HOUSE OF ASSEMBLY

Wednesday 4 March 2009

The SPEAKER (Hon. J.J. Snelling) took the chair at 11:00 and read prayers.

BUSHFIRE INQUIRY

The Hon. I.F. EVANS (Davenport) (11:00): I move:

That the Natural Resources Committee inquire into and report on any proposal, matter or issue concerned with bushfire.

The reason I move this motion is because, as we are well aware, the country through Victoria has been ravaged by bushfire in recent days, and it is still going on. South Australia has had a number of very bad bushfires, which I know the member for Flinders, and others, will wish to comment on. It seems to me that the parliament has this all wrong in relation to bushfire. Parliaments all around Australia tend to wait for a bushfire to occur, express great sorrow and regret about the impact of the bushfire, and then, basically, let the agencies proceed along their merry way, without the parliament having any great oversight of what they are doing and why they are doing it.

I have previously been a minister for emergency services, and I accept that the government ministers might be behind the scenes having a quiet chat to a few of the agency heads and asking, 'How well prepared are we and what can we do to improve?' However, that does not educate the parliament. As we develop into a more urban environment there are more urban MPs who are less educated about fire and what one can and cannot do with fire and how to manage it.

My view is that not only is the community generally becoming de-skilled but I think the parliament itself is becoming de-skilled about the issue of bushfire. Bushfire is a very complex matter. One has only had to follow the media in the past month or, indeed, after the terrible Eyre Peninsula fires, to see that there is a pattern to the issues that come out. There is the issue of the rights and the ability to clear native vegetation, and there is the issue of building design and building standards. The most recent one to come out is the issue of fire bunkers. I noticed today there is an advertisement in the paper about fire bunkers. The whole safety question, as to whether they are an appropriate answer or a part of the answer, needs to be looked at extraordinarily carefully.

The issue of community education, about what is expected of the community by the fire authorities, needs to be looked at carefully. When there was a bushfire in Belair about 18 months ago people who were new to the district rang my electorate office to express surprise that there was not a CFS truck at the top of their driveway. I explained to the ladies concerned that there were 15 CFS units and 9,000 homes—they could do the sums.

There is a naivety, I think, within large sections of our community, about the response of the CFS or the MFS and their roles and obligations. There is the whole issue of local government and its interaction with fire. In my own electorate, there have been discussions about the Mitcham and Adelaide Hills councils' treatment on Sheoak Road.

There are more letters in the Mount Barker *Courier* this week about how they have put traffic chicanes, which are one-way, one-lane, traffic slowers, in what was previously a fire track. So, they have deliberately put in four chicanes to slow down and obstruct traffic in the very road that was probably designed to allow emergency exit or access for units.

Naturally, some of the residents are questioning whether we have actually got that policy right. The Mitcham council had a debate in its own constituency in the last year about whether to close the Grevillea Way fire track. It is having a debate, as we speak, about whether more fire exits should be allowed out of Blackwood Park.

These are not just issues for local council. These are issues of importance for the state because we need to get our fire planning and our fire response right. We cannot let it remain wrong, as it is in some instances. The other issue is: have we got our bushfire planning right? Every local council in bushfire-prone areas has a bushfire planning committee of some description, and it is generally set out under the appropriate emergency services act or what used to be the old country fires act.

That structure needs to be reviewed for this reason: the parliament has recognised that water catchments do not match council boundaries, and so, to get proper water planning and

proper catchment planning, the parliament has set up water catchment boards, which have now been taken over by natural resource management boards.

The fire committees are set up in local council boundaries and not in fire regions, and it seems to me that we need a whole of region response planning committee and not planning committees based on local council areas. I know that if a fire of the Victorian variety went through the Mitcham Hills, it would be out of the Mitcham council area and into the Onkaparinga council area within about 10 minutes, and it seems ridiculous to have two committees trying to manage that issue.

The fire planning arrangements need to be reworked so that you look at fire risk zones and form a committee structure around the fire risk zones and not on local council boundaries. It seems to me that the whole bushfire planning scenario is flawed because it is post event. It is after the fire that we suddenly get concerned. Government ministers will tell you that I have written numerous letters to many of them about the bushfire preparedness of the Mitcham Hills, which I represent.

The local CFS tells me that the Mitcham Hills is one of the worst fire areas not only in Australia but in the world. I think the parliament has a duty here. Other parliaments have set up road safety standing committees in the parliament. I think the parliament has a duty in South Australia, which is very fire prone, to set up a standing committee of the parliament, and, tomorrow, a piece of legislation will be debated that proposes to do that after the 2010 election.

In the meantime, the Natural Resources Committee of the parliament has already been taking evidence from Euan Ferguson, the Mayor of Mitcham and others about bushfires. We have a responsibility to ask that committee to start the oversight process because, in a year's time, the lessons of Victoria will be forgotten. We should say to that committee, 'Start doing the work now so that we can be the best prepared that we can be.'

I am not naive enough to say that the committee is going to stop the fire. That is not going to happen, but the committee should be able to hold the agencies to account and bring to the parliament the issues we need to address to make sure that the parliament and the system per se is as bushfire-ready as we can get it. If we do not do that, then the next time there is a bad fire we will all be hypocrites standing up in this place saying what great sorrow there is. The question will be asked: have we done everything that we possibly can?

One area that I have not mentioned is that of a district's capacity to evacuate. One of the areas the committee could look at is whether areas have the capacity to evacuate if, as happened in Victoria, people do want to run the risk of trying to evacuate. Essentially, that is my argument. My argument is that parliament should be proactive, and not reactive, in planning for bushfires. I hope the house will support the motion in due course.

The Hon. R.B. SUCH (Fisher) (11:11): I endorse the member for Davenport's proposal; I think it does have merit. As the member for Davenport indicated, there are a whole lot of issues relating to fires that need to be addressed. I think that some views are based on folklore, not necessarily on science.

Recently, on television we had an image of someone who supposedly cleared around their house in Victoria, and their house was saved. I do not believe it was saved because of that: it was saved because the embers did not rain down on top of the house. I can show members a photo from someone in Victoria who did not clear at all around their house but built a house out of concrete and glue. That house survived and so did the person who owns it. If anyone wants to see that photograph, I am more than happy to show it. That person did not clear at all around their house.

There are different scenarios. For this particular person's house, the concrete material was of a special mixture and it survived, we know, temperatures of around 1,200°C. There are varying interpretations. Some people advocate extensive firebreaks. Obviously, you need some for access and you need some for minimal protection, but they do not provide any absolute protection, particularly in a firestorm where embers, propelled at the speed of the wind, rain down from the sky.

Those issues need to be looked at. In terms of building standards, following the experience of that gentleman in Victoria, in the heart of the bushfire area, maybe we need to have a closer look at what sort of materials people use to build their houses in high fire risk areas. Likewise, there is the question of whether some areas should be quarantined.

I have argued for a long time that there are some areas, I believe, in the Adelaide Hills where it is inappropriate to build because of the fire risk. There are some such areas, and the member for Davenport knows it well. Even in Upper Sturt, there are some appropriate areas on which to build, because the land is already cleared, but some areas—not just Upper Sturt, but elsewhere—are too dangerous to allow people to build.

We do not allow people to build where they can pollute the reservoir, so why do we allow people to build where they can put at risk their lives and those of volunteers and other emergency services personnel?

I think there is an urgent issue that needs to be looked at, and that is the situation of schools in fire risk areas. Some schools in the Adelaide Hills have enclosed air conditioning systems but, from what I understand, most of the rooms could not accommodate all the children in the school anyway. That issue needs to be addressed very promptly because, as the member for Davenport said, the Mitcham Hills area is one of the high fire risk areas. I live there, at Coromandel Valley.

I would regard my own electorate through Happy Valley and Aberfoyle Park as a moderate risk area, particularly the schools. Even on a non-fire day, you cannot even get past some of the schools at home time. At Craigburn Primary School on Murrays Hill Road the other day, you could not even get past the school because all the mums and dads were picking up their children, because nowadays nobody wants them to walk home, which I think is unfortunate. You cannot even get past the school on a non-fire day, so God help us if there is a fire and the parents all rush down to collect their kids.

In terms of school policies, when I was chair of Coromandel Primary School, we had a policy of having a safe area on the oval. No-one wants to declare a safe area now, because it may not be safe. If you get all the children on the oval and they all get burnt to death, who will wear that responsibility?

It is the same for local ovals. Councils do not want to say that a local oval is safe, because people might congregate there and then get burnt to death. So we have a grey area of uncertainty about where to go, and that ties in with this 'stay or go' policy.

I am a great supporter of cool burns—pattern burning, or prescribed burning—and have been for a long time. Many people do not cool burn on their property because they are worried about the fire escaping; however, I have recently written to the minister (and I see him in the chamber) suggesting that the CFS be allowed to do cool burns, as they did when I belonged to Blackwood CFS a million years ago. We frequently cool burned as part of our training—and it was fantastic training.

I do not believe that any cool burn undertaken by Blackwood CFS ever escaped, and they did a lot of good in terms of helping to reduce fire risks. Much of our landscape is able to cope with fire but it is not able to cope with fire at extended intervals, when we get these intense fires that cause a lot of damage not only to the natural environment but also to the built environment.

Last weekend was the 70th anniversary of the Happy Valley CFS and we were fortunate to have there one of its founding members, Dud Nicolle. He was an 18 year old in 1939, and he told me—as did some of the other group captains of more recent years—that they frequently did cool burns. For some reason (and I think it has to do with issues about asthma and other respiratory concerns) they have been more or less stopped from doing that in recent years. Now, everything is a trade-off, so one has to weigh up the issue of people's respiratory problems and the question of cool burns, and tackle whether to allow the CFS and other authorised bodies to undertake extensive pattern burning in the cooler times of the year.

I am not suggesting that we take liability away from private landholders, but I believe we need to look at making it easier for private landholders to undertake cool burns and assist them in that process. Currently, if you undertake a cool burn that gets away you are totally liable. I am not suggesting that we take away that liability totally, that would be foolish; however, I think we have to look at the issue, because otherwise we will not have many private landholders undertaking cool burns, particularly in areas like the Adelaide Hills. It might be different farther out, but not in the hills.

Just recently I have taken up the issue of areas under the control of SA Water, such as the Happy Valley Reservoir. When I spoke to Dud Nicolle (whom I mentioned earlier) he said that to his recollection—and to mine—that area has not been burnt in 40 years. Now, that area is very close

to a lot of homes in my electorate and has two pine forests as well, and in my view it needs to be pattern burnt—and the sooner, the better. Embers from Happy Valley Reservoir, whether from the pine forest or the bushland, would travel right over the settled areas of Aberfoyle Park and Happy Valley. So that area, as well as places such as Belair park and the Sturt Gorge Recreation Park, also need to be pattern burnt—again, the sooner the better.

I would like to make one other point. I think we also need to look at the issue of bunkers, and a parliamentary committee could do that. Bunkers are fine if there is an independent oxygen source because, as we know, fires use a lot of oxygen. People who have sheltered in their cellars have died through asphyxiation because the fire has taken all the oxygen. I think there is a lot of scope here for a committee to do worthwhile things.

There was a royal commission in 1939 following the fires in Victoria and also here, which led to the formation of the CFA, the equivalent of our Country Fire Service. That was an excellent outcome. There was a federal committee report in 1984 and also one in Victoria. For some reason, after a while we seem to get apathetic about these things and forget them. However, if you have experienced these things—and I was only a little kid at the time, when two police officers were burned to death near where I lived—you never forget them; when the area around your house has been so full of smoke that you cannot see very far in front of you it is a very frightening experience. I support the member for Davenport. The sooner we consider this issue in a sensible, rational way, the better everyone will be. It will help reduce the risk to those who live in the Adelaide Hills and in other areas of the state. I support this motion.

The Hon. G.M. GUNN (Stuart) (11:20): I support the motion, because there is nothing more frustrating than to sit by and see bureaucracy continue to endanger the public. I have listened with interest to the member for Fisher, and he talks about cold burning. I support cold burning wholeheartedly, and I have been appalled at the bureaucratic indecision and obstruction that has stopped landholders and land managers from hazard reduction. If you are going to do it, you must have decent fire breaks and access tracks, otherwise it is dangerous. Done by experienced, competent people, it is not a dangerous exercise at the right time of the year.

However, if we continue to sit idly by and allow this intransigent, unwise and foolish attitude to prevail, we will get a repeat of Victoria's recent fires. I have been talking to some of my parliamentary colleagues in Victoria, and they tell me that the death toll is likely to rise and that successive Victorian governments, with an obsession to appease radical, left wing environmental groups, have stood in the way of fire hazard reduction.

One of my constituents, a CFS volunteer, was injured in Victoria during these fires. A bough fell on him when he was going down a narrow track. These people went there to give their time freely, and they are hardworking community members, and this person was injured. I am delighted that he is making progress and will soon be back in South Australia. That unfortunate incident highlighted that, if people are going to go into areas, the access tracks must be wide enough so they will not be endangered by falling trees and boughs and so they can turn around and get out.

It is no good expecting people to go into areas if they cannot get out. As clear as night follows day, common sense is not prevailing. A few days ago, just after this matter, the minister put in our boxes a pamphlet saying what you could and could not do. I read through it with a great deal of interest. I found that if you have a shed, which is most likely where you would have a water tank and pump, you are allowed to clear only five metres back from it. I would not like to be standing there when I am trying to get the engine going when a fire is racing up the hill if you cannot clear more than five metres. That is nonsense.

The people who are insisting on those sorts of controls are not only dangerous, they are highly irresponsible. To put it mildly, if you called them a fool, you would be praising them. I might not know very much about lots of things, but I have had some experience at burning grass, stubble and native vegetation, and there are a number of important features that you have to understand. It worries me that over the past few years we have allowed this huge build-up to take place and we have not done anything to control it. When a fire takes place, it is going to be bloody horrendous.

We on the Natural Resources Committee heard evidence from the Mayor of Mitcham. Afterwards, when having a cup of coffee with us, he told us that some of the fire prevention officers in the Adelaide Hills councils are having great difficulty with the fools in the native vegetation office. If they want to mow along the edge of the road, they have people trying to stop them because of

some rare orchid, even though there might be a paddock of them next door. That is the sort of nonsense I am talking about.

I believe it is about time this parliament gave authority to elected people, not to bureaucrats sitting in offices who have no sense of responsibility and who can duck for cover as soon as anything goes wrong. At the end of the day, if this parliament continues to allow these stupid laws to stand, those with the responsibility will have to wear what happens. It is going to happen, as sure as we are standing in this building. You have been warned, people have pleaded with you, and you continue to have this brick-wall attitude. It is a great pity that certain elements within the bureaucracy feed this guff up to people, and well-meaning people believe them—and we know it is nonsense.

It is absolute foolishness to say that a farmer cannot go out at the right time of year and cold burn 50 to 60 hectares of native vegetation. It does not do any harm. There would not be any Mallee scrub left in South Australia if burning damaged or killed it. It should be done at the right time of year and decent firebreaks should be put in. If you want to back-burn to control a fire, you have to be able to get along the break because, if the fire appliance coming behind is too close, the radiant heat is too hot. That is why you have to have 10 to 15 metres and not this obsession with five metres, which some bureaucrat dreamed up as the appropriate width. I would like to see those people who are insisting on the five metres down on the fire track when someone is trying to back-burn when a fire is coming. You would only have to take them along there once, and I would hope—even though it might not affect one or two of them—that common sense would prevail.

The motion put forward by the member is worthy of support and absolutely necessary. I believe that the Natural Resources Committee should further inquire into these matters, and I am looking forward to seeing the Mayor of Mitcham, and others, come back to give us further information. I saw what happened last year when there was a fire at Brownhill Creek. I was appalled with all the build-up of combustible material. You can drive through country areas and see the build-up on the roads where it should all be slashed. When managers and landholders want to go out and take some positive steps, they are prevented; they have these people acting foolishly and irresponsibly.

So, the document that the minister and his department cobbled together quickly after this matter raised so much public discussion—which was put in our letterboxes—leaves a lot of questions unanswered. I am most concerned that we continue to have this dog-in-the-manger attitude; that we only have to do the minimum and we have to get in the way of people and, if they give a few inches, they will then want to have a bureaucratic process in place. For god's sake, let's get on and apply common sense. We have to give people the chance to take action.

I asked the minister this question: if someone goes out and clears more than 20 metres, or five metres, around their home and shed to protect themselves, will he have his inspectors racing out there with their measuring tapes ready to prosecute them? We want to know, because we want to be ready so we can make sure that we have television cameras there to focus on them to show what fools they are.

We have had experience in the past with these people. We know what they are like. Some of them have a political agenda. We know that they have had a go at members on this side, we know they have a political agenda and we know who they are. But, instead of having a dog-in-the-manger attitude, why can't the minister put the long-term interests of the people of this state first and allow them to protect themselves and the public, and support the hardworking, diligent, competent volunteers who are doing such great work for us all? Why not make it easier for them? Why not make it that these people are not unnecessarily risking their lives. There is always a risk, but why not minimise the risk to the public and to volunteers and reduce the cost to the taxpayers and reduce the inconvenience to the communities? When there is a fire in these areas, it is a huge inconvenience. All we have to do is look at the television to see what is happening in Victoria.

I totally disagree with the member for Fisher about that person who did the right thing and got fined. Another person got into trouble for shifting rocks at the request of the local fire people so they could get there. That is the sort of stupidity that is taking place. We in South Australia should know better. We should act, we should not wait one day longer and we should put the long-term interests and the protection of the public first.

Mrs PENFOLD (Flinders) (11:30): I rise to strongly support the bill to have a joint standing committee, whose powers and functions are set out in the Parliamentary Committees Act, to inquire into and report on any proposed matter or issue concerned with bushfires and supported

by this interim measure. In February 2001, we saw a fire that burnt in the SA Water reserve, Tulka and the Lincoln National Park, south of Port Lincoln.

At a 'thank you' function at Community House in Port Lincoln, I said that, while the fires had been very traumatic, with a huge loss of property and damage to the environment, fortunately there had been no loss of life. I went on to say that this was more luck than good management and that next time we could not expect to be so fortunate—and we were not.

Between the inquiry into the fire and the full implementation of the recommendations, the government changed. The Tulka fire generated at least four reports, which were very difficult to obtain. According to the Chief Executive of the Country Fire Service of South Australia, Stuart Ellis, copies would be available upon request. After a number of questions, I received a copy of one of the reports on 7 October 2005, more than four years after the Tulka fire and several months after the Wangary fire. It is shattering to know that, had all the recommendations from the Tulka fire been expeditiously put into place, possibly all the deaths and much of the devastation from the Wangary fire in 2005 could have been avoided or certainly reduced.

The coronial inquiry into the Wangary bushfires took much longer than anyone expected. One of the weaknesses picked up was the same as that identified from fighting the Tulka fire, that is, the problem of communication between crews and officers on the ground, between air crews and ground crews, and between various emergency services organisations, police, local government and private operators.

We have recently experienced yet another fire that threatened to roar into Port Lincoln. While there has been a major improvement in cooperation between the services, poor communication is still an issue that could endanger lives because that weakness has been only partially addressed.

The Coroner's recommendations are silent on what constitutes communication and how it can be delivered. Recommendation 34 proposes that local government plant suitable for use in bushfire fighting be fitted with radios connected to the government radio network. The explanatory comment notes that GRN may not necessarily be the best platform and that a separate task force had been established to put forward options.

It is now four years since the Wangary fire, and local government plant still does not have communication for use in fires—and the recent Port Lincoln fire once again illustrated this lack of communication. There is no indication of how the cost of providing GRN (or whatever form of radio contact is deemed suitable) will be met. Will it be just another cost shift by Labor from state to local government to comply with the recommendations that council plant used in firefighting be fitted with radios?

This is a pertinent time to highlight the lack of mobile phone services in my electorate. A South Australian company called Broadband Anywhere was set to install broadband services across the region, but the Labor state government refused to sign off on the deal, which was to be funded by the commonwealth government. Our mobile phone coverage (or rather the lack of it) causes considerable angst. Last Friday, I travelled the 400 kilometres to Ceduna, returning to Port Lincoln on the Saturday, all without adequate phone coverage. Many of the remote homes, communities, schools and school bus routes do not have mobile phone coverage. Anyone who has had anything at all to do with mobile phones knows the advantage they can be in an emergency.

Mobile phone coverage, as a subsidiary form of communication in the overall management in a large bushfire, is life-saving, yet all Eyre Peninsula schools were closed for a day last week, leaving many children home alone, with possibly only one or no parent, and without adequate communication in case of an emergency.

