motor mechanics, electrical, metal fabrication, horticulture and hairdressing. For the first time, the program is also supporting Aboriginal apprentices in veterinary nursing, sign-writing and childcare. The program has also succeeded in helping to place the first Aboriginal apprentice in Ceduna.

In fact, Aboriginal apprentices are taking part in the program across our regions, from the Upper Spencer Gulf and Port Lincoln to the Riverland, Murray Bridge, the South-East and Kangaroo Island. Graduates from the program receive nationally recognised qualifications that equip them with skills that are valuable in managing both their work and their everyday commitments. These include specialist industry skills and increasingly important skills in communication and collaboration. The reputation of the program is fast growing, to the extent that there are now many more employers planning to take on Aboriginal apprentices for the new financial year. The Aboriginal apprenticeship program plays a key role in meeting the state government's target for expanding learning and work opportunities for Aboriginal people, especially in the regions of our state.

WORKCOVER

Mr WILLIAMS (MacKillop): Can the Premier, who is so keen to ensure that South Australia is competitive with other states, say why South Australian businesses are paying WorkCover levy rates as high as 7.9 per cent? Businesses in South Australia pay an average levy rate of 3 per cent compared with 2.17 in New South Wales, 1.2 per cent in Queensland (which I understand has just been lowered to 1.15 per cent), 1.62 per cent in Victoria, 2.13 per cent in Western Australia, and 2.32 per cent in Tasmania.

During the opposition leader's recent regional visit, he met with a food processing business proprietor in Berri who is paying 6 per cent of payroll in WorkCover levies, and, in the South-East, both the leader and I met with a timber industry businessman who is paying 7.9 per cent of his payroll in WorkCover levies.

The Hon. M.D. RANN (Premier): I find it astonishing that members of the opposition do not understand the difference between an unfunded liability and a loss, which was quite clear—

An honourable member interjecting:

The Hon. M.D. RANN: That was your previous question. I understand from what the Leader of the Opposition said before that he has no idea what the difference is. It is very interesting to note that today on the front page of *The Advertiser* it talks about business confidence being at a record high. Can you remember what business confidence was like when you were in government, when it was at about a record low?

Mr WILLIAMS: The Premier obviously does not care about business in South Australia, so I will direct my question to the minister.

The SPEAKER: Order! The member for MacKillop will just get to his question.

Mr WILLIAMS: Thank you, sir. My question is to the Minister for Industrial Relations. Will the minister explain to the house how his recent announcement to increase redemption payouts will reduce the number of workers coming into the WorkCover system and address the burgeoning unfunded liability, which employers claim is costing them over $1 million a day?

The Hon. M.J. WRIGHT (Minister for Industrial Relations): Members of the opposition still do not understand what they are talking about. What they need to be reminded about is that WorkCover's liabilities are an estimate of compensation that might have to be paid up to 40 years in the future. That is what we are talking about with regard to unfunded liability. That is not to say we do not have a problem, and that is not to say that the unfunded liability is too high. That is why we have announced a landmark review. We will be looking at the whole system—at the legislation and the fundamentals of the system—and we will be looking at all the providers who are involved in the system, ensuring that we will come up with a package that will address the problem—and that is something that the former government never had the courage to do.

ROYAL ADELAIDE HOSPITAL

Ms CHAPMAN (Deputy Leader of the Opposition): Will the Minister for Health rule out the sale of all or any part of the North Terrace campus of the Royal Adelaide Hospital?

The Hon. J.D. HILL (Minister for Health): Yes.

Ms CHAPMAN: I have a supplementary question. Will the minister confirm whether any valuations have been obtained of any of the assets of the Royal Adelaide Hospital North Terrace campus in the last two years?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I assume, as the Premier reminds me, that on a regular basis the assets of the state are brought to book and, no doubt, there is a valuation as to how much a particular asset at the Royal Adelaide Hospital is worth. However, I can assure the member that the government has not requested any valuation in the sense that we might be wishing to sell any of those very valuable assets on North Terrace which provide services to the people of South Australia. I also point out to the member that the land on which those buildings sit is, in fact, Adelaide Parklands.

Ms CHAPMAN: Will the minister advise whether the radioactive waste stored in the basement of the Royal Adelaide Hospital remains there, or has it been transferred to the site proposed by the government a couple of years ago?

The Hon. J.D. HILL: To the best of my knowledge the radioactive waste, which is contained in a range of sites around Adelaide, is still in those sites. There is work being undertaken in collaboration, I think from memory—it has been a while since I was minister for environment—

An honourable member interjecting:

The Hon. J.D. HILL: That is right. My recollection is that work is occurring through the EPA to establish a low level place for the waste that is in South Australia at the Olympic Dam site. However, I can get further information for the member in due course.

AUTISM

Mrs REDMOND (Heysen): My question is to the Minister for Disability. What action does the minister intend to take to address severe delays in the confirmation and diagnosis of autism? I have been contacted by a mother whose son, diagnosed with Down syndrome at birth, has now been identified, via clinical assessment at kindergarten, as likely also to be suffering from autism. However, although the son is due to start school next term, the mother has been advised that, first, there is an eight-month wait for confirmation of diagnosis (so it will not occur until 2008), and that in terms of diagnosis, until confirmed, no services can be accessed in relation to the autism.

The Hon. J.W. WEATHERILL (Minister for Disability): The question of the dramatic growth of autism spectrum disorder, as the name suggests, has a massive scope within it. Some people at one end of the spectrum are very mildly affected, and at the other end they can be profoundly affected. It is a relatively new phenomenon that Disability Services is grappling with—new in the sense of the last decade or so. What has emerged is that prevalence is growing at quite an extraordinary rate, and there is no obvious explanation. There have been a number of theories about why that is happening but, nevertheless, it is a somewhat perplexing phenomenon. Like all disability services, there are extraordinary demands. In the last budget, as part of the election commitment, there was a substantial additional injection of resources for autism, amounting to $4 million over four years.

There are two elements here: one is the importance of an early diagnosis. A diagnosis is one thing but there also need to be services provided at the other end of that diagnosis. We are, of course, grappling with massive demands in disability services. Autism remains part of that picture, and people have to await the coming days and weeks to see how we deal with it.

TREGENZA AVENUE AGED CARE SERVICE

Mrs REDMOND (Heysen): This time my question is to the Minister for Ageing. What are the government's intentions with regard to the Tregenza nursing home and, in particular, will the residents be moved to other accommodation? If so, will the residents who have their own room at Tregenza be guaranteed their own room in the new accommodation? Is there any truth in the rumour that the Tregenza nursing home will be used instead as a drug detoxification centre once the residents have been relocated?

The Hon. J.D. HILL (Minister for Health): I point out to the member that, despite the fact that I am not the minister for ageing, I am responsible pro tem for the Tregenza facility.

Mr Venning: You are ageing.

The Hon. J.D. HILL: I am ageing; thank you very much for reminding me, but not as much as some others in this place, I point out. The primary consideration in seeking new arrangements for the Tregenza Avenue Aged Care Service is the health, well-being and care of its residents. The service, which is operated by the Metropolitan Domiciliary Care—and that, of course, has been transferred to my colleague, other than this particular aspect of it—includes 50 commonwealth and 21 state beds, and is the only commonwealth-funded state administered generic residential aged care facility in metropolitan Adelaide.

Most residential aged care facilities in metropolitan Adelaide are operated by commonwealth-approved not-for-profit and private providers. The government believes that the not-for-profit and private providers are best placed to provide for the ongoing care and needs of Tregenza's residents. In November 2006, MDC commenced an open tender process to identify an alternative residential aged care provider to care for Tregenza's 70 residents.

That tender closed in January this year. Following this process, ECH Incorporated was selected to take over the care of the Tregenza residents. ECH Incorporated is a not-for-profit residential aged care provider with 40 years of experience. Tregenza residents are to be accommodated in a new, modern, state-of-the-art aged care facility currently under construction at Warooka Crescent, Smithfield. Residents are expected to move into this new facility in October or November 2007.

MDC held information sessions and meet and greet sessions for residents, staff, volunteers and families of residents to announce the name of and formally introduce the new service provider. A transfer working party will be established and include representation from residents and their families, staff and volunteers. Considerable planning will be undertaken prior to the transfer of residents to the Smithfield facility to minimise disruption for residents and their families and to assist the residents to settle into their new environment. Residents' care will continue as normal at Tregenza until the move to the Smithfield facility, and no decision will be made about the future of the Tregenza Avenue site until after the residents are relocated. In relation to the standard of care, I understand that it will be at the—

Mrs Redmond interjecting:

The Hon. J.D. HILL: Yes; that applies to the facilities as well. In relation to the facilities, that will be at the 2008-09 mandated standard. I will get more detail for the member in relation to her specific questions, if I have not answered all of that in my very comprehensive statement to the house.