Recommendation 14 recommends that protocols be developed relating to, among a number of things, appropriate radio contact with private firefighting units. The recommendation has been deemed complete, yet the explanation gives no information on how this will actually work, particularly in the remote areas of Eyre Peninsula. The explanation states that the protocols were used in the December 2007 Kangaroo Island bushfires. Do the protocols work as effectively in hilly terrain such as that burnt in the 2005 Wangary bushfire—terrain also encountered in the Adelaide Hills and in the current Victorian disaster? Will owners of private units that do not have the required radio communication be barred from fighting alongside their neighbours and friends?

I was amazed that despite the 2003 recommendations from the Tulka fire that HF radios be provided to Kevin Warren's planes so that the pilots could talk to the volunteer services on the ground, in 2005 they still had to compete with the public on the open radio system.

Once again, despite the lack of support from the government and its officers, Kevin Warren and his pilots and planes fought the Wangary fire when officially sanctioned planes were again unavailable until the crisis was over. It was not an official fire ban day, despite a hot north wind, but unfortunately fires do not abide by the official rules.

Later in 2005, I had a relative of one of the firefighters killed in the Wangary fire contact my office in great distress when he heard the Hon. Pat Conlon say on radio that water bombers were no good.

Incredibly, exactly the same scenario as happened at Wangary played out a few days before the start of the fire ban season in late 2006 and, again, not on a fire ban day. Again, we were fortunate that the fire was controlled, with Kevin Warren's aerial help, with little loss of property and no lives lost. By then, despite having been told that aerial bombers would make no difference, two official planes were to be stationed at the Port Lincoln airport, but the planes were only to be in Port Lincoln on official fire ban days, so they were not there at that time.

Fires do not happen just on fire ban days. There is no recognition in the recommendations, or in any government statements, of the great benefit that a swift response has in controlling a fire and therefore lessening its impact. Local planes can be in the air in a fraction of the time that it takes to get a plane from Adelaide to Port Lincoln.

This initial response can significantly reduce the impact and advance of a fire, especially if followed up by the larger water bombers, as it was in the recent Port Lincoln fire when, as well as the two aerial water bombers now stationed in Port Lincoln, another six planes were quickly brought over, including one large bomber.

Somewhere along the line the government has changed its tune, possibly when it changed its Minister for Emergency Services. We are at last seeing some of the billions of dollars of windfall revenue that this government has been fortunate to receive being put back into safety measures for the state, such as aerial firefighting capacity, which Labor's previous minister for emergency services disparaged.

In regional areas most of our emergency services are operated by volunteers at minimal cost to the government. However, local knowledge, even that of these volunteers, has been disparaged in the past, and it is therefore heartening to see that recommendations 15 to 18 refer to working with, rather than against, local people and their accumulated experience.

A sum of $580,000, or $2.317 million over four years, is mentioned in no fewer than nine recommendations to deal with the cost of added staffing and compliance issues, principally when working with landowners and/or occupiers. Is the repetition of this funding meant to suggest that more is being done, and more funding spent, than is actually the case?

Incident management teams are given the responsibility of implementing the recommendations, with a proposal that the position of landowner liaison officer within the team be created. Is this another burden that some volunteer has to shoulder? After all, $580,000 for training volunteers across the state to fulfil these recommendations can scarcely be described as generous.

I understand that currently there is a government drive to reduce emergency services costs, with the pressure on the volunteers, and with the SES being described as a social club, which I can assure members that they definitely are not

My electorate has the most national parks and reserves of any electorate in the state, with over 40 per cent covered with native vegetation; hence native vegetation is a concern, especially when it comes to fires. Recommendation 33 proposes a 'code of practice for the management of native vegetation to reduce the impact of bushfire'. Perhaps if it had been given some urgency it may have been in place and therefore lessened the December 2007 Kangaroo Island bushfire.

One of the provisions is for wide firebreaks and access roads to provide more effective options for controlling fires. Another, is the use of cold burns over portions of the areas over a period of years so that flammable matter is reduced.

I am struck by the number of times it is suggested in the recommendations that various actions be required of local government. Nowhere is there any mention of added funding for local

government to undertake any of these proposals, despite frequent mentions of funding for the state component of proposed actions.

Recommendation 7 is one of these, suggesting that rural councils appoint full-time officers for bushfire prevention. The explanation states that the 2008-09 budget provides funding of $414,000 over four years for an emergency management officer to be based in SES to work with local government to progress the above approach. If the government was serious about fire prevention it would allocate a similar amount to local governments since LGA compliance costs would be—

Time expired.

Ms BREUER (Giles) (11:40): It is always interesting to speak after the member for Flinders, who must have to work 42 hours a day to get everything done that she says she does. Her speeches are always very well resourced.

I probably support what the member for Davenport is proposing as I do not see any issue with having an inquiry into bushfires. However, I point out that the Environment, Resources and Development Committee prepared an extensive report, which was tabled on 28 November 2005 after the terrible Eyre Peninsula bushfires. It was entitled 'The Eyre Peninsula Bushfire and Native Vegetation Report' and we did a lot of work on it.

I hate to see things being doubled up. If you are going to do something, take into account all these previous reports and inquiries, because there is a wealth of information out there. We found that that was the case back in 2005, and there has been a lot more since. We need to pull together some of this information. There is a wealth of information out there which is available, and I would not want to see too much time spent on this.

With bushfires we need money to be able to prevent them. Bushfire is a terrible thing. My sympathies lie with the people in Victoria, as they do with those affected by the Eyre Peninsula bushfires, with which I was directly involved back in 2005. It is a terrible thing. I do not know the answer, except spending more money, but we do not have the sort of money that is probably required to resolve the issues.

You can hold as many inquiries as you like, but the fact of the matter is: what do we do on the day to prevent these fires? Whilst in some ways I support the motion for this inquiry, we need to pull together a lot of the information to see what sense we can make out of it. We then need to get practical, as there is no point in reporting on these things if nothing happens as a result.

Mr VENNING (Schubert) (11:43): I rise to support this important motion. I commend the member for Davenport for moving it. No doubt he felt very sensitive during the Victorian fires—as did we all—particularly as he has a large section of the Adelaide Hills in his electorate. I understand that this motion is in tandem with a private member's bill that he also has before the house, and I am happy to support both.

The aim of the motion and the bill is for parliament to take a pro-active role with legislation in relation to bushfires. I note what the member for Giles just said, and I hope we take a non-political look at this issue, particularly after what we have just been through.

As previously noted in this place by the member for Davenport, there are many legislative areas with which parliament deals relating to bushfire preparedness, including: planning, infrastructure, funding for emergency services, native vegetation issues, education programs, local council and departmental and agency responsibilities—and the list goes on. In the wake of the Victorian bushfire tragedy it is clear that the ferocity of bushfires in Australia is increasing, and consequently we need to be more prepared.

Enabling the Natural Resources Committee (until a standing committee can take over from 2010, as outlined in another bill that the member for Davenport has before the house) to investigate the wide range of issues associated with bushfires I believe is a logical and reasonable step for this parliament to take, without politics. We have experienced loss and tragedy as a result of bushfire in this state, although not to the extent of the disaster in Victoria. We must do everything possible to try to prevent such devastating fires occurring in the first instance and, if they do, make sure that we are as prepared as we can be in order to minimise the impact.

I support the motion moved by the member for Davenport to set up a standing committee on bushfires. It is a good idea and should always be there because, as other speakers have said, in 12 months' time we will forget what happened in Victoria. We have forgotten what happened with

the Tulka fires. If we have a standing committee, it will report regularly to the house on what is happening. During the debate on the fire condolence motion I expressed my sympathies—and I do so again—to not only all those people who lost loved ones but also those with friends and relatives still missing.

It was an emotive debate on that day. As I said then, I had a bad experience with fire when I was five and for the whole of my life I have been bushfire aware. Every year I slash or cool burn strategic areas around our home and farm to protect us on extreme fire days. State government and local councils have to do the same, especially where the fire risk is high along railway lines. One only has to watch trains at night to see the sparks coming off the wheels, particularly when the brakes are applied or bearings are worn. I drive around country areas every weekend—as I will this weekend—and I am amazed to see high growth alongside the road and careless drivers throwing out cigarettes butts; I hope they are not country drivers. People chuck their cigarette butts out the window and, when there is growth on the side of the road, it is a disaster waiting to happen.

It is irresponsible of councils to allow that to happen. It is the responsibility of both the council and the adjoining landowner to minimise high growth alongside highways so the risk is reduced. I am guilty—and I put it on the record—of slashing down native vegetation. I have done it for years, particularly alongside the highway—and I will show members the location. There is a track between the highway and the paddock on the northern side of our farmhouse, and every year I go along that track with my slasher to cut down all the native vegetation regrowth to ensure that track is always clear. It is the only firebreak between the highway and my home. The track is only about eight feet wide, maybe three metres, and I ensure it is always clear. I ensure that the regrowth is trimmed every year. If I did not do it for two or three years the track would not be there, so I do that. I am probably guilty—and now it is on the record.

On extreme fire days when semitrailers go along the highway, I know that, if they happen to throw a spark or blow a tyre and light up the bush, there is a slim chance I can get there to stop the fire from jumping the road into the farm. As a result of my experience with fire, I am amazed what will burn when it is driven by a very hot, gale force, northerly wind. Even paint on steel posts will burn, if it is hot enough. We have to promote anything we can in relation to cool burning. I have been accused over the years of being a bit of a firebug. I light up the place around my house, usually about late October. I go around the house with a little firelighter to get rid of the growth. It only burns the top bit, not underneath. It gets rid of the top; it gets rid of the wild oats and the barley grass, etc., to reduce the risk of fire. Of course, I usually do it at dusk so there is no smoke, but, of course, you can see the flames, and I always inform our neighbours.

Certainly, I think it is important that we agree with this motion. As MPs we must change the mentality of the Native Vegetation Council and the department. If we do not act, we will see a repeat of these bushfires. If we do not, we all stand condemned. I support the motion of the member for Davenport to set up a standing committee, and I commend the honourable member on bringing this initiative to the house. I support the motion.

Mr PENGILLY (Finniss) (11:49): I support the member for Davenport's motion. I ask that the government consider strongly supporting this motion. After what we have seen in the past two or three weeks, and what I myself saw on Kangaroo Island in December 2007, if people are confused, frustrated and annoyed by lack of action, we have to ask ourselves in this place what we will do about it.

As the member for Giles said, people are fed up with reports. They are sick of talk and they want action. However, this is the place where we can change it. The government is fond of saying that we should act in a bipartisan way more often. I say to the government today that this is a perfect opportunity. A huge area has been wiped out in Victoria, with over 200 lives lost. We had 250,000 acres (or 100,000 hectares) lost on Kangaroo Island in 2007, plus the very sad loss of Joel Riley in those fires.

A lot of this nonsense goes back to the introduction of the Native Vegetation Act and the bureaucracy that has grown out of that. There were aspects of the Native Vegetation Act which were probably required, and I support the retention of native vegetation in areas where it is needed and all that has gone on around that, but we have had a bureaucracy that has grown out of stupidity, in my view, that has allowed these situations to eventuate. As the members for Kavel, Davenport and Heysen, I and others know, next time the Adelaide Hills go up we will be sitting here and saying, 'Woe is me,' and the government of the day—whether it is the current government, us or whoever—can say, 'Oh, well, we've done this and we've done that. We've supplied helicopters

and done this, that and everything else.' That is not much excuse for lives lost and property destroyed.

The Natural Resources Committee is an ideal committee to look into this and adjudicate on the activities of the Native Vegetation Authority, and there has been some move to sort that out. There are bureaucrats who, in my view, have absolutely no idea of how to deal with the bush. I recently heard the CEO of the department of environment, Mr Holmes, on the radio saying, 'You need lots of skill, lots of training, and lots of this and lots of that before you burn scrub.' Well, there is a highly trained group of people out there and it is called the farming community. Those people have been doing it forever and a day, and we are losing those skills because of the nonsense being perpetuated these days by the bureaucrats.

Mr Holmes and I sat on the CFS board, and I have a good deal of time for some aspects of his capacity and capabilities. However, when he gets on the radio and says that you need to work up the skills, he is talking absolute poppycock, as far as I am concerned. I will tell members that you need common sense and practical experience to get out there and deal with these issues, and the Natural Resources Committee can look into that. Cold burning has been talked about. I heard the member for Fisher's contribution and disagree with many of the statements he made.

What we are turning into is a nanny state, where all the bureaucrats know best, the government knows best and we do not know anything. Well, we do know a few things, and I will give an example of that. During the Kangaroo Island fires, a local farmer, John Symons, ran the Western River fire—called the Solly fire. He has been farming there for 30, 40 or 50 years—longer than he cares to remember. He took control and he burnt back and put in the breaks, and that was the first fire to come under control and be dealt with and put out of the way. He was the one who did it. We had other fires where people were running around in circles trying to work out what to do next. We have a host of nervous Nellies in the CFS and the department. They are not game to move because they fear retribution under the Native Vegetation Act. There is only one way to fight fire and that is with fire, and the Natural Resources Committee can look into that.

I will talk about the Kangaroo Island fires because I am very familiar with that area, which is part of my electorate. There was no necessity to have 250,000 acres of scrub burnt out. If there had been some common-sense practicalities as put forward by Mr Euan Ferguson, the chief officer of the CFS, we would not have had that situation develop. I was presiding member of the CFS for five years and when I left there were 17,000 volunteers. We are now down to 11,000. Why do people not get involved? Because they are fed up to the back teeth with the nonsense. Then we have these letter writers who go on and on saying we need a Canadair aircraft. Well, I will tell members that the Canadair aircraft is next to useless in South Australia. Canada has water in lakes that they can pick up. The only water available in South Australia is in the sea, by and large. It is a nonsense for those people to go on like that.

My electorate is extremely vulnerable and, indeed, only on Saturday I mentioned the fact that very shortly, if we are not careful, we could have a fire sweep into Victor Harbor and people who choose to live in the scrub could be burnt out badly. I support the motion.

Mr GOLDSWORTHY (Kavel) (11:55): I am pleased to speak in support of the motion brought to the house by the member for Davenport. We need to understand that bushfires form part of the history of South Australia. If one looks back through the pages of the state's history, one sees that big, devastating fires through those decades have formed part of our state's history. I had not been born at that stage, but certainly I am aware of the Black Sunday fires in the 1950s, we had Ash Wednesday in the 1980s and then, two or three weeks ago, we had the devastation of Black Saturday in Victoria.

Significant other fires in the state have been highlighted by members. We have had the Tulka and Wangary fires, as well as the fires on Kangaroo Island about which the member for Finniss has already quite clearly articulated. I want to spend a couple of minutes talking about some specific areas in the electorate of Kavel which I regard as really high fire risk areas and on which, I think, the government and the departments that manage those areas should focus. An area through Carey Gully has quite dense scrub, and if a fire came up over the hills through Summertown and Uraidla, that area, or even to the south through Crafers and Piccadilly, and got into that scrub it would act as an area to push the fire out further into the hills and threaten townships such as Lobethal, Woodside and communities such as that.

I visited a constituent only last week at Oakbank who was extremely fearful of the threat that a bushfire may pose on that particular township, and I am working through that issue

specifically with the fire prevention officer of the Adelaide Hills Council. Also, an area, which is actually part of Forestry SA land just on the outer perimeter of the Lenswood district and which is located along a particular road called Fox Creek Road, had previously been planted with pine trees as part of the harvesting process of pine in the state, but that was burnt out in Ash Wednesday. The government at that time decided to plant it up with eucalypts to provide some stability to the structure of the soil.

However, those trees are growing up (they would be, I suppose, four or five metres tall now) and that presents a particular fire risk. The government and the department should do more to ensure fire safety in that area. I am highlighting these two specific areas, but many more in my electorate need addressing in terms of cold burning and measures such as that to provide a higher level of bushfire safety, particularly in the electorate I represent.

Debate adjourned on motion of Mrs Geraghty.

Mrs GERAGHTY: Mr Speaker, I draw your attention to the state of the house.

A quorum having been formed:

RENMARK IRRIGATION TRUST BILL

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (12:03): Obtained leave and introduced a bill for an act to provide for the continuation of the Renmark Irrigation Trust for the purposes of the management and operation of certain shared infrastructure for irrigation or drainage purposes in the area around Renmark; to make related amendments to the Natural Resources Management Act 2004; to repeal the Renmark Irrigation Trust Act 1936; and for other purposes.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (12:04): 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.

A review of the *Irrigation Act 1994* and the *Renmark Irrigation Trust Act 1936* has been undertaken to ensure South Australian irrigation infrastructure management practices are consistent with the requirements of key government policy directions and related legislation and to reflect contemporary management practices.

The *Irrigation Act 1994* and the *Renmark Irrigation Trust Act 1936* establish governance frameworks to provide for the irrigation of land in government and private irrigation districts within rural South Australia. In recent decades the South Australian government has progressively removed itself from the administrative affairs of district irrigators, allowing service provision to be carried out by private irrigation trusts. Significant government investment in replacing irrigation infrastructure occurred with the transition from government to private trusts. Much of this infrastructure has an 80-year lifespan.

The Renmark Irrigation Trust Bill 2009 repeals the *Renmark Irrigation Trust Act 1936*.

The Renmark Irrigation Trust Bill 2009 establishes the powers and functions of the Renmark Irrigation Trust which correspond to those of an irrigation trust under the Irrigation Bill 2009. The proposed provisions closely align models for the management of irrigation infrastructure systems within South Australia.

The Renmark Irrigation Trust Bill 2009 contains additional provisions to:

- change the composition of the Renmark Irrigation Trust so that all current ratepayers (approximately 700 people) comprise the Trust. Currently the Renmark Irrigation Trust comprises 7 members and those in receipt of the Trust's services are deemed to be ratepayers;
- establish a Board of Directors to oversee the day-to-day operations of the Renmark Irrigation Trust. The current Trust of 7 members will be transformed into the Board of Directors as a transitional provision to ensure continuity in the operations and management of the Trust;
- provide specific provisions pertaining to the functions and operations of a Board of Directors; and
- continue specific powers of the Trust.

The Renmark Irrigation Trust Bill 2009 includes provisions that will ensure compliance with key government policy directions including the National COAG Water Reform (1994), the National Water Initiative (2004), and the Inter-Governmental Agreement on Murray-Darling Basin Reform (2008). The Bill also ensures consistency with the *Water Act 2007* (Commonwealth) in particular, those provisions relating to water charges and the removal of obstacles to permanent trade in water.

The Renmark Irrigation Trust Bill provides for:

- flexibility in the management of water licences so that the Trust can choose by resolution to devolve its water licence to all members of the Trust;
- flexibility for individual members, enabling them to apply to the Trust to transform their irrigation right into a water licence under the *Natural Resources Management Act 2004*;
- flexibility for the Trust to continue the management of collectively owned irrigation infrastructure and/or drainage networks;
- the removal of the concept of the irrigation district so that the operations and functions of the Trust are based on service provision rather than land tenure;
- emphasis on the power of the Trust to enter into individual service agreements or contracts for the delivery of water or drainage services;
- making explicit that the Trust must not restrict permanent trade of water out of its irrigation network and that it must facilitate trade both within and out of its network, at the request of its members, and in accordance with the rules under the *Water Act 2007*; and
- fees and charges for water, drainage and other services provided by the Trust to reflect the cost of providing, maintaining, managing and operating irrigation and drainage infrastructure, subject to the rules under the *Water Act 2007*.

The Bill also modernises, aligns and clarifies terminology, updates penalties and other miscellaneous provisions, and, makes a minor consequential amendment to the *Natural Resources Management Act 2004*.

As well as ensuring compliance with contemporary policy directions these provisions will enable those irrigators wishing to exit the industry in South Australia to trade their water. This is an important element in facilitating irrigator access to the Small Block Irrigator's Exit Grant Packages which have been made available by the Australian Government until 30 June 2009.

The measure is fundamental to ensuring that the management and operation of irrigation infrastructure in South Australia is well equipped to meet future challenges. The Government looks forward to the support of Parliament in the passing of this Bill.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions for the purposes of the measure.

Part 2—Constitution of trust

Division 1—Continuation of trust

4—Continuation of trust

This clause provides that the Renmark Irrigation Trust continues as the *Renmark Irrigation Trust*

5—Rules

Proposed section 5 provides that the trust may have a set of rules relating to the membership, management or operations of the trust.

Proposed subsection (2) provides that a set of rules of the trust—

- must comply with any prescribed requirements; and
- must not contain any provision that is contrary to or inconsistent with this Act; and
- may provide for the imposition and payment of application and other fees by members of the trust (including a fee to be paid by a person if or when the person ceases to be a member of the trust); and
- may provide for or regulate the times at which irrigation water may be used; and
- may provide for other matters to facilitate—
  - — the effective management of an irrigation or drainage system provided by the trust; or
  - — the efficient supply, delivery or use of water provided by an irrigation system provided by the trust; or
  - — the efficient drainage, management or disposal of water through a drainage system provided by the trust; and

- may provide for such other matters as may be prescribed by the regulations or expedient for the purposes of the trust.

This clause specifies the manner in which the rules may be altered.

6—Manner in which contracts may be made

Proposed section 6 provides that contracts may be made by or on behalf of the trust as specified by the proposed section.

Proposed subsection (2) provides that a contract may be varied or rescinded by or on behalf of the trust in the same manner as it is authorised to be made.

Division 2—Members

7—Members

This clause provides that the persons who are members of the trust on the commencement of this Act continue as members of the trust and other persons who carry on the business of primary production may be admitted as members of the trust by resolution of the trust or as provided by the rules of the trust.

Proposed subsection (3) specifies the circumstances in which a person ceases to be a member of a trust.

The clause makes provision for a presiding member and deputy presiding member of the trust.

8—Rights and liabilities of membership

Proposed section 8 sets out the rights and liabilities of members of the trust.

9—Calling of meetings

This clause sets out the manner in which a meeting of the trust may be called and imposes a requirement on the presiding member to call an annual general meeting of the trust.

10—Procedures at meetings

This clause specifies the procedures that must be observed at meetings of the trust.

11—Voting at meetings

Proposed section 11 establishes that a member of the trust is entitled to vote at meetings of the trust and that a member may nominate another person to attend and vote at meetings on his or her behalf.

Part 3—Management of trust

Division 1—Board of management

12—Board of management

This clause provides that the trust will appoint a board of management of the trust to carry out the day to day operations of the trust and to manage its general affairs and that the board will consist of 7 members of the trust (who will be called *directors*).

13—Appointment of directors, term of office and remuneration

This clause provides that a director will be elected at the annual general meeting of the trust and that a director will hold office for a term of 2 years (with each period between the annual general meetings of the trust to be taken to be 1 year) and, at the expiration of a term of office, will be eligible for re-election.

This clause specifies when a member of the trust is not eligible for election as a director and when the office of a director becomes vacant.

14—Disclosure of interest

This clause provides that a director who has a direct or indirect personal or pecuniary interest in a matter under consideration by the board—

- must, as soon as he or she becomes aware of the interest, disclose the nature and extent of the interest to the board; and
- must not take part in any deliberations or decision of the board on the matter and must be absent from the room when any such deliberations are taking place or decision is being made.

15—Members' duties of honesty, care and diligence

This clause imposes certain duties on directors and makes it an offence for a director to breach a duty imposed by this clause.

16—Validity of acts and immunity of members

This clause provides that an act or proceeding of the board is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a director.

This clause provides immunity from civil liability for a director for an honest act or omission in the performance or exercise, or purported performance or exercise, of the director's or the board's functions, duties or powers under this or any other Act.

17—Presiding member and deputy presiding member

The proposed section provides that the directors must appoint a presiding member of the board (and therefore of the trust) and that the directors may appoint a deputy presiding member of the board (and therefore of the trust). The provision sets out the manner in which a person may be removed from office and the basis on which a person ceases to hold office.

18—Proceedings

This clause specifies the procedures that must be observed at meetings of the board.

19—Delegation

This clause provides a power of delegation by the board of management in respect of a function or power of the board to a director or to another person or body.

Division 2—Accounts and audit

20—Accounts to be kept

Proposed section 20 requires the trust to cause proper accounts to be kept of its financial affairs.

21—Preparation of financial statements

This clause provides that the trust must, as soon as practicable after the end of each financial year, cause financial statements in respect of that financial year to be prepared in accordance with recognised accounting standards and cause the statements to be audited.

Proposed subsection (5) provides that an officer or employee of the trust or other person must not, without lawful excuse—

- refuse or fail to allow an auditor access, for the purposes of an audit, to any accounts or accounting records of the trust in his or her custody or control; or
- refuse or fail to give any information or explanation as and when required by an auditor; or
- otherwise hinder, obstruct or delay an auditor in the exercise or performance of a power or function of the auditor.

Proposed subsection (6) requires an auditor to prepare a report on the audit on the audit's completion.

22—Accounts etc to be laid before annual general meeting

Proposed section 22 provides that at each annual general meeting of the trust, the trust must lay before the meeting a copy of the audited financial statements of the trust for the previous financial year and a copy of the auditors report and a report prepared by the trust on the operations of the trust in the previous financial year.

Proposed subsection (2) states that at the request of the Minister or any member of the trust, the trust must provide the Minister or member with a copy of the audited financial statements, the auditors report and the report prepared by the trust in respect of the financial year to which the request relates.

Division 3—Committees

23—Committees

Proposed subsection (1) provides that the trust may establish committees (which may, but need not, consist of or include members of the trust) to advise the trust on any aspects of its functions, or to assist it in the performance of its functions.

Proposed subsection (2) provides that the board of management may establish committees (which may, but need not, consist of or include members of the board of management) to advise the board on any aspects of its functions, or to assist it in the performance of its functions.

Part 4—Functions and powers of trust

Division 1—Functions of trust

24—Functions of trust

This clause provides that the trust has the following functions:

- to provide, maintain, operate and manage an irrigation system or systems;
- to provide, maintain, operate and manage a drainage system or systems;
- such other function as are specified or prescribed by or under this or any other Act.

Proposed subsection (2) provides that the trust may operate on the basis that some or all of the water supplied through an irrigation system managed by the trust will be supplied under a water licence held by the trust or

on the basis that the trust will deliver water to members of the trust for the purposes of water licences held by the members.

Proposed subsection (4) provides that the trust may set terms and conditions associated with the use of any irrigation system or drainage system provided by the trust and the supply or delivery of water by the trust.

Proposed subsection (5) ensures that when determining the terms and conditions on which water is supplied or delivered to, or drained from, land or in holding or dealing with any water licence the trust must comply with this Act as well as other specified requirements. The trust is always required to take all reasonable steps to ensure that it operates in a financially responsible manner.

Division 2—Powers of trust

25—Powers of trust

This clause sets out the powers that the trust may exercise in order to carry out its functions. Such powers include the power to construct facilities for holding water, install and operate pumps, control the flow of water in an irrigation or drainage channel and to acquire land.

26—Further powers of trust

In addition to the powers conferred on the trust by proposed section 25, the trust may, pursuant to an agreement with the owner or occupier of any serviced property, construct or extend an irrigation system or a drainage system on the property for the distribution or drainage of water.

Proposed subsection (2) provides that the trust may, in order to assist its members, purchase irrigation equipment, components and tools for resale to its members.

27—Delivery of water or supply of drainage to other persons

This clause allows the trust to enter into an agreement with a person who is not a member of the trust to deliver water for the purpose of irrigating land or to drain water from land by means of an irrigation system or drainage system provided and managed by the trust.

28—Supply or delivery of water for other purposes

This clause provides that in addition to supplying or delivering water for other purposes the trust may supply or deliver water for domestic or other purposes by agreement other than if a supply of water for those purposes is available under the *Waterworks Act 1932*.

29—Drainage of other water

This clause provides that in addition to draining irrigation water, the trust may drain any other water from land.

Division 3—Irrigation rights, water entitlements and trading

30—Fixing of irrigation rights

Proposed section 30 applies if the trust holds 1 or more water licences for the purposes of supplying water to its members.

Proposed subsection (2) provides that if this section applies, the trust must fix an entitlement (an irrigation right) in respect of each member of the trust who is to receive water on account of a water licence held by the trust. The proposed section further provides that an irrigation right will be fixed by resolution of the trust and that it may be expressed as a volume or units.

31—Surrender or transfer of water available under irrigation rights

This clause provides for the surrender of water available under an irrigation right held by a member of the trust to the trust and provides for the transfer of water available under an irrigation right by a member of a trust to another member of the trust or by the trust acting at the request of a member to a person who is not a member of the trust.

Proposed subsection (2) provides that if a member of the trust wishes to surrender water, the trust must take reasonable steps to come to a reasonable agreement on a sum of money or other consideration to be paid under that subsection. A member must not transfer water to another member of the trust without first notifying the trust of the proposed transfer in accordance with any requirements specified by the trust and a request by a member of the trust to transfer water to a person who is not a member of the trust must be complied with within a reasonable time.

32—Surrender or transfer of irrigation rights

This clause provides that an irrigation right held by a member of the trust is capable of being—

- surrendered by the relevant member to the trust for such sum of money or other consideration as may be agreed between the trust and the relevant member;
- transferred by the relevant member to another member of the trust for such sum of money or other consideration as may be agreed between the members.

Proposed subsection (2) requires that the trust must make reasonable steps to come to a reasonable agreement on a sum of money or other consideration to be paid if a relevant member wishes to surrender an irrigation right to the trust.

A transfer of an irrigation right by a member to another member of the trust under this section must not occur without the member first notifying the trust of the proposed transfer in accordance with any requirements specified by the trust.

33—Transformation of irrigation rights

This clause enables an irrigation right held by a member of the trust to be permanently transformed into a water licence to be held by the member if—

- the member applies to the trust for the transformation of the irrigation right in accordance with any requirements specified by the trust (including as to the payment of a specified application fee); and
- the member provides any security required by the trust; and
- the transformation so as to create a water licence held by the member is able to take effect under the *Natural Resources Management Act 2004* and the member, in seeking the water licence, complies with any relevant requirement under that Act.

Proposed subsection (4) provides that if a water licence is to be issued on account of an application under this section—

- an entitlement to an allocation of water that corresponds to the irrigation right held by the relevant member will arise in connection with the licence; and
- a variation must be made to the water licence held by the trust, and to any other related entitlement,

subject to and in accordance with the *Natural Resources Management Act 2004* (and subject to taking into account the water available under the provisions of that Act).

34—Trust may determine to devolve water licence

This clause enables the trust to transform irrigation rights held by members of the trust into water licences held by the respective members.

35—Promotion of water trades

This clause provides that the trust must not unreasonably restrict or prevent any activity contemplated by this or any other Act (including the *Water Act 2007* of the Commonwealth) that will support the efficiency and scope of water trades.

Division 4—Other matters

36—Power to restrict supply or to reduce water made available

This clause specifies the circumstances in which the trust may restrict or suspend the supply or delivery of water or reduce the amount of water available under an irrigation right.

37—Power of delegation

This clause provides that the trust may delegate a function or power of the trust under this Act.

38—Appointment of authorised officers

Proposed section 38 provides that the trust may appoint a person to be an authorised officer under this Act.

39—Powers of authorised officers

Proposed section 39 specifies the powers that may be exercised by an authorised officer in relation to the operations of the trust by whom he or she has been appointed.

40—Hindering etc persons engaged in the administration of this Act

This clause makes it an offence for a person to—

- without reasonable excuse, hinder or obstruct a person acting on behalf of the trust or an authorised officer;
- use abusive, threatening or insulting language to a person acting on behalf of the trust or an authorised officer;
- fail to answer a question put by an authorised officer to the best of his or her knowledge, information or belief;
- falsely represent by words or conduct, that he or she is an authorised officer.

Part 5—Protection and facilitation of systems

41—Protection and facilitation of systems

Proposed section 41 makes it an offence to contravene or fail to comply with a provision of the proposed section or of a notice served under proposed subsection (4) or (5).

Proposed subsection (1) provides that a person must not—

- connect a channel or pipe to an irrigation or drainage system of the trust; or
- place a structure or install equipment in, over or immediately adjacent to a channel or pipe connected to the trust; or
- supply water supplied or delivered to him or her by the trust under this Act to any other person,

unless he or she does so at the direction, or with the approval, of the trust.

Proposed subsection (2) provides that a person must not use a method of distributing irrigation water in a manner that is inconsistent with any determination or rule of the trust.

Proposed subsection (3) provides that a person who is a landowner under this Act—

- must ensure that irrigation water does not drain or otherwise escape onto or into adjoining land so as to cause a nuisance to the adjoining landowner;
- must maintain, and when necessary repair or replace an irrigation or drainage system provided by the landowner;
- must not block or impede the flow of water in any part of an irrigation or drainage system except at the direction, or with the approval, of the trust;
- must, when necessary, clear channels and pipes of an irrigation or drainage system provided by the landowner;
- must ensure that channels and pipes on his or her land, including those forming part of an irrigation or drainage system provided by the trust, are protected from damage that is reasonably foreseeable.

Proposed subsection (4) provides the trust with the power, under specified circumstances, to issue a notice to landowners directing the landowner—

- to—
  - — construct or erect channels, embankments, structures, tanks, ponds, dams or other facilities for holding water; or
  - — lay pipes; or
  - — install fittings or pumps or other equipment,

  on his or her land; or
- to widen or deepen channels forming part of an irrigation or drainage system provided by the landowner, to install fittings or equipment for or in relation to irrigating the land, or to carry out any other work on the land; or
- to provide a barrier that is impervious to water on the sides and bed of a channel forming part of an irrigation or drainage system provided by the landowner; or
- to undertake such other act or activity as is specified in the notice.

Proposed subsection (5) enables the trust to direct the landowner—

- to erect fences to keep stock or other animals away from channels or pipes on the land;
- to comply with the requirements of 1 or more of the other provisions of this section.

If a person fails to comply with a notice issued under this section, proposed subsection (7) provides the trust with the power to enter the relevant land and take the action specified in the notice and such other action as the trust considers appropriate in the circumstances and the trust's costs will be a debt due by the person to the trust.

Part 6—Charges for irrigation and drainage

Division 1—Declaration of charges

42—Charges

This clause allows the trust to impose a water supply charge or charges in relation to the supply or delivery of water (or both) under this Act and impose a drainage charge or charges in relation to the drainage or disposal of water (or both) under this Act.

43—Declaration of water supply charges

The trust may, in respect of a financial year or part of a financial year, by notice published in a local newspaper, declare a water supply charge or water supply charges based on a number of specified factors.

The clause allows the trust to declare different charges—

- in respect of different areas;
- for water supplied for irrigation purposes, domestic purposes or other purposes;

- depending on the quality of the water supplied or delivered.

Proposed subsection (3) provides that in the case of water supplied for irrigation purposes, the trust may declare a basic charge in respect of a specific amount of water supplied or delivered under an irrigation right or water licence and a further charge, or series of charges, that increase as the volume of water supplied increases over that amount.

44—Minimum amount

This clause provides that the trust may declare a minimum amount that is payable in respect of a water supply charge and that payment of the minimum amount must be credited against the water supply charge.

45—Drainage charge

Proposed section 45 provides that the trust may, in respect of a financial year or part of a financial year by notice published in a local newspaper, declare a drainage charge based on the area of land irrigated or drained or on the basis of the volume of water supplied or delivered for irrigating the land.

Proposed subsection (2) provides that the trust may exempt an owner and occupier of land from payment of drainage charges if water does not drain from the land into the drainage system provided by the trust or if the quantity of water that drains into the system is negligible.

46—Special rate

Proposed section 46 provides that the trust may, with the approval of the Minister, in respect of a financial year or part of a financial year, by notice published in a local newspaper, declare a special rate or special rates based on 1, or any combination of 2 or more, of the factors that a water supply charge or drainage charge would be based.

47—Determination of area for charging purposes

Proposed section 47 provides that for the purpose of calculating the amount of a water supply charge, a drainage charge or special rate based on the area of land, the area of the land will be determined to the nearest one-tenth of a hectare (0.05 of a hectare being increased to the next one-tenth of a hectare).

48—Interest

This clause provides that the trust may, in fixing a water supply charge, drainage charge or special rate, declare a rate of interest that will be applied if a charge is not paid within a period specified by the trust.

49—Notice of resolution for charges

This clause provides that the trust must fix the factors on which water supply charges, drainage charges and special rates are based and the amount of those charges or rates by resolution of which 21 days notice has been given.

50—Minister's approval required

This clause provides that if the trust is indebted to the Crown, the Minister or 1 or more other agencies or instrumentalities of the Crown in an amount that exceeds $50,000 or in 2 or more amounts that together exceed $50,000, the trust must not—

- declare a water supply charge or drainage charge; or
- fix a rate of interest for the late payment of charges,

without first obtaining the Minister's approval.

51—Related matters

Proposed section 51 provides that nothing in this Division prevents the trust from entering into an agreement with a person for the supply or delivery of water, or the drainage of land, for a cost or at a rate fixed or determined under the agreement (rather than by the imposition of a charge or rate under this Division).

Proposed subsection (3) provides that the trust must, in acting under this Division, ensure that it complies with any requirements imposed by or under the *Water Act 2007* of the Commonwealth.

Division 2—Recovery of charges

52—Liability for charges

This clause identifies the persons who are jointly and severally liable for the payment of charges and interest on charges.

Proposed subsection (2) states that notice of the amount payable by way of charges or rates, fixing the date on which the amount becomes payable, must be served on the owner or occupier of the land in respect of which the charges or rates are payable.

However, the section operates subject to—

- any Commonwealth water rules; and

- the provisions of any agreement between the trust and a person for the supply or delivery of water, or the drainage of land.

53—Recovery rights

This clause provides that any charges or rates and any accrued interest will be a charge on the land in respect of which water is supplied or delivered, or is drained, in accordance with a scheme established by the regulations. In addition, any charges or rates that are not paid in accordance with a notice under proposed section 52, together with any interest, may be recovered by the trust as a debt from a person who is liable for the payment of the charges or rates.

Proposed subsection (4) provides that any action to recover any charges (and interest) as a debt does not prejudice any action to recover any charges or rates (and interest) as a charge on land, and vice versa, but any amount sought to be recovered under 1 right must be adjusted to take into account any amount actually recovered under the other right.

54—Sale of land for non-payment of charges

Proposed section 54 provides for the sale of land by the trust if charges or rates, or interest on charges or rates, are a charge on land and have been unpaid for 1 year or more.

Proposed subsection (2) requires that notice must be served on the owner and occupier of the land—

- stating the period for which the charges or rates or interest have been in arrears; and
- stating the amount of the total liability for charges or rates and interest presently outstanding in relation to the land; and
- stating that if that amount is not paid in full within 1 month of service of the notice (or such longer time as the trust may allow), the trust intends to sell the land for non-payment of the charges or rates or interest.

Proposed subsection (9) states that any money received by the trust in respect of the sale of land under this section will be applied as follows:

- firstly—in paying the costs of the sale and any other costs incurred in proceeding under this section;
- secondly—in discharging the liability for charges or rates and interest and any other liabilities to the trust in respect of the land;
- thirdly—in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;
- fourthly—in discharging any liabilities secured by registered mortgages, encumbrances or charges;
- fifthly—in discharging any other mortgages, encumbrances and charges of which the trust has notice;
- sixthly—in payment to the owner of the land.

If land is sold by the trust in pursuance of proposed section 54, an instrument of transfer under the common seal of the trust will operate to vest title to the land in the purchaser.

Proposed subsection (13) provides that an instrument of transfer passing title to land in pursuance of a sale under this section must, when lodged with the Registrar-General for registration or enrolment, be accompanied by a statutory declaration made by the presiding member of the trust stating that the requirements of this section in relation to the sale of the land have been observed.

55—Trust may remit interest and discount charges

This clause allows the trust to remit the whole, or part, of the amount of any interest payable to the trust and to discount charges to encourage early payment of the charges or rates.

Part 7—Financial provisions

56—Trust's power to borrow etc

This clause provides that the trust may borrow money or take advantage of any other form of financial accommodation.

The trust may also charge the whole or any part of its property (including its revenue arising from water supply charges, drainage charges or rates) by debenture, mortgage or bill of sale or in any other manner or enter into arrangements for the provision of guarantees or indemnities.

Proposed subsection (3) gives the Supreme Court the power to—

- —
  - — direct the trust to appropriate a specified portion of its revenue to the satisfaction of its obligations under the debenture; or
  - — direct the trust to raise a specified amount by way of charges or rates (subject to any other requirement under this Act), and direct that the amount raised be applied towards satisfaction of the trust's obligations under the debenture; and

- give such incidental or ancillary directions as may be necessary or desirable,

on the application of a creditor or a trustee for debenture holders, if the trust defaults in carrying out its obligations under a debenture charged on revenue arising from water supply or drainage charges.