GLENSIDE HOSPITAL

Ms CHAPMAN (Deputy Leader of the Opposition): Will the Minister for Health rule out the sale of the Glenside campus, or any part of it, of the Royal Adelaide Hospital?

The Hon. J.D. HILL (Minister for Health): I thank the deputy leader for her question. I understand that this might be in her electorate, as well as being an area in which she is particularly interested.

The Hon. P.F. Conlon interjecting:

The Hon. J.D. HILL: That is true; Dean Brown did at one stage promise to get rid of it and then he promised to

keep it. There are a whole range of things about Dean Brown and his promises, but we will not go into those now.

The Hon. P.F. Conlon interjecting:

The Hon. J.D. HILL: That is right; and he is doing a great job now—whatever it is. This is a matter for my ministerial colleague in another place, the Hon. Gail Gago, who is the Minister for Mental Health. I will refer the honourable member's question to her for an answer.

ABORIGINAL EDUCATION

Ms THOMPSON (Reynell): My question is to the Minister for Education and Children's Services. What is the state government doing to improve educational outcomes for Aboriginal students and to raise awareness of Aboriginal culture in our schools?

The Hon. J.D. LOMAX-SMITH (Minister for Education and Children's Services): I thank the member for Reynell for her question. She continues to advocate and consistently work towards better outcomes for Aboriginal children in our community and in our schools. This issue is one that is of particular importance to our government. We acknowledge that we have instituted several initiatives and done a great deal, but there is still much to be done in the way of improving education for Aboriginal students. However, recently, we have had several very positive results in our efforts, with more students than ever achieving the SACE completion. In 2006, 104 students completed their SACE, which is a great credit not just to the students, teachers and schools but also to their parents and communities. We have also achieved an increase in the number of Aboriginal children attending preschool, which has risen in the last year to 1 156 from 1 033 in the previous year.

However, during this time when we are celebrating the 40th anniversary of the 1967 referendum, it is important that we as Australian citizens recognise that there is much to be remembered about Aboriginal people having first been officially counted as citizens, and we should join with them to look at what has been achieved in the 40 years since and how much more we can achieve towards true equity in the future. I am pleased to inform the house that new teaching materials designed to inform all students about the 1967 referendum and to promote national reconciliation have been provided to every single school in the state. The teaching materials contain questions and activities for students in primary right through to secondary schooling. The materials are designed to encourage students to think about the impact and importance of the referendum and ways in which students can contribute to a future in which all people are treated as equals.

The program has been developed by DECS, Reconciliation SA, the Catholic and independent education sectors, and the State Library. A number of initiatives have also been rolled out over the past two years as part of our ongoing DECS Aboriginal strategy to help improve the educational achievement of Aboriginal students and children. Some of these initiatives include employing the equivalent of an extra 13½ early childhood teaching workers to work in preschools with high Aboriginal enrolment. We employed additionally two early childhood teachers to work at childcare centres with high Aboriginal enrolments. We have rolled out an accelerated literacy program to 51 schools to provide assistance in literacy for more than 1 800 students. Analysis of this program initially shows good results, and we hope that it will achieve more in the future. In addition, this year all Aboriginal school students have individual learning plans. Also, we are in the process of developing a template for individual learning plans for Aboriginal children in early childhood services.

Finally, I am pleased to tell the house that, recently, I met with state and territory ministers in Darwin, and I reached an agreement with the ministers from Western Australia and the Northern Territory about how better we can manage attendance and record keeping for Aboriginal students in remote schools. Members will appreciate that keeping enrolment data is important because it allows better tracking and monitoring of students in these communities. The Aboriginal population is extremely mobile and families often move between not just communities but also between states. We do not want that movement to be a barrier towards our monitoring their achievement and, if necessary, intervention. As I have said, more is to be done, but this government is committed to improving our services so that Aboriginal students get the best possible education result.

McDONALD, Mr S.

Ms CHAPMAN (Deputy Leader of the Opposition): My question is to the Minister for Health—

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: Given that Stuart McDonald may have infected two more men in January and March 2006 after being placed under the watch of the public health panel, will the minister advise the house why it took until 19 March 2007 to place McDonald under a legal direction order to restrict his movements?

In October 2005 McDonald was placed under the watch of a public health panel to manage his behaviour and to protect the public. The court affidavit of Communicable Disease Control Branch Director, Ann Koehler, states that in January and March 2006 two more people may have been 'possibly infected' by Stuart McDonald. It was not until 12 April 2007 that a legal direction order was imposed on McDonald on 19 March 2007 to restrict his movements. McDonald is suspected of deliberately infecting a further 11 men with HIV over the past two years.

The Hon. J.D. HILL (Minister for Health): The matter in relation to Stuart McDonald has been canvassed quite widely in this place and, indeed, in the media. Many of the issues the honourable member raises have been addressed in this and other places. I will get to the substance of the honourable member's question in a second, but I make the point that this man is still incarcerated and he has been now since March—whatever the date was now, I forget—under orders contained in the Public and Environmental Health Act. He has not been convicted of any offence. He has been kept away from the public because of fears he may infect others. It is to protect the public that he has been incarcerated, not that he has been convicted of any offence.

The police, as members would know, are pursuing an investigation into matters in relation to him. I think that, although this is not a matter that has gone to court, we need to be very careful about how we deal with the issue because, at some future stage, it may well go to court. It would be unreasonable to make too many statements about what he may or may not have done, the time frames and all the rest of it.

Speaking in general terms, the process which we have in place in South Australia to deal with people who are HIV

positive and who may be deliberately infecting or negligently infecting others is quite elaborate. It has been in place now for many years. It is similar to the processes that have been in place in other states. When this man was first brought to the attention of the public health department, it initiated the process which I referred to, setting up a panel, investigating him, and so on. It was not until the beginning of this year that the new manager of that particular section of public health became aware, as I understand it, of concerns about this person's continuing behaviour, and a new approach was adopted. After that set of actions that she put in place, the action which the member has referred to, the court order, and so on, were pursued.

I have already told the house that we have asked an eminent QC to examine the processes that have been used by the department and to give us advice about changes that we ought to make. I have also given the house an indication that I intend to raise this matter at the next ministerial council meeting so that all Australian states can look through this process. I think it is pretty clear that the police ought to have been brought in to this matter well before they were. I think I have made that opinion known publicly on a number of occasions in the past. I hope to be able to bring to this house further information in relation to the work that is being done by the QC in the very near future.

HOSPITALS, WINTER DEMAND

Mr RAU (Enfield): My question is to the Minister for Health. What is the state government doing to ensure that our public hospitals are armed to cope with the expected escalating demand for care over winter?

Members interjecting:

The Hon. J.D. HILL (Minister for Health): This is where you are wrong. Every year I am Minister for Health I will come forward with this very important announcement about the winter strategy. Last year we had a winter demand management strategy which was introduced by the—

Ms Chapman: Which has failed.

The Hon. J.D. HILL: The Deputy Leader of the Opposition said it has failed. Well, she is completely and utterly wrong and, like so much of what she says, she speaks on the basis of no evidence, no information, just a complete fantasy that operates within her own head. The aim of this strategy was to prepare our hospitals by employing more staff and opening more beds. I recognise that some of my colleagues are leaving. They are already aware of this strategy, but I say to others in the house: stick around, this is valuable stuff.

This is a strategic plan that united our hospitals and health services, SA Ambulance, GPs, and also private hospitals and rehabilitation services in the face of huge increased demand on health services over winter. Last year, up to 142 extra beds were opened across our hospitals to cope with the demand, and 120 of those beds were in use at peak times. This year again, more beds will be opened—up to 158 extra beds will be used if required.

The focus this year will again be on cooperation between all health services so they can work together to cope with increased demand. There will also be more emphasis on keeping out of hospital patients who do not need to be there. There will be an increase in the provision of hospital-at-home beds, and there are more links with rehabilitation clinics and private hospitals that would be able to help as step-down facilities for some patients. The Royal District Nursing Service and Metropolitan Domiciliary Care will also help with patients at home.

We have also stepped up a flu vaccination program, particularly for those who are most vulnerable: the elderly and the sick, and also for health staff working on the front line. The onset of winter inevitably leads to an increase in patients with respiratory conditions, including pneumonia, asthma, bronchitis and infections. On top of that is the traditional arrival of influenza over winter. The flu has a huge impact, hitting people who are already vulnerable, meaning they require hospital treatment and care. Unfortunately, this impact can mean that there are delays in elective surgery, with increased demand for hospital beds meaning that some surgery may have to be cancelled.

However, during the winter months from May to August last year, there were 12 942 elective surgery patient treatments. This was an increase of 473 cases compared to 2005, so a 3.8 per cent increase. So we had more work going on in our hospitals and yet we were still able to do more elective surgery. Last winter was a very busy season for emergency departments in metropolitan Adelaide. The flu did not hit as badly as in previous years, and we were lucky, but there was a big increase in respiratory and viral diarrhoea illnesses. The number of hospital separations increased to 97 431—over 5 500 more than during winter 2005.