Part 8—Dissolution of trust

57—Dissolution on application

This clause provides for the dissolution of the trust by application to the Minister. The application to the Minister must be made by the members of the trust and the decision to dissolve must be made pursuant to a resolution of the trust that must be supported by 80 per cent or more of the number of votes cast at a meeting of the trust.

58—Dissolution on Minister's initiative

Proposed section 58 provides for the dissolution of the trust by the Minister if—

- in the Minister's opinion the trust—
  - — is unable to carry out its functions properly because of disagreements between its members; or
  - — is not carrying out its functions properly for any other reason; or
  - — without limiting the generality of proposed subparagraphs (i) and (ii), is not properly maintaining any irrigation and drainage systems provided by the trust; or
- the trust is unable to pay its debts as they fall due; or
- the trust has failed to comply with a provision of this Act; or
- the Minister is of the opinion that it is just and equitable that the trust be wound up in the circumstances of the particular case.

At the expiration of 3 months after service of the notice under proposed subsection (4)—

- the trust is dissolved; and
- any water licence held by the trust—
  - — will vest in 1 or more persons determined by the Minister; or
  - — will be dealt with in some other manner determined or approved by the Minister,

subject to the operation of the *Natural Resources Management Act 2004*.

59—Disposal of property on dissolution

This clause provides for the vesting of the property, rights and liabilities of the trust on its dissolution.

Part 9—Appeals

60—Appeals

This clause provides a right of appeal to the Environment, Resources and Development Court against a decision of the trust—

- in relation to a decision to discontinue a membership of the trust under proposed section 73(3)(a)(ii); or
- in relation to the fixing of an irrigation right in respect of the person; or
- directing the appellant to undertake an act or activity under proposed Part 5; or
- in relation to any other matter of a class prescribed by the regulations for the purposes of this section.

Proposed subsection (3) provides that on an appeal the Court may—

- affirm or vary the decision appealed against or substitute any decision that should have been made in the first instance;
- remit the subject matter of the appeal to the trust for further consideration;
- make such incidental or ancillary order as the Court considers is necessary or desirable.

61—Decision may be suspended pending appeal

This clause allows the trust or the Court to suspend the operation of the decision until the determination of the appeal.

62—Appeal against proposal to dissolve trust

This clause allows the trust or a member of the trust to appeal to the Environment, Resources and Development Court against the Minister's proposal to dissolve the trust under proposed section 58.

Proposed subsection (3) provides that on an appeal the Court may—

- do 1 or more of the following:
  - — direct the Minister to withdraw the notice of dissolution;
  - — give the Minister such other directions as the Court thinks fit;
  - — give the trust such directions as the Court thinks fit;
  - — make such incidental or ancillary order as the Court considers is necessary or desirable; or
- refuse to take any action in the matter.

63—Constitution of Environment, Resources and Development Court

When exercising its jurisdiction under this Act, the Environment, Resources and Development Court is constituted as follows:

the Court may be constituted in a manner provided by the *Environment, Resources and Development Court Act 1993* or may, if the Senior Judge of the Court so determines, be constituted of a Judge and 1 commissioner;

the provisions of the *Environment, Resources and Development Court Act 1993* apply in relation to the Court constituted of a Judge and 1 commissioner in the same way as in relation to a full bench of the Court;

the Court may not be constituted of or include a commissioner unless—

- in a case where only 1 commissioner is to sit (whether alone or with another member or members of the Court)—the commissioner; or
- in any other case—at least 1 commissioner,

is a commissioner who has been specifically designated by the Governor as a person who has expertise in irrigated farming or management of water resources.

Part 10—Miscellaneous

64—Protection from liability

This clause provides immunity from civil liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, by the person or by the trust, board of management or committee of which he or she is a member, of a power, function or duty under this Act.

65—Division of land

This clause provides that the owner of land where an irrigation or drainage system of the trust is situated may apply to the trust for its consent to divide the land.

However, land may be divided without the consent of the trust but in that event the following provisions apply:

- the trust has no obligation to extend any irrigation or drainage system to a new allotment;
- a new allotment cannot be connected to an irrigation or drainage system provided by the trust without the trust's approval;
- the division will not affect any irrigation right (unless the holder of the irrigation right applies to the trust for a new right to be issued and an appropriate adjustment made to the terms of the irrigation right);
- the trust may refuse to supply water to an allotment created by the division if the water will pass through another allotment created by the division or the water will be drained through another allotment created by the division.

66—False or misleading information

It is an offence for a person to furnish information to the trust that is false or misleading in a material particular.

67—Protection of irrigation system etc

This clause makes it an offence for a person to, without lawful authority, interfere with any part of an irrigation or drainage system or with any property of the trust used in, or in connection with, the irrigation or drainage of land.

68—Unauthorised use of water

This clause makes it an offence for a person to take water from the irrigation or drainage system of the trust without being authorised to do so or use water taken from an irrigation system for an unauthorised purpose.

69—Offences by bodies corporate

This clause provides that if a body corporate is guilty of an offence, each member of the governing body, and the manager, of the body corporate are guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

70—General defence

This clause provides that it is a defence to a charge of an offence if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

71—Proceedings for offences

This clause states that proceedings for an offence against this Act must be commenced—

- in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
- in any other case—within 2 years of the date on which the offence is alleged to have been committed.

72—Evidentiary provisions

This provision provides evidentiary aids for proceedings.

73—Service etc of notices

This clause sets out the methods by which notices and other documents may be served.

74—Certain land vested in trust in fee simple

Proposed section 74 provides that the piece of land delineated and coloured blue in the plan signed J.H. McNamara, Surveyor-General, and deposited in the Land Office of 5 August 1936, and numbered 324, and therein marked 'X', will, so far as that land has not been alienated by the trust, continue to be vested in the trust, to be held by the trust in fee simple under this Act.

75—Power of trust to construct infrastructure across roads

Proposed section 75 provides that the trust may, in connection with the construction or maintenance of any drainage or irrigation system provided (or to be provided) by the trust—

- cut any road (including any road vested in or under the control of a council);
- lay any pipes or other forms of infrastructure under any such road, or construct any culvert, drain or other works along or adjacent to any such road;
- take any steps necessary or convenient in connection with proposed paragraph (a) or (b).

76—Excluded matters

This clause ensures that the trust and an act or omission of any person, body or other entity in relation to the trust are excluded matters for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

77—Regulations

This clause provides general regulation making power.

78—Expiry of Act

If the trust has been dissolved under proposed Part 8, the Governor may, if or when it appears to the Governor to be appropriate to do so, fix by proclamation a day on which this Act will expire on the account of the dissolution of the trust.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This Schedule makes related amendments to the *Natural Resources Management Act 2004*, repeals the *Renmark Irrigation Trust Act 1936* and contains transitional arrangements for the implementation of the measure.

Part 2—Amendment of *Natural Resources Management Act 2004*

2—Insertion of section 169B

169B—Interaction with *Renmark Irrigation Trust Act 2009*

Part 3—Repeal of Act

3—Repeal of Act

Part 4—Transitional provisions

4—Interpretation

5—Members

6—Presiding member and deputy presiding member

7—Directors

8—Resolutions

9—Irrigation rights

10—Charges and rates

11—Other provisions

Debate adjourned on motion of Mrs Redmond.

IRRIGATION BILL

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (12:05): Obtained leave and introduced a bill for an act to provide a framework for the management and operation of shared infrastructure for irrigation or drainage purposes associated with primary production in the state; to make related amendments to the Natural Resources Management Act 2004; to repeal the Irrigation Act 1994; and for other purposes. Read a first time.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (12:06): 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.

A review of the *Irrigation Act 1994* and the *Renmark Irrigation Trust Act 1936* has been undertaken to ensure South Australian irrigation infrastructure management practices are consistent with the requirements of key government policy directions and related legislation and to reflect contemporary management practices.

The two Acts establish governance frameworks to provide for the irrigation of land in government and private irrigation districts within rural South Australia. In recent decades the South Australian government has progressively removed itself from the administrative affairs of district irrigators, allowing service provision to be carried out by private irrigation trusts. Significant government investment in replacing irrigation infrastructure occurred with the transition from government to private trusts. Much of this infrastructure has an 80-year lifespan.

This *Irrigation Bill 2009* repeals the *Irrigation Act 1994* and another Bill will be presented repealing the *Renmark Irrigation Trust Act 1936*.

The *Irrigation Bill 2009* includes provisions that will ensure compliance with key government policy directions including the National COAG Water Reform (1994), the National Water Initiative (2004), and the Inter-Governmental Agreement on Murray-Darling Basin Reform (2008). The Bill also ensures consistency with the *Water Act 2007* (Commonwealth) in particular, those provisions relating to water charges and the removal of obstacles to permanent trade in water.

In addition, the *Irrigation Bill 2009* provides for:

- flexibility in the management of water licences so that a trust can choose by resolution to devolve its water licence to all members of the trust;
- flexibility for individual members, enabling them to apply to the trust to transform their irrigation right into a water licence under the *Natural Resources Management Act 2004*; and
- flexibility for existing trusts to continue the management of collectively owned irrigation infrastructure and/or drainage networks, and for new trusts to be established or amalgamated in the future.

Other key features of the proposed provisions in the Bill include:

- removal of the concept of an irrigation district so that the operations and functions of an irrigation trust are based on service provision rather than land tenure;
- emphasis on the power of an irrigation trust to enter into individual service agreements or contracts for the delivery of water or drainage services;
- making explicit that an irrigation trust must not restrict permanent trade of water out of its irrigation network and that an irrigation trust must facilitate trade both within and out of a trust network, at the request of its members, and in accordance with the rules under the *Water Act 2007*;
- providing that fees and charges for water, drainage and other services provided by a trust reflect the cost of providing, maintaining, managing and operating irrigation and drainage infrastructure, subject to the rules under the *Water Act 2007*; and
- that an individual's entitlement to vote at a trust meeting is determined by an individual's connection to a trust's supply and/or drainage infrastructure as a member of the trust, unless otherwise specified in any contractual arrangements established between the two parties.

The Bill also modernises, aligns and clarifies terminology, updates penalties, updates other miscellaneous provisions, removes references to government irrigation districts, as they no longer exist, and makes a minor consequential amendment to the *Natural Resources Management Act 2004*.

As well as ensuring compliance with contemporary policy directions these provisions will enable those irrigators wishing to exit the industry in South Australia to trade their water. This is an important element in facilitating irrigator access to the Small Block Irrigator's Exit Grant Packages which have been made available by the Australian Government until 30 June 2009.

The measure is fundamental to ensuring that the management and operation of irrigation infrastructure in South Australia is well equipped to meet future challenges. The Government looks forward to the support of Parliament in the passing of this Bill.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions for the purposes of the measure.

Part 2—Establishment, amalgamation and dissolution of trusts

Division 1—Establishment of trust

4—Application to establish a trust

This clause sets out the basis on which an application for the establishment of an irrigation trust may be made to the Minister and the form in which it must be made.

5—Establishment of trust

This clause makes provision for the granting of an application to establish an irrigation trust by the Minister by notice in the Gazette. The proposed section sets out the information that must be specified in the notice and provides that an irrigation trust established under proposed section 5 is a body corporate. The clause further provides for the vesting of property identified in an application for the establishment of an irrigation trust in the irrigation trust on its incorporation.

6—Rules

Proposed section 6 provides that an irrigation trust may have a set of rules relating to the membership, management or operations of the trust.

Subsection (2) provides that the rules of an irrigation trust—

- must comply with any prescribed requirements; and
- must not contain any provision that is contrary to or inconsistent with this Act; and
- may provide for the imposition and payment of application and other fees by members of the trust (including a fee to be paid by a person if or when the person ceases to be a member of the trust); and
- may provide for or regulate the times at which irrigation water may be used; and
- may provide for other matters to facilitate—
    - the effective management of an irrigation or drainage system provided by the trust; or
    - the efficient supply, delivery or use of water provided by an irrigation system provided by the trust; or
    - the efficient drainage, management or disposal of water through a drainage system provided by the trust; and
    - may provide for such other matters as may be prescribed by the regulations or expedient for the purposes of the trust.

The provision sets out the basis on which the rules may be altered and makes it an offence for the trust to fail to furnish the Minister with an up-to-date copy of the rules of the trust, following the request of the Minister, within a period specified by the Minister.

7—Manner in which contracts may be made

Proposed section 7 provides that contracts may be made by or on behalf of an irrigation trust as specified by the proposed section.

Proposed subsection (2) provides that a contract may be varied or rescinded by or on behalf of an irrigation trust in the same manner as it is authorised to be made.

Division 2—Members

8—Members (including presiding member and deputy presiding member)

Clause 8 establishes the membership of an irrigation trust. On the establishment of an irrigation trust, the persons who authorised the application for the establishment of the irrigation trust become members of the trust. Other persons who carry on the business of primary production may be admitted as members of the trust by resolution of the trust or as provided by the rules of the trust.

Proposed subsection (3) specifies the circumstances in which a person ceases to be a member of a trust.

The proposed section provides that a trust must have a presiding member and that it may have a deputy presiding member appointed from its membership. The provision sets out the manner in which a person may be removed from office and the basis on which a person ceases to hold office.

9—Rights and liabilities of membership

Proposed section 9 sets out the rights and liabilities of members of an irrigation trust.

10—Calling of meetings

This clause sets out the manner in which a meeting of an irrigation trust may be called and imposes a requirement on the presiding member to call an annual general meeting of the trust.

11—Procedures at meetings

This clause specifies the procedures that must be observed at meetings of an irrigation trust.

12—Voting at meetings

Proposed section 12 establishes that a member of an irrigation trust is entitled to vote at meetings of the trust and that a member may nominate another person to attend and vote at meetings on his or her behalf.

Division 3—Amalgamation of trusts

13—Amalgamation of trusts

This clause provides for the amalgamation of 2 or more irrigation trusts by resolution of each trust and by application to the Minister.

Subsection (2) provides that a resolution must be supported by at least two-thirds of the number of votes cast at a meeting of the trust.

Proposed subsection (3) specifies the form in which application to the Minister for amalgamation as a single irrigation trust must be made and proposed subsection (4) sets out the basis on which the Minister may approve the application.

This clause requires the Minister to establish any new irrigation trust following amalgamation by notice in the Gazette.

Proposed subsection (7) provides that an irrigation trust established under the proposed section is a body corporate.

Proposed section 13 provides for the dissolution of any irrigation trust that was party to the application for amalgamation, the transfer of any property of the amalgamating trusts to the irrigation trust formed by the amalgamation and the transfer of the rights and liabilities of the trusts that were party to the amalgamation to the new irrigation trust on the date on which the trust is established.

Division 4—Dissolution of trusts

14—Dissolution on application

This clause provides for the dissolution of an irrigation trust by application to the Minister. The application to the Minister must be made by the members of the trust and the decision to dissolve must be made pursuant to a resolution of the trust that must be supported by 80 per cent or more of the number of votes cast at a meeting of the trust.

15—Dissolution on Minister's initiative

Proposed section 15 provides for the dissolution of an irrigation trust by the Minister if—

- in the Minister's opinion the trust—
  - is unable to carry out its functions properly because of disagreements between its members; or
  - is not carrying out its functions properly for any other reason; or
  - is not properly maintaining any irrigation and drainage systems provided by the trust; or
  - the trust is unable to pay its debts as they fall due; or
  - the trust has failed to comply with a provision of the Act; or
  - the Minister is of the opinion that it is just and equitable that the trust be wound up in the circumstances of the particular case.

At the expiration of 3 months after service by the Minister of a notice of dissolution of the trust—

- the trust is dissolved; and
- any water licence held by the trust—
  - will vest in 1 or more persons determined by the Minister; or
  - will be dealt with in some other manner determined or approved by the Minister,

  subject to the operation of the *Natural Resources Management Act 2004*.

16—Disposal of property on dissolution

This clause provides for the vesting of the property, rights and liabilities of an irrigation trust on its dissolution.

Part 3—Management of trusts

Division 1—Board of management

17—Board of management

This clause provides that an irrigation trust may appoint a board of management of the trust to carry out the day to day operations of the trust and to manage its general affairs.

18—Delegation

This clause provides a power of delegation by a board of management in respect of a function or power of the board to a member of the board or to another person or body.

Division 2—Accounts and audit

19—Accounts to be kept

Proposed section 19 requires an irrigation trust to cause proper accounts to be kept of its financial affairs.

20—Preparation of financial statements

This clause provides that an irrigation trust must, as soon as practicable after the end of each financial year, cause financial statements in respect of that financial year to be prepared in accordance with recognised accounting standards and cause the statements to be audited.

The proposed section makes it an offence for a person—

- to refuse or fail to allow an auditor access, for the purposes of an audit, to any accounts or accounting records of the trust in his or her custody or control; or
- refuse or fail to give any information or explanation as and when required by an auditor; or
- otherwise hinder, obstruct or delay an auditor in the exercise or performance of a power or function of the auditor.

Proposed subsection (6) requires an auditor to prepare a report on the audit on the audit's completion.

21—Accounts etc to be laid before annual general meeting

This clause requires that at each annual general meeting of an irrigation trust, the trust must lay before the meeting a copy of the audited financial statements of the trust for the previous financial year, a copy of the auditors report and a report prepared by the trust on the operations of the trust in the previous financial year.

Proposed subsection (2) requires that at the request of the Minister or any member of the trust, the trust must provide the Minister or member with a copy of the audited financial statements, the auditors report and the report prepared by the trust in respect of the financial year to which the request relates.

Division 3—Committees

22—Committees

Proposed section 22 provides that an irrigation trust may establish committees of members to advise the trust on any aspects of its functions.

Proposed subsection (2) provides that a board of management of an irrigation trust may establish committees to advise the board on any aspects of its functions.

Part 4—Functions and powers of irrigation trusts

Division 1—Functions of trusts

23—Functions of trusts

This clause provides that an irrigation trust has the following functions:

- to provide, maintain, operate and manage an irrigation system or systems;
- to provide, maintain, operate and manage a drainage system or systems;
- such other functions as are specified or prescribed by or under this or any other Act.

Proposed subsection (2) provides that an irrigation trust may operate on the basis that some or all of the water supplied through an irrigation system managed by the trust will be supplied under a water licence held by the trust or on the basis that the trust will deliver water to members of the trust for the purposes of water licences held by the members.

However, an irrigation trust established after the commencement of this Act must operate on the basis that the water licence is held by the members and not the trust itself.

Proposed subsection (5) provides that an irrigation trust may set terms and conditions associated with the use of any irrigation system or drainage system provided by the trust and the supply or delivery of water by the trust.

Proposed subsection (6) ensures that when determining the terms and conditions on which water is supplied or delivered to, or drained from, land or in holding or dealing with any water licence the trust must comply with this Act as well as other specified requirements. An irrigation trust is always required to take all reasonable steps to ensure that it operates in a financially responsible manner.

Division 2—Powers of trusts

24—Powers of trusts

This clause sets out the powers that an irrigation trust may exercise in order to carry out its functions. Such powers include the power to construct facilities for holding water, install and operate pumps, control the flow of water in an irrigation or drainage channel and to acquire land.

25—Further powers of trusts

In addition to the powers conferred on an irrigation trust by proposed section 24, an irrigation trust may, pursuant to an agreement with the owner or occupier of any serviced property, construct or extend an irrigation system or a drainage system on the property for the distribution or drainage of water.

Proposed subsection (2) provides that a trust may, in order to assist its members, purchase irrigation equipment, components and tools for resale to its members.

26—Delivery of water or supply of drainage to other persons

This clause allows an irrigation trust to enter into an agreement with a person who is not a member of the trust to deliver water for the purpose of irrigating land or to drain water from land by means of an irrigation system or drainage system provided and managed by the trust.

27—Supply or delivery of water for other purposes

This clause provides that in addition to supplying or delivering water for other purposes, an irrigation trust may supply or deliver water for domestic or other purposes by agreement other than if a supply of water for those purposes is available under the *Waterworks Act 1932*.

28—Drainage of other water

This clause enables an irrigation trust to drain water from land that is not irrigation water.

Division 3—Irrigation rights, water entitlements and trading

29—Fixing of irrigation rights

Proposed section 29 applies in relation to an irrigation trust that holds 1 or more water licences for the purposes of supplying water to its members.

Proposed subsection (2) provides that an irrigation trust to which the proposed section applies must fix an entitlement (an irrigation right) in respect of each member of the trust who is to receive water on account of a water licence held by the trust. The proposed section further provides that an irrigation right will be fixed by resolution of the trust and that it may be expressed as a volume or units.

30—Surrender or transfer of water available under irrigation rights

This clause provides for the surrender of water available under an irrigation right held by a member of a trust to the trust and provides for the transfer of water available under an irrigation right by a member of a trust to another member of the trust or by the trust acting at the request of a member to a person who is not a member of the trust.

Proposed subsection (2) provides that if a member of the trust wishes to surrender water, the trust must take reasonable steps to come to a reasonable agreement on a sum of money or other consideration to be paid. A member must not transfer water to another member of the trust without first notifying the trust of the proposed transfer in accordance with any requirements specified by the trust and a request by a member of the trust to transfer water to a person who is not a member of the trust must be complied with within a reasonable time.

31—Surrender or transfer of irrigation rights

This clause provides that an irrigation right held by a member of an irrigation trust is capable of being—

- surrendered by the relevant member to the trust for such sum of money or other consideration as may be agreed between the trust and the relevant member;

- transferred by the relevant member to another member of the trust for such sum of money or other consideration as may be agreed between the members.

Proposed subsection (2) requires that the trust must make reasonable steps to come to a reasonable agreement on a sum of money or other consideration to be paid if a relevant member wishes to surrender an irrigation right to the trust.

A transfer of an irrigation right by a member to another member of the trust under this section must not occur without the member first notifying the trust of the proposed transfer in accordance with any requirements specified by the trust.

32—Transformation of irrigation rights

This clause enables an irrigation right held by a member of a trust to be permanently transformed into a water licence to be held by the member if—

- the member applies to the trust for the transformation of the irrigation right in accordance with any requirements specified by the trust (including as to the payment of a specified application fee); and
- the member provides any security required by the trust; and
- the transformation so as to create a water licence held by the member is able to take effect under the *Natural Resources Management Act 2004* and the member, in seeking the water licence, complies with any relevant requirement under that Act.
- Proposed subsection (4) provides that if a water licence is to be issued on account of an application under this section—
- an entitlement to an allocation of water that corresponds to the irrigation right held by the relevant member will arise in connection with the licence; and
- a variation must be made to the water licence held by the trust, and to any other related entitlement,

subject to and in accordance with the *Natural Resources Management Act 2004* (and subject to taking into account the water available under the provisions of that Act).

33—Trust may determine to devolve water licence

This clause enables an irrigation trust to transform irrigation rights held by members of the trust into water licences held by the respective members.

34—Promotion of water trades

This clause provides that an irrigation trust must not unreasonably restrict or prevent any activity contemplated by this or any other Act (including the *Water Act 2007* of the Commonwealth) that will support the efficiency and scope of water trades.

Division 4—Other matters

35—Power to restrict supply or to reduce water available under irrigation right

This clause specifies the circumstances in which an irrigation trust may restrict or suspend the supply or delivery of water or reduce the amount of water available under an irrigation right.

36—Power of delegation

This clause provides that an irrigation trust may delegate a function or power of the trust under this Act.

37—Appointment of authorised officers

Proposed section 37 provides that an irrigation trust may appoint a person to be an authorised officer under this Act.

38—Powers of authorised officers

Proposed section 38 specifies the powers that may be exercised by an authorised officer in relation to the operations of the irrigation trust by whom he or she has been appointed.

39—Hindering etc persons engaged in the administration of this Act

This clause makes it an offence for a person to—

- without reasonable excuse, hinder or obstruct a person acting on behalf of a trust or an authorised officer;
- use abusive, threatening or insulting language to a person acting on behalf of a trust or an authorised officer;
- fail to answer a question put by an authorised officer to the best of his or her knowledge, information or belief;
- falsely represent by words or conduct, that he or she is an authorised officer.

Part 5—Protection and facilitation of systems

40—Protection and facilitation of systems

Proposed section 40 makes it an offence to contravene or fail to comply with a provision of the proposed section or of a notice served under proposed subsection (4) or (5).

Proposed subsection (1) provides that a person must not—

- connect a channel or pipe to an irrigation or drainage system of an irrigation trust; or
- place a structure or install equipment in, over or immediately adjacent to a channel or pipe connected to an irrigation trust; or
- supply water supplied or delivered to him or her by an irrigation trust under this Act to any other person,

unless he or she does so at the direction, or with the approval, of the trust.

Proposed subsection (2) provides that a person must not use a method of distributing irrigation water in a manner that is inconsistent with any determination or rule of an irrigation trust.

Proposed subsection (3) provides that a person who is a landowner under this Act—

- must ensure that irrigation water does not drain or otherwise escape onto or into adjoining land so as to cause a nuisance to the adjoining landowner;
- must maintain, and when necessary repair or replace an irrigation or drainage system provided by the landowner;
- must not block or impede the flow of water in any part of an irrigation or drainage system except at the direction, or with the approval, of the irrigation trust;
- must, when necessary, clear channels and pipes of an irrigation or drainage system provided by the landowner;
- must ensure that channels and pipes on his or her land, including those forming part of an irrigation or drainage system provided by an irrigation trust, are protected from damage that is reasonably foreseeable.

Proposed subsection (4) provides the trust with the power under specified circumstances to issue a notice to landowners directing the landowner—

- to—
  - construct or erect channels, embankments, structures, tanks, ponds, dams or other facilities for holding water; or
  - lay pipes; or
  - install fittings or pumps or other equipment,
- on his or her land; or
- to widen or deepen channels forming part of an irrigation or drainage system provided by the landowner, to install fittings or equipment for or in relation to irrigating the land, or to carry out any other work on the land; or
- to provide a barrier that is impervious to water on the sides and bed of a channel forming part of an irrigation or drainage system provided by the landowner; or
- to undertake such other act or activity as is specified in the notice.

Proposed subsection (5) enables the trust to direct the landowner—

- to erect fences to keep stock or other animals away from channels or pipes on the land;
- to comply with the requirements of 1 or more of the other provisions of this section.

If a person fails to comply with a notice issued under this section, proposed subsection (7) provides the trust with the power to enter the relevant land and take the action specified in the notice and such other action as the trust considers appropriate in the circumstances and the trust's costs will be a debt due by the person to the trust.

Part 6—Charges for irrigation and drainage

Division 1—Declaration of charges

41—Charges

This clause allows an irrigation trust to impose a water supply charge or charges in relation to the supply or delivery of water (or both) under this Act and impose a drainage charge or charges in relation to the drainage or disposal of water (or both) under this Act.

42—Declaration of water supply charges

An irrigation trust may, in respect of a financial year or part of a financial year, by notice published in a local newspaper, declare a water supply charge or water supply charges based on a number of specified factors.

The clause allows the trust to declare different charges—

- in respect of different areas;
- for water supplied for irrigation purposes, domestic purposes or other purposes;
- depending on the quality of the water supplied or delivered.

43—Minimum amount

This clause provides that an irrigation trust may declare a minimum amount that is payable in respect of a water supply charge and the payment of the minimum amount must be credited against the water supply charge.

44—Drainage charge

Proposed section 44 provides that an irrigation trust may, in respect of a financial year or part of a financial year by notice published in a local newspaper, declare a drainage charge based on the area of land irrigated or drained or on the basis of the volume of water supplied or delivered for irrigating the land.

Proposed subsection (2) provides that a trust may exempt an owner and occupier of land from payment of drainage charges if water does not drain from the land into the drainage system provided by the trust or if the quantity of water that drains into the system is negligible. A drainage charge may be declared after the period to which it relates has commenced.

45—Determination of area for charging purposes

Proposed section 45 provides that for the purpose of calculating the amount of a water supply charge or a drainage charge based on the area of land, the area of the land will be determined to the nearest one-tenth of a hectare (0.05 of a hectare being increased to the next one-tenth of a hectare).

46—Interest

This clause provides that an irrigation trust may, in fixing a water supply charge or a drainage charge, declare a rate of interest that will be applied if a charge is not paid within a period specified by the trust.

47—Notice of resolution for charges

Proposed section 47 specifies that an irrigation trust must fix the factors on which water supply and drainage charges are based and the amount of those charges by resolution of which 21 days notice has been given.

48—Minister's approval required

This clause proves that if a trust is indebted to the Crown, the Minister or 1 or more other agencies or instrumentalities of the Crown in an amount that exceeds $50,000 or in 2 or more amounts that together exceed $50,000, the trust must not—

- declare a water supply charge or drainage charge; or
- fix a rate of interest for the late payment of charges,

without first obtaining the Minister's approval. However, non-compliance with subsection (1) does not affect the validity of a charge or rate of interest declared or fixed by a trust.

49—Related matters

Proposed subsection (1) provides that nothing in this Division prevents an irrigation trust from entering into an agreement with a person for the supply or delivery of water, or the drainage of land, for a cost or at a rate fixed or determined under the agreement (rather than by the imposition of a charge under this Division). To avoid doubt, the preceding sections of this Division do not apply in relation to an amount payable under an agreement under proposed subsection (1).

Proposed subsection (3) provides that an irrigation trust must, in acting under this Division, ensure that it complies with any requirements imposed by or under the *Water Act 2007* of the Commonwealth.

Division 2—Recovery of charges

50—Liability for charges

Proposed section 50 identifies the persons who are jointly and severally liable for the payment of charges and interest on charges.

Proposed subsection (2) states that notice of the amount payable by way of charges, fixing the date on which the amount becomes payable, must be served on the owner or occupier of the land in respect of which the charges are payable.

However, the section operates subject to any Commonwealth market rules and the provisions of any agreement between the trust and a person for the supply or delivery of water, or the drainage of land.

51—Recovery rights

This clause provides for the recovery of charges and interest on charges as a charge on the land in respect of which water is supplied or delivered, or is drained, in accordance with a scheme established by the regulations. In addition, any charges that are not paid in accordance with a notice under proposed section 50, together with any

interest, may be recovered by the irrigation trust as a debt from a person who is liable for the payment of the charges.

Proposed subsection (4) provides that any action to recover any charges (and interest) as a debt does not prejudice any action to recover any charges (and interest) as a charge on land, and vice versa, but any amount sought to be recovered under 1 right must be adjusted to take into account any amount actually recovered under the other right.

52—Sale of land for non-payment of charges

Proposed section 52 provides for the sale of land by the irrigation trust if charges, or interest on charges, are a charge on land and have been unpaid for 1 year or more.

Proposed subsection (2) requires that notice must be served on the owner and occupier of the land—

- stating the period for which the charges or interest have been in arrears; and
- stating the amount of the total liability for charges and interest presently outstanding in relation to the land; and
- stating that if that amount is not paid in full within 1 month of service of the notice (or such longer time as the trust may allow), the trust intends to sell the land for non-payment of the charges or interest.

Proposed subsection (9) states that any money received by the trust in respect of the sale of land under this section will be applied as follows:

- firstly—in paying the costs of the sale and any other costs incurred in proceeding under this section;
- secondly—in discharging the liability for charges and interest and any other liabilities to the trust in respect of the land;
- thirdly—in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;
- fourthly—in discharging any liabilities secured by registered mortgages, encumbrances or charges;
- fifthly—in discharging any other mortgages, encumbrances and charges of which the trust has notice;
- sixthly—in payment to the owner of the land.

If land is sold by a trust in pursuance of the proposed section, an instrument of transfer under the common seal of the trust will operate to vest title to the land in the purchaser.

Proposed subsection (13) provides that an instrument of transfer passing title to land in pursuance of a sale under this section must, when lodged with the Registrar-General for registration or enrolment, be accompanied by a statutory declaration made by the presiding member of the trust stating that the requirements of this section in relation to the sale of the land have been observed.

53—Trust may remit interest and discount charges

This clause allows the trust to remit the whole, or part, of the amount of any interest payable to the trust and to discount charges to encourage early payment of the charges.

Part 7—Financial provisions

54—Trust's power to borrow etc

This clause allows an irrigation trust to borrow money or take advantage of any other form of financial accommodation.

The trust may also charge the whole or any part of its property (including its revenue arising from water supply or drainage charges) by debenture, mortgage or bill of sale or in any other manner or enter into arrangements for the provision of guarantees or indemnities, in order to provide security for any money borrowed, or other financial accommodation received, by it.

Proposed subsection (3) gives the Supreme Court the power to—

—

- direct the trust to appropriate a specified portion of its revenue to the satisfaction of its obligations under the debenture; or
- direct the trust to raise a specified amount by way of charges and direct that the amount raised be applied towards satisfaction of the trust's obligations under the debenture; and

give such incidental or ancillary directions as may be necessary or desirable, on the application of a creditor or a trustee for debenture holders, if a trust defaults in carrying out its obligations under a debenture charged on revenue arising from water supply or drainage charges.

Part 8—Appeals

55—Appeals

This clause provides a right of appeal to the Environment, Resources and Development Court against a decision of an irrigation trust—

- in relation to a decision to discontinue a membership of a trust under proposed section 8(3)(a)(ii); or
- in relation to the fixing of an irrigation right in respect of the person; or
- directing the appellant to undertake an act or activity under proposed Part 5; or
- in relation to any other matter of a class prescribed by the regulations for the purposes of this section.

Proposed subsection (3) provides that the Court on appeal may—

- affirm or vary the decision appealed against or substitute any decision that should have been made in the first instance;
- remit the subject matter of the appeal to the trust for further consideration;
- make such incidental or ancillary order as the Court considers is necessary or desirable.

56—Decision may be suspended pending appeal

This clause allows an irrigation trust or the Court to suspend the operation of the decision until the determination of the appeal.

57—Appeal against proposal to dissolve trust

This clause allows an irrigation trust or a member of an irrigation trust to appeal to the Environment, Resources and Development Court against the Minister's proposal to dissolve the trust under proposed section 15.

Proposed subsection (3) provides that on an appeal the Court may—

- do 1 or more of the following:
  - direct the Minister to withdraw the notice of dissolution;
  - give the Minister such other directions as the Court thinks fit;
  - give the trust such directions as the Court thinks fit;
  - make such incidental or ancillary order as the Court considers is necessary or desirable; or
- refuse to take any action in the matter.

58—Constitution of Environment, Resources and Development Court

When exercising its jurisdiction under this Act, the Environment, Resources and Development Court is constituted as follows:

- the Court may be constituted in a manner provided by the *Environment, Resources and Development Court Act 1993* or may, if the Senior Judge of the Court so determines, be constituted of a Judge and 1 commissioner;
- the provisions of the *Environment, Resources and Development Court Act 1993* apply in relation to the Court constituted of a Judge and 1 commissioner in the same way as in relation to a full bench of the Court;
- the Court may not be constituted of or include a commissioner unless—
  - in a case where only 1 commissioner is to sit (whether alone or with another member or members of the Court)—the commissioner; or
  - in any other case—at least 1 commissioner,
- is a commissioner who has been specifically designated by the Governor as a person who has expertise in irrigated farming or management of water resources.

Part 9—Miscellaneous

59—Protection from liability

This clause provides immunity from civil liability for an honest act or omission in the exercise or discharge, or purported exercise or discharge, by the person or by an irrigation trust, board of management or committee of which he or she is a member, of a power, function or duty under this Act.

60—Division of land

This clause provides that the owner of land where an irrigation or drainage system of an irrigation trust is situated may apply to the trust for its consent to divide the land.

However, land may be divided without the consent of the trust but in that event the following provisions apply:

- the trust has no obligation to extend any irrigation or drainage system to a new allotment;

- a new allotment cannot be connected to an irrigation or drainage system provided by the trust without the trust's approval;
- the division will not affect any irrigation right (unless the holder of the irrigation right applies to the trust for a new right to be issued and an appropriate adjustment made to the terms of the irrigation right);
- the trust may refuse to supply water to an allotment created by the division if the water will pass through another allotment created by the division or the water will be drained through another allotment created by the division.

61—False or misleading information

It is an offence to furnish information to an irrigation trust that is false or misleading in a material particular.

62—Protection of irrigation system etc

This clause makes it an offence for a person to, without lawful authority, interfere with any part of an irrigation or drainage system or with any property of an irrigation trust used in, or in connection with, the irrigation or drainage of land.

63—Unauthorised use of water

This clause makes it an offence for a person to take water from the irrigation or drainage system of an irrigation trust without being authorised to do so or use water taken from an irrigation system for an unauthorised purpose.

64—Offences by bodies corporate

This clause provides that if a body corporate is guilty of an offence, each member of the governing body, and the manager, of the body corporate are guilty of an offence and liable to the same penalty as is prescribed for the principal offence.

65—General defence

This clause provides that it is a defence to a charge of an offence if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

66—Proceedings for offences

This clause states that proceedings for an offence against this Act must be commenced—

- in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1921*;
- in any other case—within 2 years of the date on which the offence is alleged to have been committed.

67—Evidentiary provisions

This provision provides evidentiary aids for proceedings.

68—Service etc of notices

This clause sets out the methods by which notices and other documents may be served.

69—Excluded matters

This clause provides that the following matters are declared to be excluded matters for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies:

- a trust;
- an act or omission of any person, body or other entity in relation to a trust.

70—Regulations

This clause provides general regulation making power.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This Schedule makes related amendments to the *Natural Resources Management Act 2004*, repeals the *Irrigation Act 1994* and contains transitional arrangements for the implementation of the measure.

Part 2—Amendment of *Natural Resources Management Act 2004*

2—Insertion of Chapter 7 Part 5A

Part 5A—Interaction with Irrigation Acts

169A—Interaction with *Irrigation Act 2009*

Part 3—Repeal of Act

3—Repeal of Act

Part 4—Transitional provisions

4—Interpretation

5—Continuation of trusts

6—Presiding member and deputy presiding member

7—Boards of management

8—Resolutions

9—Voting at meetings

10—Irrigation rights

11—Charges and rates

12—Other provisions

Debate adjourned on motion of Ms Redmond.

MOUNT GAMBIER HOSPITAL HYDROTHERAPY POOL FUND BILL

Consideration in committee of the Legislative Council's amendments.

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

That the Legislative Council's amendments be agreed to.

I indicate that the government accepts the amendments from the other place, which were moved by the Hon. John Darley, a former chair of the Commissioners of Charitable Funds. He has moved that the Comissioners of Charitable Funds be responsible for the dispersal of the funds that have been accumulated through the fundraising efforts of the Mount Gambier community, and I have indicated to him that I am happy for that to happen. We have talked to the country health people and also the Mount Gambier and Districts Health Advisory Council, and I understand they are happy for that to happen.

I think the main thing is to get this through so that the funds can go back to those who want them and the remaining funds then can be applied to whatever purposes the local community wants them to be applied. This is really just a machinery measure. I thank members in the other house for their speedy consideration of it. As I said, I indicate that the government accepts the amendments.

Ms CHAPMAN: The opposition welcomes the bill as amended in another place. I with to place on the record my personal thanks to the Hon. John Darley for initiating the amendments. I have a slightly different view from the minister's approach with respect to this. During the course of the debate another minister had the conduct of this matter in the lower house (now a former minister). Also, the local member was quite intransigent about the concept of moving the control of these funds and the ultimate decision away from Country Health SA (as has been proposed) to the local people.

The holder of the funds at present, under the Public Charities Funds Act, is the Commissioners of Charitable Funds. These amendments ensure two things: first, the return of the money to those who want their money back—and we all agree on that—and it is simply to facilitate that directly from them; and, secondly, that the function to undertake how the balance is applied for the benefit of the people of Mount Gambier is not to be transferred to Country Health SA but to remain under the control of the commissioners with consultation via the Health Advisory Council.

It has been the opposition's view throughout that the Health Advisory Council, which is now the representative body of the community and of the minister, should be the body to undertake the consultation and put forward recommendations for the distribution of these funds. We welcome this amendment. The machinery operation that it be retained and distributed through the commissioners is certainly acceptable to us. The most important thing for us is that Country Health SA—that is, the department—does not get control of this money and make ultimate decisions but that the local community, through the Health Advisory Council, will have that opportunity. This was implacably opposed by the government, but now I welcome the confirmation of the Minister for Health that his government will accept this and endorses it for the parliament's approval. I join with him in that regard.

The Hon. R.J. McEWEN: It is great that we can now resolve this matter, but in doing so it is important to put on the record the fact that the deputy leader again chooses to totally misrepresent the situation. It is inconceivable that she lives in some parallel universe and cannot even remember the discussions we have had in this place on this bill. To suggest that I was intransigent is just a gross misrepresentation of the facts.