Members interjecting:

The Hon. J.D. HILL: I am glad the house has such an enlightened attitude towards health issues. The number of emergency department attendances grew by almost 4 per cent compared to the previous winter, and there were particularly large increases at Flinders, Lyell McEwin and the Women's and Children's. The South Australian Ambulance Service had a very busy winter, too, transporting on average 300 patients a day to metropolitan emergency departments. I take this opportunity to acknowledge the commitment of doctors, nurses, ambulance officers and other staff across the health system in South Australia for their work last winter. Their efforts and commitment to caring for our community during this very stressful and busy time are nothing short of inspiring. This winter will also be a challenge for health staff, and I want to let them know that they have the full support of the state government and the South Australian community for their work.

The most important message to all South Australians is to try to stay as healthy as possible over winter. I also urge people to see their GP if they have a non-urgent medical complaint, rather than going to hospital emergency departments. South Australians can be assured that this year, as in last winter, our health system is prepared and that our health services will be providing the best possible care for our community.

GRIEVANCE DEBATE

WORKCOVER

Mr WILLIAMS (MacKillop): It is my sad duty yet again to talk about WorkCover and about the lack of response from this government and the incompetence of this minister. The reality is that this Premier, the Treasurer (who has an

observer at every WorkCover Board meeting), and the minister are all culpable of playing with South Australia's future for the political ends of federal Labor. They are playing a very expensive game with the employers in South Australia and those unfortunate workers who happen to be injured in their workplace. They are playing a very expensive game with both those groups of people because the minister, who has been totally incompetent for five years now, remains in denial, as does the Treasurer, who I will consistently repeat has an observer at every WorkCover Board meeting, so he cannot deny that he knows what is going on.

How can the Premier claim that he does not know what is going on behind the doors at WorkCover when we have been asking questions on this matter for some four years? Has the Premier not tapped his minister on the shoulder and said, 'Minister, can you reassure me that everything is under control? Just reassure me. I want to make sure that the opposition has it all wrong and that we are on track and we have WorkCover under control'? Has the Premier done that? I am absolutely certain that he has. But the other thing of which I am certain is that this Premier is absolutely scared of telling the truth to the working men and women of South Australia before the federal election. He is absolutely scared and that is why he is culpable along with the Treasurer and his minister because, along with Kevin Rudd and the Labor Party right across this nation, they want to build the perception in the mind of working men and women that it is WorkChoices that is watering down and taking away their rights.

They want to present a picture that it is the federal Howard government's WorkChoices that is watering down the rights of working men and women in this nation. How can they make that argument at the same time as they have to face up to the community here in South Australia and acknowledge that, through their own incompetence, after five years they are going to have to slash the entitlements of those working men and women who get injured at the workplace? That is what they will do: they will pick on the most vulnerable workers in the state and slash their WorkCover entitlements. The minister, the Treasurer and the Premier have sat by in denial for five years and they have allowed the WorkCover scheme in South Australia to rack up debt.

The Premier stated today that the opposition does not understand the difference between an unfunded liability and debt. The minister stood up and said something along the lines that it is not a debt: it is an estimation of the compensation that WorkCover might have to pay for up to the next 40 years. He would like to emphasise the word 'might'. He is also trying to give the impression that this is not really a liability: it is some estimate in the realm of the fairies at the bottom of the garden. That is the impression he is trying to give. I repeat: the minister needs to take a lesson in basic accounting and basic economics.

The reality is that the unfunded liability is the debt that WorkCover currently has for the current batch of injured workers—those who are already in the scheme. It is not about an estimate of those who might come on to the scheme in the future; it is the current liability they have for the current injured workers. That is fact and, whilst the Premier wants to save Kevin Rudd's bacon, the employers in South Australia are seeing this debt being racked up to the tune of up to $1 million a day—up to $1 million a day, they claim, and they would know because they are paying the levy. They are paying the 3 per cent, up to—as we heard today—7.9 per cent on top of their whole payroll to underpin this system that this minister has seen wind down over the last five years. When we were in government we reversed that trend. We brought the unfunded liability from $276 million in 1994-95 down to a low $22 million.

Time expired.

ELIZABETH VALE PRIMARY SCHOOL

The Hon. L. STEVENS (Little Para): I am pleased this afternoon to spend a few moments updating the House on some very good progress at the Elizabeth Vale Primary School, which is in my electorate. As most people would know, Elizabeth Vale Primary School has had a difficult period in recent times. Despite that, they are rebounding from this phase. I wish to relate some of the things that are happening which indicate a real and positive turnaround for that school and its community.

First, at the beginning of last year, the education department, through the support of the Minister for Education and Children's Services, provided special funding to enable the early years area to be upgraded and painted. This has made a very significant difference to a block of four classrooms. It is an attractive learning environment and one which I visited earlier this year to see the new students—the younger students of the school—working in a very focused and positive way. The principal has told me that, in fact, the playgroup which was operating at the school and which had originally had one child in it now has a regular attendance of up to 15 kids,. This has occurred because the school has positively gone out and let the community know that this is happening and has made sure that this playgroup is a welcoming, creative and enthusiastic place for young children and also their parents.

At the same time that that special capital grant was made, the department gave an extra $10 000 grant to the library to replenish books, and that has been well received. Other things have happened as well. At the moment, a security fence around the school is practically finished. The principal tells me today that it will be completed next week, and this will be a successful initiative, just as it has been in many other schools across the state. Certainly, it will be in place to enable some of the planned upgrades to the yard and playing areas to occur. Secondly, a local church group, Hope Central, has taken a special role with Elizabeth Vale Primary, in that it is working in partnership with the school to organise working bees and other supportive projects with students, staff and the community at the school. I was there a couple of months ago at the end of March when an enormous working bee was held. They are now planning another for June. That will occur when the fences are up, and they will start really putting in place some new equipment, gardens and things that will be protected by the security of the fence.

A water grant for the school oval has been secured, and a grant to assist with student behaviour management also has gone a long way to restore pride in the school community. The Smith Family will soon be collocating on the school grounds and will offer a range of programs to students, parents and the community, including parenting classes, young mums support groups and counselling support for all members of the school community. Four coordinators of physical education, information technology, literacy and Aboriginal education have been appointed, and those positions are now well and truly involved with future planning and providing leadership skills and training for staff.

These initiatives have enabled new impetus, capacity building and recognition of skills of the current staff.

So, things are coming together well; staff and student morale is up. I congratulate Principal Grant Small, the governing council and Chair, Jakki Brooks, and all students, staff and parents who are putting their hearts behind making sure Elizabeth Vale Primary School delivers quality education to its students.

Time expired.

WORKCOVER

Mr PISONI (Unley): Today I will be talking about WorkCover and its impact on small business. With WorkCover's unfunded liability now approaching a staggering $1 billion, it has been branded in a Business SA report as 'the worst performing of all the states', yet 'the most expensive for businesses in the nation'. The average levy of 3 per cent is much higher than in any other state, with many businesses paying at least twice that amount, even with an impeccable safety and claims record. Fear of the unions and a lack of political will by the Rann government has allowed a situation which was perfectly manageable before Labor came to office in 2002 to spiral out of control in less than five years.

In Queensland small businesses are paying an average WorkCover levy of only 1.2 per cent. South Australia's at 3 per cent is almost three times as high. This illustrates how much more expensive it is to do business in South Australia. That is just WorkCover; don't let me get started on payroll tax, which in this state is the least competitive in the country. Yet, despite repeated calls for reform from the WorkCover Board, Business SA, the MTA and other business associations and in this house, the Rann government has continued to preside over the worst performing workers' compensation system in the country, most notable for its appalling return to work rates. In this regard, South Australia has the highest rate of workers receiving weekly payments: 42 per cent, which is double the national average. It is even higher than the Seacare system used by the MUA. I think that gives an indication of just how much WorkCover is out of control.

Still, minister Wright wants more time to rearrange the deckchairs on the *WorkCover Titanic*, claiming that reform proposals require 'extensive consultation with interested parties'. Could that perhaps be code for the unions, the final arbitrators of ALP decisions, as Business SA and others have provided the government with extensive reports on WorkCover reform?

The views of Janet Giles from SA Unions on this serious issue are monotonous and predictable. She of course thinks that employers—the ones who are paying the levy—are attacking workers' compensation entitlements. In her expert opinion, finding more efficient and cost effective ways of getting injured workers back to work would adversely effect the state's productivity. She actually said that; it is on the SA Unions web site. Janet Giles sees responsible employers trying to steer the state away from a State Bank-size fiscal disaster as the actions of a 'short sighted business lobby.' Well, I think it might be Janet Giles who needs the bifocals.

A recent *Advertiser* editorial of 16 May had a more realistic assessment, when it stated:

> WorkCover is an unsustainable scheme damaging the state's economy and failing injured workers by encouraging a compo culture rather than helping people get back into jobs.

Those who stand to suffer most from the government failing to address WorkCover's problems are South Australian small businesses and their staff. The cost of not getting these workers back to work has increasingly blown out, creating the alarming liability currently not being addressed by the Rann government. The news for Janet Giles and SA Unions is that this situation is not the fault of either the injured workers or their employers but an outdated and broken system that needs fixing and a minister more interested in the menu at the Flower Drum restaurant than turning down the heat on small business.

The attitude of small business in South Australia can be effectively gauged by its response in the SA Small Business survey conducted by the Department of Trade and Economic Development last year. It found WorkCover too expensive, both in dollar terms and administration, and it was frustrated by arbitrary changes to payment requirements and angered by unjustifiable increases in premiums.

With WorkCover having consistently high premiums, small business is not happy that there still remains a real risk of being sued for the full cost of a claim, even if it is only slightly at fault. Small business needs WorkCover fixed now. Those more cynical than me would suggest that the only reason for the 12-month review is that media Mike is trying to delay the bloodbath the changes will create within the ALP and its sponsors (Unions SA, the SDA and the TWU) until after the federal election.

LOCAL GOVERNMENT

Mr RAU (Enfield): I would like to say a few words today about local government, which has been concerning me for some time. I draw the attention of the house to one particular facet of my concern which deals with the provision of relevant, timely information to elected members in local government by the officers and staff who are charged under the act with the responsibility of doing that. Before going further with this, I would like to make a declaration of interest, namely, that my wife has been and continues to be a member of the elected body in the City of Charles Sturt. I wish also to make very clear and to underline that my remarks are not directed—I repeat, not directed—in any way to the current Chief Executive Officer of the City of Charles Sturt, whom I believe, by all accounts, to be an excellent officer who is doing his best to deal with the mess that he inherited.

I would like to recount a very brief history to members of the parliament. In early May 2006, two elected members of the Charles Sturt council made a request of the then CEO, Mr Lockett, for the provision of a single document—that document was one of interest to them—and this request was refused. On 22 May 2006, a resolution was passed by the council demanding that the officers of the council disgorge all relevant documents, not just that one, forthwith and, failing the council administration complying with that, appointed solicitors for the purpose of assisting them to understand their obligations under the act, in particular, of course, section 61.

On 9 June 2006, by which time there had still been no response from the council officers to the explicit resolution of the elected body, solicitors (who were appointed on 22 May by the council resolution) wrote to the CEO asking for compliance. That did not occur. What did occur was that the General Manager of Corporate Services, Mr Perry, who is still there, engaged lawyers at council expense, in a sense,

to defeat and frustrate the original resolution of council. This also included harassment of individual councillors and lawyers, in effect, offering threats about the consequences to elected members if they did not comply with the suggestion of the administration that the resolution of 22 May be rescinded.

That resolution was ultimately rescinded on 26 June largely as a result of arm twisting and legal threats at the behest of lawyers appointed by counsel to defeat the other lawyers appointed by counsel. This, of course, is contrary to section 61 of the act. More particularly, the elected members asked to see the relevant documents before voting on the resolution, and that was denied—again, a breach of the act. The general manager has since, I understand, indicated that he did not think that regulation 19 was being invoked because the words 'regulation 19' had not been incanted. The fact that they asked to see the documents before voting was considered by him to be, for some reason, obscure.

In any event, I have since put in an FOI application requesting documents in precisely the same terms as the resolution of council, dated 22 May 2006. I have to inform parliament that I have received, as a result of my FOI application, a bundle of documents nearly two inches thick, and I am still objecting to the refusal by counsel to release other documents. Included amongst these documents is the original document which was requested back in May 2006 by councillors, and refused. The point I make to members of parliament is this: if I as an applicant under the Freedom of Information Act am entitled to this two inches of documents, why is it that elected members of that council to this day have not been provided with any?

EGG PRODUCTION

Mr VENNING (Schubert): This afternoon, I want to highlight the difficulties still impacting on the South Australian egg producers. I understand that the South Australian egg producers are still awaiting the South Australian regulatory impact statement on the proposed changes to cage sizes for egg production in South Australia. Egg producers are awaiting the decision of the state government as to whether the new code for egg production is to be fully implemented or modified.

If it is fully implemented, the majority of growers will be forced to shut down if they have not previously upgraded. If the Victorian regulations are implemented here, it is possible that a number of producers could continue with minor modifications, because the Victorians did not fully implement the findings; in fact, they modified the size of the cages. We are hopeful that it could happen here, and if it does, it gives our growers some chance. The Victorians agreed to implement a practice that was not proposed in 2000. I believe that there are some copies of that impact statement floating around, but the recommendations of the new regulations are not public.

Our egg producers need to know so that they can make decisions about their future, particularly in relation to cage sizes. I know that the Minister for Agriculture, the Hon. Rory McEwen, last year rejected a $23 million compensation package for egg farmers based on the fact that changes to cage sizes had been raised back in 2000, and that farmers had had eight years to reinvest. One of my constituents, egg producer Mr Warren Starrick, also Director of Southern Egg and spokesperson for South Australian Farmers Federation egg growers claims he will cease producing eggs by the end of the year and concentrate on pig and broad-acre farming. He is just one of many; some have already gone out of business. In order for Mr Starrick's egg farm to upgrade to the state-of-the-art equipment required, it would cost around $1 million plus, because the farm is about eight kilometres from three-phase power. Like many others who cannot just upgrade, his egg farm would have had to move to a new greenfield site.

In January last year, we were told that we need about 800 000 birds in South Australia to supply our local market, and we are already down to half a million, or even as low as 400 000, so we are getting short. Unless we get a substantial number of new investors in egg production, we will see a massive increase in the cost of eggs and severe supply shortages. Eggs are such a nutritious and basic food, like bread and milk, it is vital for us to have a stable and reliable market. Therefore, I urge minister McEwen to immediately release the South Australian regulatory impact statement publicly and, more importantly, the government recommendations in relation to implementing its findings.

I also want to comment on what the member for Enfield said earlier today. I agree 100 per cent with what he had to say in relation to local government, particularly in relation to elected members and dealing with the professional staff. I believe—and I have raised this matter with my own party room—that we need to see more accountability in all our local government. Many years ago, when we were in government, we introduced the Local Government Act. We put benchmarking in the original act, but the benchmarking clause was lost in negotiating the legislation between the houses. I thought then that it should remain. We see today that the local government is doing its own benchmarking, which is privately undertaken by the LGA Grants Commission, which has just published the latest reports.

I have a copy of the paper which does do the comparisons. Most councils only see their own figures, so they cannot compare their figures with others. However, when you see them, there is quite a stark difference between the best and worst performing councils. I want to work with the LGA and the people involved—Wendy Campana and others—to bring that in, because I think we need to work with all councils. The Port Pirie Regional Council was one of the worst performing councils, but today, after assessment, it is now one of the best performing councils. In two years, it has pulled itself up to be one of the better performing councils, and I congratulate the mayor, the CEO and the council. I think others need to be more accountable.

In relation to benchmarking of councils, it ought to be public so that we can see the best and the worst councils. I note that the former mayor of Gawler has just come into the chamber. A good performing council should have nothing to fear. These figures should be public so that we can compare councils. The same thing should apply to state governments. We should be benchmarking our state government against other state governments so that we know how we stand compared with the others.

Time expired.

BRODIE, Ms V.

Ms SIMMONS (Morialta): I rise today to put on the public record my respects for Auntie Veronica Brodie (nee Wilson), a respected elder of the Ngarrindjeri and Kaurna peoples of South Australia, who passed away peacefully on Thursday 3 May at the Queen Elizabeth Hospital, aged just

66 years. Known as Auntie Veronica to many, she had fought many battles throughout her life, whilst also appearing in *The Wrong Side of the Road* (an Aboriginal film) and in many documentaries and media features. She wrote her own autobiography called *My Side of the Bridge*. I came to know her many years ago because Auntie Veronica was the trailblazer in the formation of many community initiatives and organisations and she was a political activist for over 40 years.

With her sister, Leila Rankine (now deceased), she played a significant role in the establishment of the Adelaide Aboriginal Orchestra and the Centre for Aboriginal Studies in Music, which performed at Lowitja O'Donoghue's oration last night for the Don Dunstan Foundation and did a wonderful job, and I congratulate them. In the 1970s, she was also heavily involved in the Aboriginal Sobriety Group and the soup kitchen, Camp Coorong and Warriappendi School into the 1980s. She was a pivotal, motivating pioneer, with numerous organisations and programs. The ones that come to mind in particular are the Aboriginal Elders Village, the Nunga Mimini's women's shelters at North Adelaide and in the western region, the disability group at Tauondi and the 'grannies' kinship group at The Parks Community Centre.