The fact was quite simple. You might remember that she had to go as far as trying to move a privileges motion, for some bizarre reason, as part of having this debate, because she does not even understand the practices in this house. In saying that we would be very happy to consider any amendments and any suggestions between the two houses, the one thing we made very clear—which the deputy leader still has not got in her thimble-sized brain—is that the funds could never be held by—

Mr PISONI: I take a point of order.

Members interjecting:

The CHAIR: Order!

Mr PISONI: I ask that the member withdraw the offensive remark.

The CHAIR: Order! The member referred to is present in the committee. If she wishes to make a point, she makes one herself.

The Hon. R.J. McEWEN: There were two very good reasons put on the record as to why the local Health Advisory Committee could not hold the funds and, what is more, it indicated it did not wish to hold the funds. The problem at the time was that the deputy leader had not even bothered to ring the chairman of the Health Advisory Committee, Mr Grant King. I checked with Mr Grant King and she had not even bothered to check with him what the wishes of the Health Advisory Committee or the local community were. All along, as we know, the Health Advisory Committee wished to be part of the consultation and have the opportunity to express its views. It has that.

What the deputy leader would not accept were two matters of fact: one was that it did not want to do it and the second was that, even if it did, it could not. It could not accept the funds, because under the Taxation Act it was not even allowed to hold the funds. To suggest that we were intransigent in this matter shows again that this lady is not capable of coming into this place and honestly dealing with an issue but would rather, for gross political purposes in my community, misrepresent the facts. We are sick of the deputy leader totally misrepresenting the facts on health generally and this case in particular. Our community expects better of her; we do not think we will ever see any better of her.

The Hon. J.D. HILL: I thank the member for Mount Gambier. I hope we are seeing 12 months of this passion on behalf of his local community nail a few colours to the mast. I congratulate him on that independent voice. The bill is such a simple administrative procedure to allow something to happen.

Members interjecting:

The Hon. J.D. HILL: The deputy leader tries to play politics. I am not trying to play politics with it. We are just trying to fix up a problem, whatever way you want to colour it. You might have friends down in the Mount Gambier media. It is not going to threaten me.

You can get as many front pages as you like in *The Border Watch* condemning me. It is not going to change one single vote in the electorate of Kaurna, let me tell you, so go for your life. It will not change a single vote in the electorate of Mawson or any of the other electorates on this side of the house.

So you go ahead and get your front pages in *The Border Watch* making up stories about what our intentions were. Our intentions have always been honourable and they are to get the local community its money back so that people can decide what they want to do.

Ms Chapman interjecting:

The Hon. J.D. HILL: You are bizarre.

Motion carried.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

Adjourned debate on second reading.

(Continued from 19 February 2009. Page 1710.)

Mrs REDMOND (Heysen) (12:17): May I say what a pleasure it is to be the first person on the opposition side of the parliament to be leading a debate against our new minister, the member for West Torrens. I put on the record my congratulations on his final elevation to the ministry. It has been a long time coming, and I would have to say that, as a minister, he will be a big improvement on the member for Mount Gambier, who has just disgraced himself in this chamber once again.

The bill before us is one concerning road safety and that is an issue with which I have had some involvement through my professional career in the law, where I spent a lot of my time dealing with people who, sadly, had had major injuries as a result of road accidents. I used to do a lot of cases where they had had brain injuries and lacked the capacity even to instruct me in what had happened in the accident that had so disabled them.

In addition to that, I was, for about 10 years, a member of the Road Safety Advisory Council for this state, and I served on that council as a representative of local government. I was appointed to it when I was first elected in the Stirling council (more than a quarter of a century ago now, I hate to say), and I thoroughly enjoyed my involvement in that committee.

Indeed, it was one of the highlights of my month when I was a young mum with three young children to be able to get dressed and go along to meetings of the Road Safety Advisory Council. In those days it was chaired by Vin Kean, who was then the chair of SGIC, and throughout the time I was there we had people like Donald Beard, the surgeon—I think Don has now retired—and Jack McLean, head of the then Road Accident Research Unit at the university. It was a great learning experience and one that certainly made me aware of road safety issues. Therefore, it is a pleasure to be involved in the debate on this bill, which, of course, came to us from the Legislative Council where, I think, the former minister for road safety had conduct of it.

The bill does two main things, and I will speak about each of them separately in due course. Basically, it introduces a mandatory interlock scheme (I will discuss that in a minute), and it also implements the government's response to a review after the first year of operation of the Road Traffic (Drug Driving) Amendment Bill 2005. That bill was introduced and passed by the parliament in 2005 but did not come into operation until, I think, 1 July 2006.

That meant that the first year of its operation went from 1 July 2006 to 30 June 2007 and, after one year of operation, the act provided for a review to be conducted. A gentleman by the name of Bill Cossey was engaged by the government to conduct the review after one year. That review basically endorsed the regime but recommended some improvements that could be made.

I note in passing that the member for Schubert, of course, was the one who had been pushing a private member's bill to introduce roadside drug testing for some years prior to the government actually introducing the drug testing regime. There is no doubt that we all owe him a debt of gratitude for raising the possibility because I think it has made a difference to our road safety regime.

In terms of the rationale behind taking further road safety measures, I have to say that, largely, there are three fundamental areas to address in the area of road safety. In no order of priority, the first is driver behaviour, the second is the area of safety of the vehicle, and the third is what is called the 'roadside furniture' and the issue of making the roads themselves safer.

By way of example, in terms of driver behaviour, for many years it was not compulsory to wear seatbelts. We introduced them as a compulsion, and it has gradually changed driver behaviour so that most, I am sure, are now like me in that when I get into the car I do not feel comfortable if I do not have my seatbelt on. Indeed, even when I get into a bus, I do not feel comfortable unless I have a seatbelt to put on, because it has become part of our behaviour.

In terms of car safety improvements, of course, the most obvious recent example is that of airbags, which are now common in most, if not all, new cars on the market. In terms of roadsides, the most obvious examples are the proximity of trees and the quality of road shoulders in terms of when cars may leave the paved surface of the road.

This bill is directed at driver behaviour. It is some years, of course, since we first introduced legislation about drink driving. I remember as a young teenager being driven by older teenagers (not of my own family) who had been drinking and so on. It was a normal part of our social

behaviour; although, anecdotally, people were aware that drink driving could be problematic in terms of response times and so on.

Eventually, we introduced legislation to make it an offence to drink and then drive. In this state, at least, the offence constituted driving with a prescribed concentration of more than .08 grams per 100 millilitres in the blood—what we currently know as .08. We then lowered that threshold to .05 (and that occurred while I was on the Road Safety Advisory Council). That came about not because of any evidence suggesting that that was where the problems were occurring—indeed, the evidence was quite to the contrary—but because, as members may recall, when Bob Hawke was prime minister of this country he introduced a 10 point road safety plan to address the number of deaths and injuries on our roads and, basically—as the federal government so commonly does to the states—he said that, unless the states introduced his 10 point plan as part of their legislative regimes, the federal government would no longer fund our road programs.

So the state government changed the regime; it introduced one which, in essence, did change the threshold to .05, but it also said that it recognised that the area from .05 to .08 was not really where the problem was, and made that an expiable offence. The most common offence was still from .08 to .15, and the really serious offence was for over .15. That was the system with which we ended up. Of course, within our courts we then had a scheme which set out (and which still sets out) each of those categories: category 1 being under .08; category 2 being .08 to .15; and category 3 being above .15. We also added a provision for a first or subsequent offence—and I think that when I was in practice it was a subsequent offence within three years. So there was a type of sliding scale for the penalty, increasing with the seriousness of the offence.

When the minister in the other place introduced the bill she indicated that, sadly, there had been something of an increase in the propensity of drivers to continue to drive with alcohol in their blood. In fact, she indicated that in 1998 the percentage had reached a low point of 22 per cent of drivers killed that year having a blood alcohol reading which would have been an offence under the legislation, but in the five years leading up to the introduction of the bill it had risen to 33 per cent. I believe that when the shadow minister in the other place, the Hon. Steven Wade, spoke to the bill he asked the minister to provide some actual figures because, whilst those percentages do seem concerning and indicate that there has, basically, been a 50 per cent increase over the last five years in the average number of people killed who were drink driving, it could be misleading.

Let me explain. If you look at figures—and I am just making up these figures—it could have been that in 1998 we had 100 deaths on our roads and 22 per cent of those (or 22 people), our low point, had alcohol in their blood at the time of their accident. If, over the next five years, we lowered the number of deaths on the road to 20 (and, as I said, I am just making up these figures), then 33 per cent of 20—or, say, seven people—is actually much lower in terms of absolute numbers than 22 per cent of 100 people. I say this by way of illustrating the problem not of dealing with actual numbers of people killed who had a blood alcohol problem but in using the percentages.

So while I accept that percentages can sound quite concerning, and I will always support any move to make our roads safer and remove drink drivers from the roads, I think there is an element in the figures quoted by the minister that could suggest that the problem is worse than it is because there may have been far fewer people killed on our roads. In fact, my recollection is that last year, we trended significantly down in the number of total deaths on our road; sadly, this year, we seem to be going up quite a bit.

I come back to the point. After the 2006-07 first year of operation of the drug driving laws—and I wish they had been introduced sooner; we supported the member for Schubert's bill—Bill Cossey conducted a review which found, substantially, that the provisions were working; however, one particular amendment was recommended. A number of amendments were recommended, of which the most significant was the recommendation that a first drug driving offence—that is, driving with a prescribed concentration of a prescribed drug in the blood—be treated like a first offence category 1 blood alcohol offence, involving a three month licence disqualification. That is the fundamental amendment to that aspect of the legislation.

The other part of the legislation is the introduction of the compulsory alcohol interlock scheme. I am sorry that my other duties kept me from seeing a demonstration, which was offered to those of us who were interested before or just after the bill was introduced in the other place. I have a vague notion of how they work; I have never actually operated one, but suffice to say that my understanding is that a lock system is put onto your car, it is installed professionally (not able to be removed by you if you are subject to the regime), and it will prevent you from starting the ignition of your car unless you are able to blow into a device which will indicate that you do not have a

blood alcohol reading. I have a question about whether it has to be a zero reading; I assume it does, but I will inquire about that in due course.

The Liberal Party, at the end of its last term in government, around about the end of 2001, introduced a voluntary scheme for alcohol interlock devices, and that still exists. I note that the bill contains some transitional provisions to replace the voluntary scheme with a compulsory scheme. Indeed, this new scheme is being made compulsory on the recommendation of the Road Safety Advisory Council.

As I said, I used to be a member of that council, and it is one of the quirks of life that it was the Hon. Diana Laidlaw (the then Liberal minister for transport) who came in as a new minister and swept all of us out of office and did not reappoint all of us. I guess she did not know that I was Liberal in my leanings in those days, so I lost my position on the Road Safety Advisory Council as a result of the Liberal government and the Hon. Di Laidlaw. I do not hold her to account in any way for that; she was not to know what my political leanings were, but it was the Liberal government that removed me from that council.

The Road Safety Advisory Council has recommended that the scheme of alcohol interlock devices be made compulsory for serious and repeat drink drive offences. Interestingly, when the government introduced the proposal originally, it said two things about how it was going to operate. One was that they were going to make the carrying of your licence compulsory. I was first licensed in New South Wales, where it was compulsory to carry your licence, but in this state that proposal created quite a stir publicly because it would lead to the proposition that a simply forgetful person could be committing an offence. There is no evidence really to say that there is a major problem with people not carrying their licence or not producing it within 24 hours, and so on.

The government actually abandoned that idea, but the other thing it said about the introduction of the proposal was that it was going to have a variable payment scheme. The way it was first made public indicated that it would mean that wealthier participants would be required to pay a higher fee than lower income participants, and they would have a correspondingly discounted fee, so that the wealthier people would be subsidising the less wealthy people.

At the time that was first mooted, the opposition expressed its concern about that proposal. I think it would be administratively difficult because of the amount of paperwork involved in deciding what someone's means and assets were, in any event. I will come later to the way that is now being managed. Effectively, there is basically a concession scheme if you can show that you are a low enough income earner. I would have thought that it was obvious that trying to assess someone's income for the purposes of deciding whether they should pay a higher fee or some other fee, and whether it should be a graduated fee, would create an unnecessary administrative nightmare.

I effectively believe that all people should be equal before the law. I accept the argument that, if people are to be equal before the law, surely a $20 fee will not affect the person who has $1 million as much as the person who has only $100, obviously; but I also remember a saying in the law: 'to possess everything but own nothing'. I am sure that there would be plenty of people who have all sorts of family trusts and things who are quite wealthy but to do not necessarily show as having very much income at all. So, I think it would be fraught with difficulty, and I am not too unhappy with the way the government has now approached the issue.

In any event, neither of those two elements—the element of compulsion to carry a licence and the element of whether there should be a differential and possibly even a sliding scale fee to use the alcohol interlock scheme—seem to be driven by actual road safety considerations: they are merely administrative and technical things. I think the government has basically come to a reasonably comfortable landing by abandoning its idea of making the carrying of a licence compulsory and simply allowing for a discount or a concession for someone who can establish that they really would be in difficult financial circumstances. As I have said, we may further discuss that later on.

The bill actually covers four areas of legislation, most notably, of course, the Motor Vehicles Act and the Road Traffic Act. For obvious reasons, both of those—the vehicles and the driver behaviour—are encompassed within this concept of alcohol interlock devices. It also covers the Rail Safety Act and the Harbours and Navigation Act. My comments will be restricted really to the Motor Vehicles Act but, suffice to say, the intention is that one cannot be in control of a vessel with any blood alcohol, as I recall; therefore, there have to be amendments to the appropriate legislation to have the same effect.

The fact that all those other pieces of legislation are affected tends to make this a fairly lengthy bill. I want to look quickly at some of the details of the bill. First, I want to look at clause 14, which is the specific amendment that requires that a person disqualified from driving by reason of a serious drink driving offence, who has served their term of disqualification and has not yet had their licence reinstated, now faces a fine of $5,000 or a maximum of one year imprisonment. I do have a question of the minister. We might get to the committee stage on the issue, so I hope the advisers are taking note. When I read clause 14, I was a bit puzzled about why the reference was only to drink driving and not to drug driving but, in any event, we can come back to that in due course.

Clause 16 sets out the regime for determining whether a person should attend an assessment clinic regarding their alcohol dependency. Basically, it sets out a regime whereby, if during the previous five years they have had three or more category 1 offences (that is, the .05 to .08 offences), or two of those and one category 2 offence, or two or more serious drink driving offences (and serious drink driving offences are defined specifically in the act) and they come before the registrar seeking a licence and they come within that regime (that is, three or more category 1 offences or two category 1 and a category 2, or two or more category 2 offences, or serious drink driving offences, as defined), the registrar must refer that person for assessment of their drink and alcohol dependency before a licence can be issued.

I will also ask about clause 20 of the legislation, which I found particularly confusing to read, I would have to say. I will come back to this after the lunch break when I have found the material that I want to refer to in relation to this matter. So, in the meantime, I will move on to the next point.

Clause 22 inserts a new subsection (7), which appears to allow the minister, by regulation, to decide the length of time to be taken into account for prior offences (and I think the same thing applies in clause 23), and I am a little worried about that. As I understand this regime, there will be a much more significant penalty if someone has committed a drink driving offence and it comes within the regime which requires you to go into the alcohol interlock scheme; whereas previously you had, under the existing regime, an automatic licence disqualification, which became more severe, depending on the severity of your offence. So, there is automatic licence disqualification. However, for category 1, basically it was not a licence disqualification because it was less than .08, then you had an automatic licence disqualification, and so on, in increasing seriousness and an even longer licence disqualification if it was a second or subsequent offence within the prescribed time.

I do have some concerns that the provision in the bill seems to allow the minister to determine what that time might be that is talking about a prescribed length of time within which the minister might take into account prior offences, whereas I thought that had been sorted out. The thrust of this scheme is that, effectively, once you have served that period of disqualification, as provided under existing legislation, if you are found to be within the category that requires the alcohol interlock scheme, you must, compulsorily, have an alcohol interlock device fitted to your car at your own expense. Once that has been fitted you will have to comply with it—even though you have finished your period of disqualification—for a period which effectively doubles the period of disqualification.

I think the wording in the act is that it is for the period of disqualification or three years, whichever is the lesser. For instance, if you were disqualified for five years, at the end of your five years, if you were found to come within the regime that requires the alcohol interlock device (because five years is more than three years), obviously, you would face another three years with the alcohol interlock scheme.

The way I read the legislation is that there is a provision which provides that, if you choose to, and if your licence is one of those that has a condition on it for having an alcohol interlock scheme, you can hand up your licence and not proceed; however, when you come back again, even if it is five years later, you still have to go back and finish whatever time is unexpired of your alcohol interlock situation.

That is as I read the legislation, and I will be interested to confirm that that is the case but, as I said, that is the way it seems to me, particularly the operation of what will be section 81G. For the alcohol interlock scheme to come into place, you have the serious drink driving offence, as defined in section 81E, you finish your period of disqualification, which we have always had for years, you then apply for your new licence and you are told that, because you have this serious drink driving offence and you have done your disqualification, in getting a new licence you must have one that is subject to a condition, that is, you have to have this alcohol interlock on your car.

Proposed new section 81G provides that you cannot avoid it by simply saying, 'Well, I will just extend the period for which I am not driving.' You cannot do that. The only way you can do it is actually to have the alcohol interlock device attached to your car for that period and choose not to drive. So, I am a bit puzzled as to this idea that you might hand up your licence, because new section 81G talks about just that. It provides:

> Cessation of licence subject to mandatory alcohol interlock scheme conditions.
>
> If a person voluntarily surrenders a licence subject to the mandatory alcohol interlock scheme conditions or ceases to hold such a licence for any other reason [before they do their time]...a licence subsequently issued to the person will be subject to the conditions until [they reach the aggregate].

Let us assume that you have someone who has been disqualified for three years, they come within the definition that requires them to have their new licence issued to an alcohol interlock scheme, so they have to subject themselves to that for three years, and they then decide that they find that all too burdensome and do not want to do it.

Theoretically, new section 81G contemplates that they might surrender that licence. So, rather than having a licence with the alcohol interlock condition on it, they surrender that licence—that is what the section provides—and they sit out another three years without driving, or they get someone else to drive for them or whatever they do.

They sit out their three years and do not use that licence; they have surrendered it. Let us suppose that they had three months where they tried to operate under the licence: they found they did not like it, surrendered it, and three years later they come back to apply for a new licence. The effect of section 81G will be that they then still have to apply for their new licence and they will still be subject to a further two years and nine months with the alcohol interlock condition on their licence.

On that basis it seems that no-one will hand up their licence because it would surely be more sensible to simply keep the alcohol interlock on your car if you are not going to drive it anyway, and then sit out your three years. That means, presumably, that they have to keep paying, perhaps on a monthly basis—and maybe we can discuss these matters in committee. However, it seems to create quite a big burden, and I am puzzled about the circumstances in which the minister thinks that someone who has a compulsory alcohol interlock device condition on their licence for, let us say, three years, would ever surrender that licence, rather than simply leaving the alcohol interlock system there and sitting out the three years, otherwise it does not matter when they come back to the registrar as they will still have time to serve on their licence. That struck me as a somewhat unusual provision and I will be interested to hear the explanation for how it comes about.

Clause 24 sets out the circumstances in which the licence will be subject to mandatory alcohol interlock schemes and basically lays out the fact that we have these category 1, 2 and 3 offences, where: category 1 is driving with less than or up to .08 grams in 100 millilitres of blood; category 2 is .08 to .15 grams in 100 millilitres of blood; and, category 3 is greater than .15 grams in 100 millilitres of blood.

The first thing to note is that a serious drink driving offence means any drink driving offence, except a category 1 (that is, the very lowest, .05 to .08), or a first offence category 2 (that is, .08 to .15), which occurs within five years. That constitutes a serious drink driving offence. If you have within a period of five years anything except either just a category 1, which has always been an expiable offence, or a first offence within five years, it will be deemed under the legislation to be a serious drink driving offence.

The provision then goes on to say that, if a person who applies for a licence has been disqualified due to a serious drink driving offence, the licence, if issued, must be subject to the mandatory alcohol interlock scheme, and it may operate, in essence, for up to three years. You have that serious drink driving offence; someone applies for their licence (and it says 'if issued' because there are circumstances that I have already referred to where someone has a serious enough record in drink driving that they may be referred for assessment and, depending on the outcome of the assessment, may not be able to get a licence at all) and, if the licence is issued, they must have the alcohol interlock scheme for at least three years, as I read the legislation.