She was involved in just so many of these community groups. She also lectured at many universities and schools, and at the national and international gatherings of many Aboriginal people. In the 1990s, she was again at the fore in the foundation of the Warriparinga Cultural Centre and held positions on boards and committees for Aboriginal housing, health and women's issues. She was a fierce advocate for the most disadvantaged. She helped to establish the Granville Land Action Group in recognition of the birth site of her great-grandmother, one of the last Kaurna people living a traditional way of life on the Adelaide Plains in the 1890s, before being forcibly removed.

Auntie Veronica was a legend in her own lifetime and will always remain so. She was an inspiring force who will be felt in the lives of many generations to come. I pay my respects to her family, to her loyal husband of 45 years, Jimmy, and to her five children, Margaret, Colleen, Michael (now deceased), Kathleen, Leona and stepson Kevin, as well as her much loved grandchildren Troy, Tasha, Bonny, JJ, Samuel, Don Don, Emma and Abbie and her beloved great-granddaughter, Breanah. The family has asked that the news of her many achievements and her death be distributed as widely as possible, which is why I want to acknowledge her in this place.

I thank her family and pay my respects to them for lending Auntie Veronica to the community on so many occasions. As was said at her funeral (which was attended by hundreds of mourners), she was always everywhere else but home and always helping others. This is the Auntie Veronica I also remember.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

In committee (resumed on motion).

(Continued from page 216.)

Clause 5.

New section 59.

Mr HANNA: I make the point to the member for MacKillop that it is quite clear what the word 'knowingly' means in that context. I think that the word has been used in so many pieces of legislation that, clearly, it refers not only to doing an act knowingly but also contemplating that serious danger to the health of employees may result. That is what it means in the context.

The Hon. G.M. GUNN: We are dealing with clause 5?

The CHAIR: We are dealing with the amendment moved by the member for MacKillop. We will deal with clause 5 section by section.

The Hon. G.M. GUNN: There is nothing to stop me dealing with clause 5 as well, though, is there?

The CHAIR: We are dealing with new section 59.

The Hon. G.M. GUNN: Thank you. In dealing with this matter, I have read through this very carefully, and it deals with a number of aspects of conduct and state of mind. I am not sure how one determines state of mind. As I say, it is a fairly new interpretation. Is it the aim of this provision, the government and, more importantly, its officers, to make life as difficult for small business, farmers, pastoralists and small mining companies as possible, because they will be the people in the field who will be confronted with inspectors? Most of them have only a limited knowledge of these provisions.

They do not have access to legal representation, and, certainly, they are in no position to pay huge fines if they have made some technical breach of the act. What is the intention of the government and the department in relation to the way in which it is intended to administer, enforce and operate these provisions? At the end of the day, if it has been made too difficult for people to employ workers, there simply will not be jobs. I am very concerned about some reports from people. I put to the minister some time ago that one of my constituents in the Riverland had said to me, 'Every time I see a motor car with a blue numberplate coming along my driveway, I know it's not there to help me. I know it's there to hinder and harass me.' In this case it was one of the inspectors under this act, and my constituent was on one of those cherry-pickers—I think that is what they are called—picking fruit. This inspector, at some stage, made all sorts of threats and remarks, and my constituent indicated to him that he was particularly skilled with an ear-operated pair of secateurs. At that stage the fellow became more reasonable and we then arranged a meeting. I got the press there and we gave the bloke a bit of a send-up in the local media.

I am very concerned that the minister will put in place a set of provisions which will make it near impossible for small employers, farmers, pastoralists and others to operate sensibly. These are responsible people who live in a very practical world.

The Hon. M.J. WRIGHT: I thank the member for his question. The simple answer is no, but to add to that—the member may or may not have been listening before lunch—the particular matter we are debating at the moment replaces the old aggravated offence, which basically said that you had to do something knowingly and recklessly. There had never been an offence under that particular section and, needless to say, it was not working. The difference between my amendment and the shadow minister's amendment is the word

'knowingly'. What I would say—and the member for Mitchell spoke about this both before and after lunch—is that for someone to do something knowingly is actually worse than to simply do it recklessly. So, we think this is fundamental to the provision that is in the bill.

As is always the case with the administration of the act, SafeWork SA would work closely with business, but in particular with small business, and with the farming community. It is always the case that we act as an advisory service, as a provider of information first, particularly with small business, because you need to take account of the size of the business. Of course, the use of this particular legislation, or any other where you are enforcing penalties, is a last resort. In addition, of course, as the member would probably be aware, the size and the circumstances of the business would be taken into account by the court. Needless to say, there are plenty of steps in the process if, in fact, it got to the situation of being dealt with in court.

As I said, the previous provision did not work. We have changed that. The advice is that this is more workable but, having said that, the responsibility of SafeWork SA is to work closely with small business and the farming community. It is not our intention to go out and ping people. Obviously we would prefer to work with them to make sure—as you would be aware happens in most cases—that people do the right thing.

The Hon. G.M. GUNN: You go from $20 000 to a $60 000 penalty; I know that if you whack someone in the farming community with a $60 000 penalty, they will go out of business. If they employ one person, that person will lose their job. Someone might foolishly put his finger in a pulley and cut off the top of the finger. No-one wants them to do it, but sometimes people unwittingly do this.

If you are going to fine someone for that, I can tell you that no-one would be able to operate. Some of these machines have all sorts of covers put on them, particularly with harvesters, and with the covers on they fill up with straw, and there is a real concern that the thing will catch on fire. You are damned if you do and damned if you don't. In these sorts of circumstances there needs to be some commonsense, and that is what concerns me. I am pleased that the minister has indicated a cooperative approach, not an aggressive one, and I think that will work. An aggressive approach will not work, but I want to give him the example of what happened to my constituent at Cadell where an inspector acted very foolishly. It was unnecessary and it got a normally mild-mannered man terribly angry. He had to pick his oranges or he was out of business. He probably will not have any because he will not have enough water. Nevertheless, I hope that commonsense will prevail.

Amendment negatived.

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

Page 3, line 11—
After 'body corporate' insert:
or an administrative unit in the Public Service of the State

We have a series of amendments, some of which are consequential, so when I come to those I will not go through them in detail. This amendment has the public sector being treated as if it is a corporation. It is very straightforward and simple, and it is only right and fair that if corporations are going to be treated in this way, so should the public sector.

Mr WILLIAMS: Notwithstanding that the opposition has already indicated that it does not support the bill as a whole, we will support a number of the minister's amendments (if not all) because, as I said earlier—and I do not think I got it quite as I intended to—this amendment, along with the sum of the amendments as proposed by the minister, will make the bill less bad. Having said that, it still will not put the bill into a form that will be acceptable to the opposition. This simply indicates the lack of consultation that the minister undertook at the appropriate time, and it proves the point that I made earlier and in my second reading speech, that the minister did not actually sit down with what he described as a vital committee—namely, the SafeWork SA Advisory Committee—and consider how to improve section 59.

This just proves that the minister went off on a whim of his own with some philosophical bent that he has to grind employers down further, and he brought to this place a bill which was completely contrary to the discussion he had the last time he moved amendments to this act back in 2005 when he spoke at length about how this government was so serious about workplace safety that it was going to ensure that government agencies were subjected to the same conditions and obligations as applied in the private sector. The minister completely overlooked that in the initial draft of the bill that he introduced some time ago. The opposition welcomes the fact that the minister has recognised the error of his ways and has made this amendment.

As he said, he is proposing a number of consequential amendments to this one to change the tenor of the bill quite considerably in view of the fact that all of a sudden his public sector workforce will be subjected to these particular obligations. It says a lot about the mental state behind the original bill, that the minister would be willing to impose a set of obligations and a set of penalties upon the private sector which, in hindsight, he would not now be game to impose on the public sector.

Amendment carried.

The CHAIR: We will now deal with section 59 down to line 16, as the member for Mitchell's amendment occurs after that.

Mr WILLIAMS: There are a couple of questions I want to put to the minister with regard to that. Again I lament the fact that I do not have a full understanding of the legal consequences. I talked earlier about the problem—and the member for Mitchell does not seem to think there is a problem. But I have been given some information that suggests that there is a conflict here with regard to the words 'knowingly' or 'recklessly', and particularly whether the court would be applying a subjective or objective test to both the words 'knowingly' and 'recklessly'; what the result of that may or may not be, and how that conflicts with the basic principles that underpin our legal system. I talked about the fact that it is implied that somebody commits an offence when they knowingly undertake an act, or they know what the result of their action is. The Latin term mens rea describes that. There is the whole issue of how the courts may interpret this, and that is why I proposed the amendment that the committee has already decided not to accept.

One of the things that has been put to me is that having those two words there suggests we are actually talking about two different offences; that there is the potential under section 59 to have two different offences with two different levels of culpability; whether 'knowingly' and/or 'recklessly' can constitute the same offence of the same severity. I was reminded of this a moment ago when the minister, in his answer to the member for Stuart, suggested that 'knowingly' is worse than 'recklessly'. I am contending that, to commit an offence in a reckless manner, the court would need to be convinced that the person was not only reckless but was

knowingly reckless; that is, that they knew the consequences of their reckless endeavour.

The minister is now saying that if they acted knowingly, but there was no recklessness involved in it, it would be a more severe offence; there would be a greater level of culpability. I believe the minister, in his response a few minutes ago, introduced a new complication. As I said before the luncheon break, I suspect that the courts will be grappling with this. The member for Mitchell assured me, as we were leaving the chamber, that he did not think that would be the case, and then I come back and the minister I think certainly backs up some of the legal argument that has been put to me. I would like the minister to explain: do the words 'knowingly' or 'recklessly' involve two levels of culpability? What do we expect out of this and why, given the legal principle of mens rea, do we need the word 'knowingly' in the offence?

The Hon. M.J. WRIGHT: I will have first bite of the cherry, but I am happy for the member for Mitchell to have a go at this as well. We did discuss this at length before lunch, but it does not mean to say we cannot continue with it. This is not novel or uncertain: it is in the Criminal Law Consolidation Act and the Environment Protection Act. They are alternatives; it is about knowledge and intent, and 'reckless' is the level of knowledge. The member for Mitchell explained it eloquently before and after lunch. I cannot grapple with why you would not have 'knowingly' in there. We are talking about breaches of the Occupational Health, Safety and Welfare Act. If someone did something that breached that act and put someone in danger or injured them and they did that knowingly, surely there are gradations, and that has to be worse. I cannot quite understand what the big issue is.

Mr HANNA: I would I suggest that the member for MacKillop is bamboozling himself in the way that he talks about 'knowingly' and 'recklessly'. When the member for MacKillop talks about 'recklessly' he brings in the concept of knowing the consequences; well, that is antithetical to recklessness. Recklessness is when they do not consider the consequences, so it has nothing to do with knowing that what you are doing may cause harm. Knowing that when you do something it may cause harm is more serious but, on that level, the minister and I are just restating the point.

In a way, I am surprised that Liberal opposition members are focusing here on some distinction between knowingly and recklessly and are apparently trying to knock out a more serious infringement in the legislation when they agree that 'recklessly' should be in it. I am surprised they take that attack rather than disputing the fact that there is an offence for negligence and recklessness. That is because, in many cases where there is a work injury, unless the worker is actually stupid, there will be a good case for negligence on the part of a senior officer or employer. How does an accident take place? Is it something in the system of work; is it something to do with unsafe machinery; is it something to do with inadequate supervision of people who cause stress or danger to others? When you think about it, it is the reckless element and element of negligence that will cause grief to employers. I am not complaining about that, but it is surprising that the Liberal opposition, with the interests of employers at heart, does not take up that point.

Mr WILLIAMS: Given the answer the minister gave and the explanation the member for Mitchell has added to it, will the minister tell me whether it is proposed by this amendment that, if an offence is prosecuted for 'recklessly acting', it be an offence of strict liability?

The Hon. M.J. WRIGHT: In the case of 'knowingly', it is much more difficult to prove. The new section 59(1) offence will operate so that a person commits an offence against 59(1) recklessly if they engage in an act that may seriously endanger the health or safety of someone in the workplace and they do so with a reckless state of mind. The latter requires proof that there was a reckless disregard as to the fact that a risk of injury was created by the person's action or omission.

Mr WILLIAMS: I have been asked to get an explanation for a lot of these things on the record so that people in the future will understand what was in the mind of the parliament. New section 59(2) provides:

> It is a defence to a charge under subsection (1) that the person was acting with a lawful excuse.

Can the minister give an example of what sort of lawful excuse is contemplated?

Mr Hanna interjecting:

The Hon. M.J. WRIGHT: The member for Mitchell is correct again. A police officer or a person who has authority to go into a workplace to arrest someone would be an example.

Mr WILLIAMS: Someone working heavy machinery?

Mr Hanna interjecting:

The Hon. M.J. WRIGHT: If someone has complied with the law, it could be the examples you have given.

New section as amended agreed to.

New section 59AA.

Mr HANNA: I raise the issue of industrial manslaughter. I move:

Page 3, after line 16—Insert:

59AA—Industrial manslaughter

(1) An employer commits an offence if—

(a) an employee of the employer—

(i) dies in the course of employment by the employer; or

(ii) is injured in the course of employment by the employer and later dies; and

(b) the employer's conduct causes the circumstances leading to the death or injury; and

(c) the employer is—

(i) recklessly indifferent about seriously endangering the health or safety of the employee, or any other person at a workplace, by the conduct.

Maximum penalty:

(a) in the case of a natural person—imprisonment for 20 years or double the Division 1 fine;

(b) in the case of a body corporate—double the Division 1 fine.

(2) A senior officer of an employer commits an offence if—

(a) an employee of the employer—

(i) dies in the course of employment by the employer; or

(ii) is injured in the course of employment by the employer and later dies; and

(b) the senior officer's conduct causes the circumstances leading to the death or injury; and

(c) the senior officer is—

(i) recklessly indifferent about seriously endangering the health or safety of the employee, or any other person at the workplace, by the conduct; or

(ii) negligent about causing the death of the employee, or any other person at a workplace, by the conduct.

Maximum penalty:

(a) in the cae of a natural person—imprisonment for 20 years or double the Division 1 fine;

(b) in the case of a body corporate—double the Division 1 fine.

(3) An offence against this section is a major indictable offence.
(4) A person's omission to act will constitute conduct for the purposes of this section if it is an omission to perform a duty or to exercise a reasonable degree of authority to avoid or prevent danger to the life, safety or health of another and the danger arises from—
(a) an act or omission of the person; or
(b) anything in the person's possession or control; or
(c) any undertaking by the person.
(5) For the purposes of subsection (4), if, apart from an agreement between a person and someone else, something would have been in the person's control, the agreement will be disregarded and the thing will be taken to be in the person's control.
(6) To avoid doubt, both an employer and a senior officer of that employer may be guilty of offences involving the death of a particular employee.
(7) In this section—
cause death—a person's conduct causes death or injury if it substantially contributes to the death or injury;
senior officer of an employer means—
(a) in relation to a body corporate—an officer of the body corporate; or
(b) a person occupying an executive position (however described) in the undertaking of the employer who makes, or takes part in making, decisions affecting all, or a substantial part, of the activities of the employer in the course of the employer's trade or business.

This amendment will bring this offence onto the statute books. The concept is simple: if an employee dies and if the employer or a senior officer of the employer causes that death by being recklessly indifferent or negligent, a serious offence would have been committed, which would leave the person open to a sentence of imprisonment for 20 years, or a very serious fine. This is obviously a proposal with the strongest of penalties, and it is to reinforce even further the government's attempts to hold out the threat of punishment to employers who do not care enough about the welfare of their employees. The issue has been raised before by the Hon. Nick Xenophon in another place. Really, the question is: how far do we go to bring the threat of punishment to employers to ensure that they are doing the right thing? If employers really had to consider that, if their actions, or lack of appropriate action, might result in the death of their workers, I think they would be very, very careful indeed not to allow the danger to occur in the first place.

The Hon. M.J. WRIGHT: The government does not support the amendment put forward by the member for Mitchell. This has obviously been for quite some time a fairly topical discussion about industrial manslaughter, as well as being quite an emotional topic. What people sometimes do not remember is that industrial manslaughter has not worked terribly well in jurisdictions when it has been put into the legislation—and I am mainly talking about some areas overseas. With the exception of the ACT, no-one else has done it in this way, and it has not been tested at law in the ACT. We would make the argument that it is not an appropriate concept in OH&S legislation, which is risk based not consequence based. Of course, it already does exist under the criminal law and, therefore, can be used.

The other point I would make is that it is my understanding that industrial manslaughter was not supported by the advisory committee, which is a tripartite committee which represents employer and employee associations and which has unions on the advisory committee. So, for all those reasons, we do not support the amendment brought forward by the member for Mitchell.

Mr WILLIAMS: I inform the committee that, not surprisingly, the opposition does not support the amendment. I think I said in my second reading speech that, with the value of hindsight, there is probably not an industrial accident that is not preventable. However, without the benefit of hindsight, it is often very, very difficult to see an accident about to happen. Unfortunately, I think the amendments the member for Mitchell proposes would create a guilt where I do not think a reasonable person would suggest that guilt should be attributable to an employee automatically.

I do not think anybody—certainly I am speaking for the opposition and all members—enjoys seeing people injured at work, particularly industrial accidents. Unfortunately, our record on industrial death in South Australia is probably not different from anywhere else, but it is lamentable that every year we have a considerable number. Notwithstanding that, though an incremental process, I think we continue to improve the situation, we continue to improve the safety standard under which working men and women operate as they go about the course of their daily work. I think that that is commendable, and it is the way we should approach this in the future, rather than taking a sledgehammer, which, I suggest, this particular amendment is, and locking up people for something which might be obvious to a court in hindsight but very obscure to the employer, relevant safety officers and other people at the work site prior to the incident occurring.