Make no mistake, that will be quite a significant thing when the community figures out that that is what it means. I am not trying to fight against it, as I believe it is a good thing. I spoke to someone at the weekend who, without knowing I had any interest in the subject, said that she thought the law should be a zero alcohol reading for all driving.

As a teetotaller I would be very happy if that were the case, but, socially, it is unlikely to be accepted at this stage in our community. I think that, like smoking, it will get to the point where now fewer people smoke; and I am sure that, in due course, the new minister will come to the conclusion that smoking is just as antisocial as some alcohol-related behaviour.

In effect, it will mean that you are disqualified for three years and that, for the next three years, you cannot get into your car to drive unless you can blow in the little thing and prove that you are not under the weather. I do want to clarify—because I did not see the actual operation of it—whether you are allowed to have any alcohol in your system or whether it is an absolute zero tolerance for the next three years. I think that will be quite an imposition on those who lose their licences and apply to get them back when they have serious drink driving offences.

Indeed, it would not surprise me at all, given that within five years quite a number of people might have an offence of over .08 but below .15. I would think that a fair few people will be subject to disqualification as well as the alcohol interlock device. As I understand it, at least two companies will be authorised to fit these alcohol interlock devices so that there is competition. It would not surprise me if we end up with more, but those two companies, I suspect, will find their business thriving over the next little while.

Interestingly, a provision in subclause (4) allows the registrar to be satisfied that prescribed circumstances exist and to issue a licence without mandatory alcohol interlock conditions. I am curious as to whether the minister will be able to tell me what 'prescribed circumstances' might be. I imagine that what is in the thinking of the minister and the department may be that someone who lives way out in the country, or for some extraordinary circumstance has to have a licence without going through the process of the alcohol interlock device, may come within some sort of exception.

I was interested to note that it is being put into the legislation by way of the minister being able to prescribe it; in other words, there will be a regulation in which the minister says, 'These are the circumstances in which I will authorise the registrar to issue someone with a licence who is otherwise liable to the alcohol interlock scheme,' and that licence can be issued without the alcohol interlock being fitted and without that condition being on the licence.

I struggle to come up with a situation where I would be comfortable with anyone who should otherwise be subject to the alcohol interlock scheme being able to avoid it by making an application that comes within the provisions prescribed by the minister and assessed by the registrar. I am curious as to the intention in terms of the prescribed circumstances within that legislation. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 13:00 to 14:00]

COUNTRY HEALTH CARE PLAN

The Hon. S.W. KEY (Ashford): Presented a petition signed by 3,372 residents of South Australia requesting the house to urge the government to consult appropriately with health care professionals and local communities in finalising the Country Health Care Plan.

BUDDHA STATUE

The Hon. R.B. SUCH (Fisher): Presented a petition signed by 25 residents of South Australia requesting the house to urge the government to deny the erection of a Buddha statue structure on the Adelaide hills face zone.

PAPERS

The following paper was laid on the table:

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

Public and Environmental Health, State of—Report 2007-08

PRISONS

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister for Youth, Minister for Volunteers,

Minister Assisting the Minister for Multicultural Affairs) (14:03): I seek leave to make a ministerial statement.

Leave granted.

The Hon. A. KOUTSANTONIS: Members may recall that last year the Treasurer announced a two year deferral of the commissioning of the new prisons in Murray Bridge. Along with the announcement came a commitment from the Rann government to spend $30 million on the construction of additional cell blocks at existing regional prisons for up to 160 beds. This spending commitment was made in addition to the $35 million announced in last year's budget for an additional 209 beds across the prison system. This brings the total to 369 additional prison beds on line before the new prison opens.

I am pleased to announce a significant expansion to our existing regional prisons in the lead-up to the new prisons being operational in 2013. Yesterday it was announced that $18 million will be spent to expand the Mount Gambier Prison by 116 beds.

Today I announce a further $15 million for an 80 bed expansion of Port Augusta Prison and $4 million for additional beds at Port Lincoln Prison. This is a total of $37 million in capital infrastructure investment in our regions, offering significant employment opportunities and a revenue boost. All this is part of the statewide expansion strategy that will ensure that our prisons and our prison system are well equipped to meet the demand now and into the future. There has been an unprecedented growth in prison numbers since the Rann government came into office, and as of today 1,942 prisoners are in the system compared with 1,479 in July 2002.

This growth is a direct result of this government's law and order agenda. We are taking violent and repeat offenders off the streets. The courts are sending offenders to prison longer—significantly longer in fact than any other state in Australia. The average sentence for an offender in South Australia has climbed to 74.1 months compared to 58.7 months in 2002. That, too, is a direct result of our law and order reforms. This government makes no apologies when it comes to its tough stance on law and order. The Mount Gambier Prison expansion includes medium and low security facilities that will be accommodating around 36 prisoners. An 80 bed medium security cell block will also be constructed.

The low-security facility is expected to be completed by November 2010 and a cell block is expected to be commissioned by November 2011. The Port Augusta expansion will see an 80 bed high-medium security cell block and supporting infrastructure within the existing prison, and the Port Lincoln expansion includes up to 36 low bed security accommodation adjacent to the existing prison complex. There will be no change to the prisoner profile at any of the three prisons.

I assure the house and the people of South Australia that this government remains committed to meeting the demand increase in our prisons in the lead-up to a new prison which will be operational in 2013. This is responsible justice which directly contributes to enhanced community safety.

LEGISLATIVE REVIEW COMMITTEE

Mrs GERAGHTY (Torrens) (14:07): I bring up the 14th report of the committee.

Report received.

PUBLIC WORKS COMMITTEE

Ms CICCARELLO (Norwood) (14:07): I bring up the 326th report of the committee on the Southern Urban Reuse Project.

Report received and ordered to be published.

VISITORS

The SPEAKER: I draw to the attention of members the presence in the gallery today of students from Concordia College, who are guests of the member for Unley.

QUESTION TIME

SOUTH AUSTRALIAN ECONOMY

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:08): My question is to the Premier. As the Minister for Economic Development, has the Premier sought briefings on the decline in business investment in South Australia, and what factors has he identified for the

collapse in confidence? National accounts figures released today show that South Australia's biggest investment has slumped in the December quarter by a negative 13.9 per cent, the worst of all states. New South Wales was second worst, with a decline of just 1.5 per cent. They also show that South Australia exhibited the second slowest growth of all states in the year since the December quarter of 2007. Business investment levels across all Australian states increased by 1.1 per cent, with New South Wales, Tasmania and SA the only states in decline.

A recent report by the Fraser Institute noted that South Australia had dropped well down in its place in the world for best mining potential, with Western Australia jumping from 27th place to seventh, making it the most attractive region for mining in Australia.

Ms Chapman: Good old Fraser Institute.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:10): Let's remember the Fraser Institute was derided and ridiculed by the Deputy Leader of the Opposition when the argument did not suit her. Now she claims it as her own when she thinks the argument suits her cause. We are experiencing the worst financial crisis that this nation has arguably ever seen. I was accused by members opposite—

An honourable member interjecting:

The Hon. K.O. FOLEY: I will get to that. I was accused by members opposite of being alarmist, of being a doomsayer, of talking down the economy, of scaring people by putting my views on the public record six months ago, eight months ago, because, having been fortunate to be meeting with people in both America and the United Kingdom, I could see what is heading our way. An opposition can do one of two things. During this very difficult time in our economy either it can be constructive and robust—and that does not mean governments should be beyond criticism, not at all, but an opposition should be prepared to accept and acknowledge that this is a crisis beyond any state government's or any national government's control and it requires substance and a constructive approach from an opposition—or it can take the shameful political approach and simply criticise, attack and knock.

What I can say is this: the quarterly state final demand figure is disappointing, but we have an economy that is measured through the course of a financial year or through a 12 month rolling average. Can I say that South Australia's annual state final demand growth to date is positive 3.6 per cent against a national average of positive 2.6 per cent. So, when you take the full quarter, the rolling average, we are a percentage point above the national average, and I think that is a pretty good outcome.

Have we had some drop in business investment this quarter—yes. Have we had some negative outcomes—yes. However, an economy is not measured over three months: an economy is measured, at the very least, over a 12 month period, and for the 12 months this state has been travelling very well. However, I will finish on this point. Make no mistake about it—

Ms Chapman: Are you going to answer the question?

The SPEAKER: Order!

The Hon. K.O. FOLEY: Make no mistake about it, I speak to business every single day of my working life—

Ms Chapman: Have you had briefings?

The Hon. K.O. FOLEY: Briefings from business—I talk to businesses every day, unlike the deputy leader who clearly does not. I talk to business every day. We have an Economic Development Board that gives us advice. We have as good a body of economic and business advice available to any state government, but—

Ms Chapman: Kevin the ostrich, head in the sand.

The SPEAKER: Order! The Deputy Leader of the Opposition will come to order!

The Hon. P.F. Conlon: So amusing, aren't you? Three and a half years and you haven't said a witty thing.

The Hon. K.O. FOLEY: I wouldn't mind it if there was a bit of humour in it, something funny in it.

Members interjecting:

The SPEAKER: Order! The Treasurer has the call.

The Hon. K.O. FOLEY: Sir, I really would appreciate some assistance in dealing with the Deputy Leader of the Opposition, because it makes it very difficult to answer questions when she just chips away the entire question time. The economy in South Australia has to brace itself for a serious economic slowdown over which we have no control. We have done a number of things to make this economy as resilient as we can.

I have been Treasurer of a very good government for seven years. Am I concerned about the future? Absolutely. Do I think we can manage the process and the crisis? Yes, I do, but it will not be without pain. As I said at the outset of this question, you can do one of two things: you can be constructive, robust and critical where appropriate, or you can play base politics and make this a much harder job than it otherwise needs to be.

ADELAIDE FILM FESTIVAL

Mr KENYON (Newland) (14:14): My question is to the Premier.

Members interjecting:

The SPEAKER: Order!

Mr KENYON: Will the Premier tell the house about the results of the film-related events held over the last few weeks?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:15): I know that this is of great interest to members opposite, because I have seen them at a number of the events and I know that they appreciate the importance of the film industry to South Australia.

On 1 March I attended the closing night of the BigPond Adelaide Film Festival, which ended an amazing run of film events in Adelaide. Starting with the Australian International Documentary Conference, which I am told had about 600 delegates from around the world, and encompassing the National Screenwriters Conference, which had hundreds of visitors, and Fringe, as well as the Documentary Fringe, it was a 19 day feast of film-related activities. The documentary conference achieved its target delegate number, and I understand that it has been receiving glowing reports in various blogs around the world since the international visitors returned home. The National Screenwriters Conference was a sell-out success, and I am hopeful that this event will return to Adelaide in 2011.

But the jewel of the film crown has been the BigPond Adelaide Film Festival, which has again shown that it is a world-class event, screening films that the public really wants to see. It is easy to see why it was labelled by *Variety* magazine in the United States as one of the 50 film festivals across the world not to be missed (and there are thousands of film festivals around the world but we are in the top 50), with 22 world premieres, including nine features and three documentary features, 62 Australian premieres and 143 films from 49 different countries screened.

There were also five forums, a two day art and moving image symposium and four major gallery exhibitions, including the first commissioned exhibition, Lynette Wallworth's *Duality of Light*. This exhibition is on at the Samstag Museum of Art at the University of South Australia until 24 April and I encourage members to get along, if they have not already done so. The Natuzzi International Best Feature was awarded to So-yong Kim, director of *Treeless Mountain*. Set in Korea, this film is a stunning story about childhood and adaptation. The Natuzzi International Best Feature Award is the first of its kind in Australia, the winner receiving a cash prize of $25,000.

The opening night film, which I know was attended by many members of parliament, was *My Year Without Sex*, and all three sessions sold out. In fact, one in five screenings across the festival was sold out. Do you remember the prediction that people would not attend the Film Festival because the city council had somehow pulled the plug on the River Torrens? Doom and gloom: people from the Sundance festival, Toronto, from London and from the Edinburgh festival would cancel their tickets and the public would not come out because of the disgrace of what happened in the River Torrens. I am very pleased to report that the festival experienced an almost 30 per cent increase in the 2009 box office compared to the previous festival. So, predictions about the global financial crisis and the impact of the Torrens on theatre attendances clearly did not come true.

Among the films to have sold-out sessions within the opening days of the festival were titles backed through the Festival Investment Fund (we are one of the few festivals in the world that invests in films, in making films at every step along the creative process), such as *Last Ride*, *A Good Man*, and *My Tehran for Sale*. The screening of the local films and also SA Screen Award winners *Necessary Gains*, *Past Midnight* and *Love Market* also had sold-out sessions along with the *Made in SA Shorts* series. These sold-out sessions demonstrate the overwhelming popularity for new Australian films at this festival.

Of particular note was the resounding standing ovation for director Warwick Thornton and young stars Rowan McNamara and Marissa Gibson, at the world premiere of the stunning new Australian film that we invested in, *Samson and Delilah*, which I think will win every international film award in its category. This extraordinary film, which explores the difficult subject of petrol sniffing, became the most talked about film of the festival. I am sure that it will follow the footsteps of *Ten Canoes* on the world stage, and I hope it gets to be screened at the Cannes Film Festival. It is no surprise that this film also won the BigPond Adelaide Film Festival Best Feature Audience award.

I remind members that *Samson and Delilah* was supported through the Adelaide Film Festival Investment Fund, which supported many of the highlights of the festival. The festival is one of only three in the world that invests in the creative process of making films. These films are great examples of how supporters such as the SA Film Corporation and the Adelaide Film Festival Investment Fund are helping to fuel the industry's resurgence.

I am sure that the chamber has a shared vision to have more of these sorts of quality films made right here in South Australia. Obviously, I was able to sign off on the design plans for the $43 million state-of-the-art Adelaide Screen and Film Centre at Glenside, the only facility of its kind in the nation.

I want to thank the Treasurer for his support not only of the Adelaide Symphony Orchestra, where he has become an icon. The orchestra told me that the Deputy Premier had described the Adelaide Symphony Orchestra as the best orchestra that he had ever seen in the world. Because of the strong support that the Treasurer has given me in my support for the film industry, I have decided to name a studio at Glenside after him—I know there are often controversies when we make namings—to be known as the Foley Suite.

The Hon. K.O. Foley: Can I get my name on all the credits?

The Hon. M.D. RANN: The Foley Suite will be named in all the credits.

The Hon. P.F. Conlon: The foley operator will be in all the credits.

The Hon. M.D. RANN: The foley operator. We made the decision last week to allow SA producers to share in the SA Film Corporation's first dollar returns from films they make through our new Producer Equity Scheme, the first in the nation, which got a fantastic response from producers. We will transfer copyright to producers on all non-SA Film Corporation produced investments five years after a film's delivery date and invest around $4.2 million over four years in the South Australian Film Lab to create greater employment opportunities and sustainable career pathways for our state's newest crop of talented film practitioners.

I am very pleased to announce to the house that our Film Lab will be headed by acclaimed director, Phillip Noyce, who is renowned for titles such as *Rabbit Proof Fence* and *The Quiet American*. He will be joined by an impressive group of professionals such as Rolf de Heer (*Ten Canoes* and the soon-to-be—I hope—award-winning film, *Dr Plonk*.)

The Hon. K.O. Foley: Also *Clear and Present Danger* with Harrison Ford.

The Hon. M.D. RANN: Yes, *Clear and Present Danger* with Harrison Ford was another Phillip Noyce film. Others include writer-director Greg McLean (*Wolf Creek*, *Rogue*), producer Julie Ryan (*Ten Canoes*, *Broken Hill*), UK producer Mark Herbert (*Dead Man's Shoes, This Is England, Donkey Punch*) and Nick Batzias (distributor of Madman Films).

I want to congratulate everyone involved in the Film Festival and all the announcements that have been made but, particularly, Katrina Sedgwick who is the artistic director. I am delighted to be able to announce to the house that Katrina Sedgwick and Cheryl Bart, the chairperson, will again lead the team for the 2011 Adelaide Film Festival, and I am confident that this year's success will be repeated.

FUNDS SA

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:23): To what extent has the government's deficit and unfunded liability position worsened since the Mid-Year Budget Review and, in particular, what are Funds SA's investment losses so far in 2008-09? The Mid-Year Budget Review released in December '08 revealed a deficit of $112 million. Since that time financial conditions have worsened. At 30 June 2008, Funds SA had $14.2 billion worth of funds invested.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:23): That is a good question and I look forward to answering it. Since the mid-year review, as I have said, a number of things have happened. Clearly the extent to which the global financial crisis has gripped the world and, particularly, Australia has been reflected in significant further cuts in the forecast of receipts of GST revenue. We have lost a further $800 million over four years since the mid-year review was brought down. The mid-year review number on revenue only lasted a matter of weeks until that number was forecast down by upwards of $800 million. We are seeing some softening in real estate transactions, not unexpected, and, of course, we are seeing a significant—

Mr Williams interjecting:

The Hon. K.O. FOLEY: Sorry?

Mr Williams interjecting:

The SPEAKER: The member for MacKillop is warned.

The Hon. K.O. FOLEY: I have seen a softening of, obviously—

An honourable member interjecting:

The Hon. K.O. FOLEY: Mr Speaker, this is a very good question by the leader, and I would like to be given the opportunity to answer it in some detail without having to put up with interjections, because, quite frankly, if they are not prepared to listen, I will not give the answer.

We are seeing a softening in a number of activity areas, and we will just have to see how that goes through in terms of the outcome, whether or not we are starting to reach the bottom. Australia's numbers out today were not good—a 0.5 per cent reduction in GDP for this quarter—but when compared to the rest of the world, we are still doing exceptionally well.

When it comes to the unfunded liabilities of a number of our corporations, two factors are in account. Have we lost more from our earnings since the mid-year review? Without the data in front of me I still think I can comfortably say: absolutely. What that number is, I will take advice as to the appropriateness and robustness of that number, and release what I am able to to the Leader of the Opposition and to the parliament; but, it is clearly suffering further losses.

The other issue is that, in measuring an unfunded liability, there was an accounting rule change in Australia that requires us to value that unfunded liability using the risk-free discount rate. That is effectively the bond rate that is in the market. When the bond rate goes down, your liabilities go up exponentially. Therefore, what that says is that you are going to earn, theoretically, a lot less on your earnings than you would have otherwise. Therefore, with less earnings, the unfunded liability grows.

That risk-free discount rate approach was not necessarily a bad thing in different economic times, but it is causing us a lot of problems. In fact, I discussed this matter with the rating agencies in the last two weeks, and I discussed it in a lengthy phone call with the Victorian Treasurer, John Lenders, this morning. What it is effectively doing is the mark-to-market valuation of your unfunded liability.

The truth of the matter is that our unfunded liability has grown enormously as measured by the current discount rate. That is an erroneous number to work with because, obviously, we will not be earning 4 per cent in the long run. The long-term earnings rate of our superannuation funds have been around about 7.5 per cent. In fact, when the state regained its AAA credit rating, the discount rate that was used to value our unfunded liability was 7.5 per cent. When you use that calculation, the true nature of our unfunded liability reduces dramatically.

In the discussions that I have had with the rating agencies, they understand this and, indeed, are of a similar view, that the current discount rate is really not a rate that gives a meaningful measure of the true nature of our unfunded liabilities. That is not saying the accounting

standard is wrong, but it is showing that the accounting standard is proving not irrelevant but very difficult to have any meaningful substance to it. In fact, this is a matter that I am considering taking up with the Accounting Standards Board of Australia, or the Auditors Board, or whichever the national authority is on this, to see if we can get a more sensible measurement of our unfunded liabilities in a long-run sense, not in a mark-to-market or day-by-day analysis of exactly what the unfunded liability is.

It is a long answer; it is a good question. The unfunded liability has grown significantly due to a further loss in earnings but, more significantly, by this accounting treatment using the discount rate as against a more meaningful long-term earnings rate, which is something on which I think I now have agreement from a least one rating agency that that is how they will scope our budgetary and balance sheet position.

FUNDS SA

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:29): My supplementary question is again to the Treasurer. Given the Treasurer's answer, is he able to inform the house specifically of the unfunded superannuation liability facing the government and whether it has worsened from the forecast $9.3 billion announced in the Mid-Year Budget Review in December?

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:30): I have just answered that. That is the same question, and I have just given a very expansive explanation. The leader was obviously perhaps not listening or did not understand that the supplementary was asking the same question again. The answer is—

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: Sorry? My total liability? I have already answered that. You have just repeated the question.

Mr Hamilton-Smith interjecting:

The Hon. K.O. FOLEY: You just repeated it. I could not be more open.