New section negatived.

New section 59A.

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

Page 3—After line 23—Insert:
(ab) the conduct and state of mind of an employee of an administrative unit of the Public Service of the state acting within the scope of his or her actual, usual or ostensible authority will be imputed to the administrative unit;
After line 28—Insert:
(1a) It will be a defence in any criminal proceedings under the Act against a body corporate, an administrative unit of the Public Service of the State or a natural person where conduct or a state of mind is imputed to the body, administrative unit or person under subsection (1) if it is proved that the alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.
(1b) A person who would, but for the defence provided by subsection (1a), have contravened a provision of this Act is, despite that defence, to be taken to have contravened that provision for the purposes of issuing of improvement notices or prohibition notices.

I will deal with both amendments together. Amendment No. 3 simply brings the public sector into this area of imputation, as we do for corporations. I will not go through that in any great detail. With regard to amendment No. 4, it is worthwhile spending a little bit of time explaining the proposal in regard to imputation. An amendment to the imputation provisions of the bill is desirable to clarify the responsibility of office holders within corporations and the public sector when conduct is imputed.

The imputation provisions contained in proposed sections 59A to 59D are modelled on existing arrangements applying within similar state legislation including the Environment Protection Act, the Fair Trading Act and the Development Act. The employer community raised some concerns regarding this aspect of the penalties bill. They expressed concern with the operation of the current imputation provisions of the bill, and, in particular, as it would apply to make

officers of corporations liable for the breaches committed by the corporation. Although I am advised that the provisions are fundamentally sound, I consider that it is prudent to amend aspects of the imputation provisions to clarify that they will be applied appropriately.

The so-called 'general defence' provisions contained in section 59D of the bill have, through the proposed amendments, now been incorporated into sections 59A(1a) and (1b) and sections 59C(1) and (3). In simple terms, the general defence provisions have become part of those substantive provisions which create potential offences for corporations or administrative units and individual officers, employees and agents in their respective provisions. The primary purpose of these amendments is, first, in relation to imputed knowledge to a corporation or administrative unit, to achieve clarity in respect to the degree of responsibility that they must demonstrate when a contravention of the act is imputed through section 59A(1). Secondly, in section 59C, which we will come to later, further clarity is provided by setting out a range of considerations that a court must take into account in determining the guilt or otherwise of individuals facing a prosecution for a breach of the act.

These proposed amendments have been subject to detailed consultation with relevant stakeholders and retain the fundamental purpose of the imputation provision. However, they make it clear that officer liability is to be considered having regard to a range of factors, including their role, responsibilities and knowledge. They now have the support of most of the elements of the employer community and also of SA Unions. I have gone through new section 59A and probably a little bit of what we will deal with in section 59C also.

Mr WILLIAMS: I think we will proceed more rapidly over the next little period. I reiterate what I said earlier about the minister's earlier amendment, that the government has missed the boat completely through its lack of consultation in this, particularly with the business community. I am delighted that the minister has brought these amendments to the committee. Again, the opposition will support these amendments, because it makes the bill less bad.

The Hon. M.J. Wright: It makes it better.

Mr WILLIAMS: No; it makes it less bad. It is a long way from making it better. The opposition is not convinced that there is a need to have the idea of vicarious liability flow through this section, where we impute liability from the person who created the offence to another entity and then, as we will see, back to another person. The opposition struggles, first, with the need for that. I particularly hark back to the minister's statement in his second reading explanation about what this is built on, that is, the idea of making safe workplaces and not being retributive. I think the minister has lost sight of that in this area. The opposition does not see the need for this at all.

Having said that, I know the government has the numbers, certainly in this place and probably in the other place as well. I would like the minister to explain why the measure uses the terminology 'within the scope of his or her actual, usual or ostensible authority'. I am told that, at common law, the normal terminology that is used is 'in the course of one's employment'. Again, I just question this. I am told, minister, that this particular bill introduces new concepts all the way through it. I am trying to work out why we would do that and why we do not use the tried and true language which seems to be established, which, I am told, is used by the courts on a daily basis and which everyone understands.

The Hon. M.J. WRIGHT: Regarding the wording, that is quite deliberate because it is to flow from what they are employed to do. For example, if someone did something that was foreign to that, you could hardly hold the employer responsible. Regarding some of the other points raised by the shadow minister, these concepts are not new and there is no single way of defining the scope. I am not sure who has made the accusation that the concepts are new, but that is incorrect. Hopefully, the member can appreciate that the language he asked about is quite deliberate and it is to flow from what they are employed to do, because the employer could hardly be held responsible if someone is doing something that is not in their course of employment.

Amendments carried; new section as amended agreed to.

New section 59B agreed to.

New section 59C.

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

Page 4, lines 12 to 18—

Delete proposed subsection (1) and substitute:

(1) If a body corporate or an administrative unit of the Public Service of the state contravenes a provision of this act, and the contravention is attributable to an officer of the body corporate or an employee of the administrative unit failing to take reasonable care, then the officer or employee is guilty of an offence and liable to the same penalty as for an offence constituted by a contravention by a natural person of the provision contravened by the body corporate or administrative unit.

This amendment clarifies the standard of care that needs to be exercised by individuals in the context of this section. It is all about taking reasonable care. Members would note that midway through proposed new section 59C(1) it uses that language 'failing to take reasonable care'. That is what this amendment does.

Mr WILLIAMS: Yet again, in the opinion of the opposition, this makes the bill less bad. We will be supporting the government's amendment, but the minister will not get over the line as far as getting support for this bill from the opposition. As the minister said, this seeks to establish the duty of care, and again he uses the terminology 'failing to take reasonable care'. Is that defined as 'failing to take reasonable care' as would be taken by the average person? I am trying to understand how the minister would see 'failing to take reasonable care' to be established.

I talked about the amount of red tape that I think this bill potentially establishes within the workplace. What sort of documentation will be required by someone to mount a defence that they thought that they had taken reasonable care? Do they need to document that they thought they foresaw every eventuality and then document what actions they had taken within the workplace to prevent that eventuality from occurring, or to warn the workers of the eventuality? I believe that it creates a red tape nightmare for employers and safety officers in the workplace having to document every thought that they might have about the potential risk to their workforce.

The Hon. M.J. WRIGHT: The honourable member asked two questions. He asked about the 'average person'. In that respect what would be taken into account would include the circumstances, the foreseeability, the cost of the action, whether the action should have been taken and the feasibility of alternative measures. Probably there are other things but, certainly, they are some of them. With regard to the second question about the documentation that would be required for someone to take reasonable care, this involves an objective

test of what a reasonable person would do in the circumstances

Obviously, they would need to apply themselves to the legislation. It reflects existing standards of care; that is what is in the legislation. Of course, the onus of proof is on the prosecution, not on the defendant. There is no reverse onus of proof. The onus lies with the prosecution to prove the case.

Amendment carried.

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

Page 4—
Line 19—
After 'body corporate' insert:
or an employee of an administrative unit
Line 20—
After 'officer' insert:
or employee

These amendments incorporate the public sector into the existing structure. It makes good sense, and that is why it is there.

Amendments carried.

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

Page 4, lines 23 to 24—
Delete proposed subsection (3) and substitute:
(3) In determining whether an officer of a body corporate or an employee of an administrative unit is guilty of an offence under this section, the court must have regard to—
(a) what the officer or employee knew about the matter concerned; and
(b) the extent of the officer's or employee's ability to make, or participate in the making of, decisions that affect the body corporate or administrative unit in relation to the matter concerned; and
(c) whether the contravention by the body corporate or administrative unit is also attributable to an act or omission of any other person; and
(d) any other relevant matter.

This amendment relates to what the court must have regard to in respect of section 59C (the liability of officers), and that is set out in sections 59A, 59B, 59C and 59D.

Mr WILLIAMS: This amendment is the significant change made by the minister to his original bill. He has made the change because suddenly he realised that he had to make members of the public sector subject to these amendments to the principal act. This is why I said, both in my second reading contribution and earlier in the debate today, that before he realised this would impact on workers in the public sector the minister was quite happy with the provisions he originally proposed in the bill.

Probably someone from the Public Service Association got wind of the minister's earlier amendments to bring in government agencies under this bill, called him and said, 'We're not putting up with this.' It is a pity the minister was willing to take notice of those entreaties from the Public Service Association when he was not prepared to take notice of the same entreaties from the business leaders and people representing business associations in South Australia.

This amendment almost gets him to the point where it makes the bill better—almost. Certainly, it makes it much less bad. I was horrified because, when I read it, the original bill automatically applied guilt to an officer of a company if the company was found to be acting in contravention of the act. Indeed, from my reading of it, the original bill applied the reverse onus of proof. Certainly, this amendment changes it fairly significantly whereby the court now, obviously, would be obliged to take into consideration the matters which, under the circumstances, any reasonable person would expect would be appropriate.

The opposition certainly does not believe that if a corporation is guilty of an offence under this act automatically the directors, auditors and other public officers of the corporation should be guilty of an offence under the act. If one did accept that, one would automatically accept that every director and every officer of a corporation was equally responsible for OH&S matters. Clearly, that is not the case. Business would quickly grind to a halt if every director had an equal responsibility for OH&S matters within the business.

Obviously, some directors have expertise in OH&S matters and some directors have expertise in, say, financial or practical matters with regard to the day-to-day running of the business, and that is why a variety of directors sit on the board. The concept in the original bill ignored that and sought to sheet home liability automatically to directors, whether there was any 'in the real world' concept of responsibility involving directors or whether it could be traced back to individual directors.

Certainly, the opposition supports the amendment. The only other comment I make with regard to this clause is that, even though he has done the right thing and applied the provisions of this bill now to the public sector and government agencies, the minister has still made a distinction between the relationship of directors of the corporation and the corporation as opposed to the relationship between ministers in the cabinet and the state. I think the minister should contemplate whether he wants to go down the path of saying, 'A director of the corporation should be found vicariously liable for actions taken by an officer or someone working within the corporation.' If that liability should flow to the corporation and then back to the director, I do not see how an argument can be maintained that the same principles should not be applied to the public sector.

The liability should flow to the agency and then flow back to the directors who, I would argue, would be the ministers in the cabinet. So, I am delighted that these changes have been made. As I said, it makes the bill much less bad, almost better, but it still does not get the minister across the line with the opposition. The opposition, nevertheless, will support this amendment.

Amendment carried.

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

Page 4—
Line 25—
After 'body corporate' insert:
or an employee of an administrative unit
Line 26—
Delete 'or (3)'
Lines 27, 29 and 32—
After 'body corporate' insert:
or administrative unit
Line 33—
After 'body corporate' insert:
or an employee of an administrative unit
Line 37—
After 'body corporate' insert:
or administrative unit
Line 38—
After 'body corporate' insert:
or an employee of the administrative unit
Line 39—
After 'body corporate' insert:
or administrative unit

Amendments carried; new section as amended agreed to.

New section 59D.

The Hon. M.J. WRIGHT: Amendment No. 18 deletes proposed section 59D. That has been relocated to 59A(1a) and(1b).

The CHAIR: The question is that it be agreed to. Those in favour say aye, against, say no. The ayes have it. In that case, there is no need to put 59D as it does not exist any more.

Clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. M.J. WRIGHT (Minister for Industrial Relations): I move:

That this bill be now read a third time.

I would like to thank SafeWork SA officers for their support, the advisory committee for their consultation process and recommendations and also, of course, the business community and the employee organisations who took part in this process. I thank the opposition for almost saying that this was a better bill.

Mr WILLIAMS (MacKillop): Normally I do not speak at the third reading, but this bill is substantially different to the one that the minister first proposed to the house. In fact, it barely resembles the original bill. I suspect that the name of the bill somewhat muddies the changes that this will make to the principal act. I think the significant changes in the bill are the changes to section 59 and the insertion of new sections 59A, 59B and 59C, whereas the short title refers to the penalties.

Notwithstanding that the opposition does not necessarily agree with the increases, I think it is a minor part of the bill. With the change to section 59, the bill changes the way that the principal act will be administered. It changes the way that SafeWork SA prosecutors will work in the field and it does somewhat change, I guess, the goalposts for businesses operating in South Australia. I am not suggesting that that is a bad thing. I said at the second reading, and I have said today, that the opposition accepts that section 59 of the act has not been working, and there has never been a successful prosecution. The advice from the people I have consulted—principally people involved in business associations and individual businesses in this state—have conceded that section 59 was not working; it was unworkable. If they wanted to maintain that position, it was not doing their image any good at all, and that is not a position that they wanted to maintain. They were quite happy to see changes.

I used the word 'incremental' earlier during the debate. The changes that we have seen today could in no way be described as being incremental: they are quite drastic. I, and the opposition, believe that they are unnecessarily drastic but, as I have said on a number of occasions, the bill as it comes out of the committee stage is considerably less bad than it was when it went into committee. Notwithstanding that, the opposition will still be opposing the bill as it has come out of the committee, for the reasons I have expressed. I will attempt, yet again, to move in the other place the amendment that I moved earlier to clause 5.

Bill read a third time and passed.

STATUTES AMENDMENT (REAL ESTATE INDUSTRY REFORM) BILL

The Legislative Council has agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Clause 17, 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

No. 2. Clause 31, page 17, line 22—
After 'purchaser' insert:
in relation to the transaction (whether or not an agent within the meaning of the *Land Agents Act* 1994)

No. 3. Clause 31, page 18, line 11—
After 'prospective vendor' insert:
in relation to the transaction (whether or not an agent within the meaning of the *Land Agents Act* 1994)

No. 4. Clause 33, page 18, lines 21 to 29—
Delete subclause (1) and substitute:

(1) Section 5(2)—delete subsection (2) and substitute:

(2) The notice may be given—

(a) by giving it to the vendor personally; or

(b) by posting it by registered post to the vendor at the vendor's last known address (in which case the notice is taken to have been given when the notice is posted); or

(c) by transmitting it by facsimile transmission to a facsimile number provided by the vendor to the purchaser for the purpose (in which case the notice is taken to have been given at the time of transmission); or

(d) without limiting the foregoing, if an agent is authorised to act on behalf of the vendor—

(i) by leaving it for the agent with a person apparently responsible to the agent at the agent's address for service; or

(ii) by posting it by registered post to the agent at the agent's address for service,

(in which case the notice is taken to have been given when the notice is left at or posted to that address).

No. 5. Clause 33, page 18, after line 30—Insert:

(2a) Section 5 (8)—before the definition of *prescribed time* insert:

agent's address for service of a notice means the address last notified to the Commissioner as the agent's address for service under the *Land Agents Act* 1994 or an address nominated by the agent to the purchaser for the purpose of service of the notice;

No. 6. Clause 43, page 27, line 20—
Delete 'the following matters to the client:' and substitute:
to the client in such manner as may be prescribed by the regulations—

No. 7. Clause 43, page 27, line 25—
After 'purchase;' insert:
and

No. 8. Clause 43, page 28, lines 8 to 10—Delete subsection (4)

No. 9. Clause 43, page 29, after line 39—Insert:

(7a) This section does not apply in relation to a benefit disclosed—

(a) in a sales agency agreement with the client; or

(b) to the client in accordance with section 24C.

No. 10. Clause 43, page 30, before line 24—Insert:

24DA-Agent to supply valuation in prescribed circumstances

(1) An agent who is authorised to sell land or a business on behalf of a person (the *vendor)* must, if the prescribed circumstances apply, before negotiating the sale of the land or business—

(a) arrange a formal written valuation of the land or business, at the agent's own expense, by a person authorised to carry on business as a land valuer under the *Land Valuers Act* 1994 and approved by the Commissioner; and

(b) furnish the vendor with a copy of the land valuer's valuation report. Maximum penalty: $20 000.

(2) Before regulations are made for the purposes of subsection (1), the Minister must consult with The Real Estate Institute of South Australia Incorporated.

(3) In this section—

prescribed circumstances means circumstances of a kind prescribed by the regulations in which the agent has a conflict of interest or potential conflict of interest.

No. 11. Clause 43, page 36, after line 33—Insert:

24KA-Disruption of auction prohibited

(1) An intending bidder at an auction of land or a business, or a person acting on behalf of an intending bidder, must not—

(a) knowingly prevent or hinder any other person whom he or she believes is an actual or potential rival bidder from attending, participating in or freely bidding at the auction; or

(b) harass any other person whom he or she believes is an actual or potential rival bidder with the intention of interfering with that other person's attendance at, participation in, or bidding at the auction.

Maximum penalty: $20 000.

(2) A person must not do anything with the intention of preventing, causing a major disruption to, or causing the cancellation of, an auction of land or a business.

Maximum penalty: $20 000.

No. 12. Clause 43, page 37, lines 20 and 21—

Delete 'a single bid' and substitute: not more than 3 bids

No. 13. Clause 43, page 37, line 26—

Delete 'a bid or'

No. 14. Clause 43, page 37, line 29—

Delete 'a bid or'

No. 15. Page 40, after line 33—Insert:

53-Insertion of section 42

After section 41 insert:

42-Review of Parts 4 and 4A

The Minister must—

(a) within 2 years after the commencement of this section, cause a review of the operation of Parts 4 and 4A to be undertaken and the outcome of the review to be incorporated into a report; and

(b) within 6 sitting days after receipt of the report, ensure that a copy of the report is laid before each House of Parliament.

ADJOURNMENT

At 4.38 p.m. the house adjourned until Thursday 31 May at 10.30 a.m.