BIODIVERSITY RESEARCH AND CONSERVATION

Ms BREUER (Giles) (14:30): My question is to the Minister for Environment and Conservation. Will the minister advise the house on action the government is taking to encourage conservation and research into our state's biodiversity?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (14:30): I thank the honourable member for her question, and I note that she is a keen advocate for the natural environment in and around her electorate of Giles. The South Australian government has made a significant commitment to maintaining the biodiversity of our state. Our Strategic Plan contains an important specific target, that is, we lose no known native species through human impact, and that is a very ambitious target. In fact, we have found one: we have recovered—

The Hon. M.D. Rann: The Tamar Wallaby.

The Hon. J.W. WEATHERILL: Yes; we have retrieved it from—

The Hon. M.D. Rann: New Zealand.

The Hon. J.W. WEATHERILL: —New Zealand, and they are going very well. In fact, a very important program is being run on Yorke Peninsula at Innes National Park, where I think we are controlling vermin that were responsible for wiping out that important species.

We know that we cannot achieve these things single-handedly. We need the important work done by all areas of the South Australian community—universities, research bodies, local councils, volunteer groups and individuals—and that is why the South Australian government is very pleased to provide more than $200,000 in funding for conservation and research projects aimed at protecting South Australia's biodiversity.

These grants will be distributed throughout the community, and they will help us gain better knowledge of the issues that threaten South Australia's wildlife and give us information on how to

address them. A number of the projects we have funded will take action to protect and conserve threatened plant and animal species. Some of these projects include:

- an assessment of potential translocation sites for Mallee Emu-wren at Billiatt Conservation Park in the Murraylands;
- sandhill dunnart monitoring in the Great Victoria Desert; and
- conservation genetics of the endangered marsupial, the Southern Brown Bandicoot, in south-eastern South Australia.

We have also allocated money for research projects because, to conserve our environment, we need to understand it. These projects will arm us with information we need to protect some of our most threatened flora and fauna. They include studies into:

- the black-flanked Rock Wallaby ecology of the APY lands;
- increasing community awareness to better manage habitat and biodiversity for the vulnerable ground-dwelling bird, the Bush Stone-curlew, in the Murraylands;
- pup production assessment of the Australian sea lion at Dangerous Reef and English Island; and
- developing a screening tool to determine the impact of climate change on seed germination in threatened native plant species.

I take this opportunity to congratulate all successful grant applicants and thank them for their hard work that is so important to the future of our environment.

MOTOR ACCIDENT COMMISSION

Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (14:33): My question is again to the Treasurer. What are the Motor Accident Commission's losses so far in 2008-09? What is its present solvency level? What action has he taken to address concerns raised by the Auditor-General about the commission's solvency?

In response to concerns raised by the Auditor-General in his return to parliament, the Treasurer confirmed to the house on 15 October 2008 that the Motor Accident Commission had breached its statutory solvency limits, with a solvency level of 98.4 per cent. The commission's assets at the time were inadequate to meet accident claims. The 2007-08 Funds SA incorporated the Motor Accident Commission's funds of $1.7 billion under management.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:34): I preface my answer by saying that the Motor Accident Commission is as exposed to the violent swings in the equity markets and the property trust market as Funds SA. In fact, under our new Funds SA legislation, we are moving to a central funds management organisation. It had been Funds SA. The various government entities such as the Motor Accident Commission will simply purchase their units from the central funds management body, so it is exactly as I outlined in answer to an earlier question.

In terms of the solvency issue, from memory, when we came to office the Motor Accident Commission was less than 100 per cent fully funded. What we did on coming into government was spend quite some time making some significant decisions in restructuring the way the Motor Accident Commission operated, and we brought in some new legislation that in fact increased the prudential margin we wanted in assessing the funding of the entity. In fact, we put in a similar prudential margin as applies to private sector insurance companies.

What that saw was that, prior to the current financial crisis starting to take hold at the back end of last year, around September and October, we had funding of the order of 160 per cent solvency. When I came to office it was about the 80 per cent mark. We had built up the asset to 160 per cent solvency, and I think the last number I saw only a matter of a few weeks ago—and I will come back to the house with the appropriate figures—was about the 100 per cent mark. It might be a little under; it might be just under, but I will get that verified.

Compared to other entities, the solvency is very good. Yes, it has breached its statutory requirement, because I put in place a significant statutory hurdle, which is the hurdle that private sector insurance companies have to reach. I have to say, having heard overnight that the American government has pumped another $30 billion to $40 billion into the world's largest insurance company, the AIG group, which is clearly totally insolvent and has no assets to cover any liabilities,

our Motor Accident Commission at about 100 per cent is doing pretty well. That just goes to show why in the case of this entity the government was able to grow its asset base to 160 per cent over liabilities to prepare for a rainy day. That rainy day has turned into a hurricane, yet it remains incredibly robust.

FIREARMS AMNESTY

Mr BIGNELL (Mawson) (14:37): Will the Minister for Police provide the house with the results of the recent firearms amnesty held between 1 December 2008 and 28 February 2009?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:38): I thank the member for Mawson for his question. I am extremely pleased to announce that the most recent firearms amnesty, which was held to coincide with the introduction of new firearms prohibition orders legislation aimed at restricting access to firearms for persons with a known propensity for violence or involved in serious organised crime, has been a success, with 1,144 firearms being surrendered. This, of course, is in addition to the 1,490 firearms that were handed in during the last firearms amnesty, which was held in 2006. This means that the Rann Labor government has seen over 2,500 firearms taken off our streets through gun amnesties. This impressive result clearly negates opposition claims that only a small number of guns are handed in during amnesties.

The South Australia Police have advised me that the vast majority of the firearms taken by police were long arms, consisting mainly of .22 rifles and shotguns. There were also several handguns surrendered as well as pump action rifles, high capacity magazines and self-loading shotguns. It has been very impressive to see so many unused, unwanted and even illegal weapons taken off South Australian streets.

While we realise that the criminal element in our society is unlikely to take part in amnesties by simply walking into a police station and handing in their guns, firearms amnesties help to reduce the total number of guns available in the community. This proactive initiative by the state government and the South Australia Police has quite clearly reduced the number of weapons in the community, consequently diminishing the opportunity for them to fall into the wrong hands.

We gave people fair warning and ample time to help make the community safer for everyone, and it is really pleasing to see so many who have heeded that opportunity. As a government, we feel it is imperative to make every effort possible to reduce the ability for weapons to fall into criminal hands, and this latest result strongly reflects that commitment and we express our gratitude to those people who handed in their guns.

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (14:40): My question is to the Minister for Industrial Relations. Is the unfunded liability of WorkCover more than $1 billion and, if so, what is it? Also, what is the total liability of WorkCover?

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:40): I believe it was in November last year that I reported to a committee inquiring into the Auditor-General's Report. The member sat on that committee and I think he asked a similar question at that stage. The audited figures at that stage showed that the unfunded liability was $986 million. I will correct that if it is wrong, but it was around that figure. I think I also mentioned at that stage that, given the economic climate with which South Australia has been confronted—the world economic crisis, and we are not immune to that, regrettably—you would not have to be Einstein (and I know I am not, and the member certainly is not) to know the consequences.

I do not have the figures, of course, because I will not announce those figures until I have properly audited figures. However, if you look at the scheme of things (and I have spoken with the member for Morphett on numerous occasions about this), no matter how conservatively or well the investment people at WorkCover might have done, they are not immune to the impact it would have had upon their equities portfolio. We also know that they have a significant amount of investment in cash as well, with interest rates dropping.

So, it would certainly be my expectation that the unfunded liability would be over $1 billion and, of course, that was reported to the Statutory Authorities Review Committee last week, I understand, by the chief executive officer.

With respect to the final component of the member's question, I cannot answer that because I do not have those figures, and I will not have those until the appropriate auditing of those figures has been undertaken.

WORKCOVER CORPORATION

Dr McFETRIDGE (Morphett) (14:42): I have a supplementary question. Will the minister tell the house how much will accepting provisional liability for claims add to the total liabilities?

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:42): The unfunded liability of the scheme is underpinned by two components. One, of course, is the investments component, and I have reported on that. The other is the claims liability component. Again, whilst very significant legislation was adopted by this parliament last year, we have an expectation that the component of the unfunded liability that relates to the claims management—again, it is early days—is at this stage tracking in the right direction, and that is without the full implementation of that legislative change, as the member for Morphett is aware.

SOUTH AUSTRALIAN JOCKEY CLUB

Mrs REDMOND (Heysen) (14:43): My question is to the Minister for Recreation, Sport and Racing. Has the minister received either a full copy of the Lipman Karas report into matters concerning the SAJC or a briefing on the report's contents and, if so, has he referred any matters in the report to SA Police for further investigation?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:44): No: I have not received a report. I am hoping to receive a report. I said a few weeks ago that I expected I would receive a report.

Have I received a briefing on the content? I have had a briefing about the process rather than the content. I met with Mr Bentley and Mr Boulton, the chair and deputy chair of Thoroughbred Racing SA, and they talked to me more about process. They might have talked a little bit about the content, but to the best of my memory—

Members interjecting:

The Hon. M.J. WRIGHT: I don't know why you are laughing. To the best of my memory, the discussion was more about process.

SOUTH AUSTRALIAN JOCKEY CLUB

Mrs REDMOND (Heysen) (14:45): I have another question for the Minister for Recreation, Sport and Racing. Was the minister aware of and did he approve payments above and beyond the estimated cost of a review into the state's three racing codes conducted by Philip Bentley in early 2007? According to documents from within the Department of the Premier and Cabinet, the estimated cost of the Bentley review was $50,000, later capped at what a file note describes as 'an absolute maximum of $80,000'. However, invoices show a total payment of $109,560.

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:45): Of course, what the honourable member wants to do here is attempt to muddy the waters with regard to Mr Bentley. Mr Bentley did a very important landscape piece of work that took an extended period of time. Those figures the honourable member quotes are, I think, about right. They do not come as a surprise to me.

What needs to be highlighted is that the piece of work undertaken by Mr Bentley—a very good piece of work—showed the future for the three codes, namely, thoroughbred, harness and greyhounds. Mr Bentley worked closely with people in the industry. It took a longer time to complete than first thought, and, obviously, he needs to be paid for his work.

SOUTH AUSTRALIAN JOCKEY CLUB

Mrs REDMOND (Heysen) (14:46): I have yet another question for the Minister for Recreation, Sport and Racing, especially in light of his previous answer. Was the minister aware of and did he approve payments to Mr Philip Bentley in connection with his review of racing that included $170 per hour for appointment making and note taking, and does the minister believe that $170 per hour is a fair and reasonable payment—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: —for note taking and appointment making?

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: In file notes dated 8 February 2007 attached to the invoices 'Payments to Mr Philip Bentley', a departmental officer expresses concerns about what he describes as 'an excessive rate of $170 per hour for secretarial services and $110 per hour for hire of an interview room'. In a later file note, the departmental officer expresses concerns about the 'difficult and unknown circumstances associated with this project'.

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (14:47): As I said, all the honourable member wants to do is to try to rubbish Mr Bentley. Let me say that he has performed a very important piece of work here, and can I say that—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. WRIGHT: —as the minister then responsible and the minister now responsible for racing, I am delighted we appointed him.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. Foley interjecting:

The SPEAKER: Order! The member for Torrens.

ROYAL ADELAIDE HOSPITAL

Mrs GERAGHTY (Torrens) (14:48): My question is to the Minister for Health. Why would a rebuild of the Royal Adelaide Hospital on site cost millions more dollars and take many years longer than projects to rebuild two Sydney hospitals?

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:48): Yesterday the opposition asked a series of questions, the essence of which was essentially, 'New South Wales can rebuild the Royal North Shore Hospital and the Westmead Hospital, so why can't you do it here in South Australia?' I made the point at the time that those hospitals had extra space on those sites and that they were smaller building operations, and so on. I have sought some extra advice—

The Hon. M.J. Atkinson: And it's arrived.

The Hon. J.D. HILL: It has arrived. Let me inform the house that the Royal Adelaide Hospital site on North Terrace is 5.6 hectares. It is pretty well taken up. Anyone who goes down to that site can tell you that it is pretty well consumed by activity. There is a bit of car parking space there that could conceivably be built on and bits could be pulled down, but it is pretty well packed. However, the Royal North Shore site where a rebuild is occurring is a 13 hectare site and the Westmead, the other example given from New South Wales—why can't we do here what they have done in New South Wales—is a 20 hectare site.

The Hon. M.J. Atkinson: They didn't tell us that, did they?

The Hon. J.D. HILL: They didn't tell us that. Let me assure the Deputy Leader of the Opposition and the Leader of the Opposition, if the Royal Adelaide Hospital site was 13 hectares or 20 hectares, we would build a new hospital there because—

The Hon. M.D. Rann: They want to put it in the Botanic Gardens.

The Hon. J.D. HILL: That is a secret agenda. The Premier has nailed it. The secret agenda for the opposition is to build it in the Botanic Gardens, just as their predecessor government, the Playford government, built the existing RAH in the Botanic Gardens. The point is that, if we had 13 hectares or 20 hectares on the site, then we could rebuild it on that site, too. In

New South Wales, they are running the existing hospital while they build a new hospital alongside it—

Ms Chapman interjecting:

The Hon. J.D. HILL: The member says, 'The QEH.' We are not doing that at the QEH at all. The QEH is a bigger site and we are able to build new infrastructure while we are in the existing infrastructure. The QEH is a much smaller hospital and—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The QEH is a much smaller hospital, and it does place pressure on the hospital to have the building works happen there. Much more pressure would be placed on the RAH site, of course, if we were to do what the opposition says it would do if it was to be elected, which is to build a new hospital in a single stage development (we assume) on the RAH site. Their claims about what they would do become more and more incredible day by day, but what they have not told the public is: how they would do it; when they would do it; when it would be finished; how big it would be; and how much it would cost. None of those bits of information have been given to the public of South Australia, so why would anyone trust them?

STORMWATER HARVESTING

Mr WILLIAMS (MacKillop) (14:51): My question is for the Premier. Will the Premier provide today bipartisan support for the state Liberal's $400 million stormwater harvesting plan announced in May of last year? In May 2008, the policy statement set out a plan to harvest 89 gigalitres of stormwater at 13 sites in the west of the metropolitan area, from the Gawler River to the Willunga basin—

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order! The Attorney will come to order!

Mr WILLIAMS: This water is presently flowing as waste to the Gulf St Vincent, where it is causing environmental damage. In the ensuing time, the response from the Premier and his government has been absolute silence.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:52): I am so pleased to get this one. Do you remember the day a year or so ago when, during the negotiations over the River Murray there was recalcitrance by the Victorians, we heard the Leader of the Opposition say what he would do if he were ever to be, God forbid, premier of the state? He would fly over and put them in a headlock. Then he announced to some gullible media that he was going to demonstrate that by convincing the Liberal leaders of the opposition at a meeting in Sydney, and he flew off over to Sydney and he was told to nick off, basically. It was one of the most embarrassing interviews that I think—

Mr WILLIAMS: Mr Speaker, I rise on a point of order. The question is about stormwater harvesting in Adelaide not about the government's failure to get a decent deal with the other states.

The SPEAKER: Order! The Premier has the call.

The Hon. M.D. RANN: They want bipartisanship and I am willing to give bipartisanship because yesterday Lawrence Springborg, the Leader of the Opposition in Queensland, said that he is considering tearing up the River Murray agreement. The Leader of the Opposition in Queensland—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The Leader of the Opposition in Queensland is threatening to tear up the River Murray agreement that creates an independent commission—the silence of the lambs. I thought we would see him out there, with his beret on, flying over to Queensland to put him in a headlock, but, no—because we will always see him put party before state and that is the difference. The Minister for the River Murray is the highest ranking National Party minister in this nation. She is now at the front of the front bench—that is the difference. We have not heard a whisper. Oh dear, no headlock for Lawrie. No, just total absolute silence.

Anyway, let me go on to say this. In terms of recycling I have an announcement to make, which you can applaud with bipartisanship. We lead the nation in recycling. We recycle water more than any other state—currently, about 29 per cent. We are going to lift it up to 46 per cent. That is the announcement. Where is your applause?

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: We are also leading the nation in terms of stormwater. Suddenly you have discovered what is being done out in Salisbury, what has been announced at Cheltenham and what is being announced in different parts of the state—

The Hon. P.F. Conlon: By a Labor member of parliament, Tony Zappia.

The Hon. M.D. RANN: Tony Zappia's great, great work. You are total frauds, absolute phoneys, and you know it.

QANTAS AUSTRALIAN TOURISM AWARDS

The Hon. S.W. KEY (Ashford) (14:56): Will the Minister for Tourism tell us the results for South Australia at the Australian Tourism Awards on Friday night?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (14:56): South Australia did exceptionally well at the Qantas Australian Tourism Awards this year, which awarded prizes across a range of areas for the 2008 calendar year. The awards ceremony was held in Melbourne, and I was really proud to find that South Australia triumphed, winning three awards across a range of categories. It is a credit to the 26 entrants from South Australia that they have developed such extraordinary levels of service delivery and dedication to the tourism industry. They represented us really well in very tight and competitive areas.

I would firstly like to commend the Clipsal 500 event. Once again, it has proven what a fantastic event it is as it celebrates its second consecutive national win at the tourism awards, taking out best major festival and event category and triumphing over other top name events such as the 2008 Australian Surf Lifesaving Championships, the Melbourne Food and Wine Festival and the Sydney Royal Easter Show.

As we all know, this is more than just a car race: it is a four day festival of motor sport and the biggest in Australia. As well as being a motor sport festival it is, of course, a massive community event, which gathers extraordinary support across the community. It not only develops the motor sports industry but it also produces four fantastic days of entertainment, with entertainment at night, a party atmosphere and a huge bonus for the economy in South Australia.

Narnu Farm, which last year also entered South Australia's Tourism Hall of Fame, won the national category for standard accommodation. If people have not ventured to Narnu Farm I would recommend that they and their family go there. It is, indeed, a unique business, providing families with a rural experience and showing visitors the farming way of life amongst the natural beauty of Hindmarsh Island.

Especially pleasing was the Adelaide Convention Centre's win. It was awarded the national category for meetings of business events, rounding out our hat trick. As the first purpose-built convention centre and conference hall in Australia, it has proven still to be the best in the business, delivering quality service and attention to detail that is second to none. Part of its winning formula, of course, relates to its environmental values. For those of you who do not know, not only does it sell packages of sustainable convention activities that have carbon offsets in a carbon neutral capacity but it also has an enormous worm farm, which takes in all the unused food products—

The Hon. J.D. Hill interjecting:

The Hon. J.D. LOMAX-SMITH: It is amazing. It produces almost no landfill, because it puts its food scraps from the plates into the worm farm and the untouched food from the Convention Centre is recycled in the kitchen and turned into gourmet soup packages with herbs, garlic and spices, which are then sent to the soup kitchens around Adelaide. This is a wonderful example of sustainability and corporate awareness, and I commend it.

Winning a national tourism award provides tourism operators with a marketable competitive edge, and it is one that they use with pride. Consumers understand that businesses

displaying their awards and their marketing collateral provide a quality product and tourism experience.

In addition, I should commend the former owners and operators of Wilpena Pound Resort, Lynette and Keith Rasheed, who pioneered the beginnings of tourism in the Flinders Ranges and Outback South Australia. They were also acknowledged amongst their peers for their outstanding contribution to tourism. I applaud them for their dedication to South Australia and the industry.

I should also mention that South Australia received a commendation in the national judging for Cleland Wildlife Park. It was commended for its entry in the tourism attraction category. The state and our winners should be very proud of their achievements. I know they will use this competitive advantage for the good of their businesses, and these wins help industry across South Australia in promoting ourselves as having some of the most exciting destinations in Australia.

STORMWATER INITIATIVES

Mr WILLIAMS (MacKillop) (15:00): Has the Attorney-General sought expert briefings from a hydrologist working in the Attorney-General's Department on stormwater capture, treatment and re-use, and has he supplied those expert briefings to his colleague the Minister for Water Security?

The Attorney-General rang radio station FIVEaa yesterday during the course of a debate about the treatment, supply and re-use of stormwater. The debate centred on research currently being done by the CSIRO and the Salisbury council on stormwater harvesting and treatment. The Attorney challenged the scientific position of Paul Pavelich from the CSIRO and Colin Pitman, director of Salisbury council's stormwater project team, when he said:

Well, fortunately, I have a hydrologist working for me—

ironically in the Attorney-General's Department—

who says differently.

Members interjecting:

The SPEAKER: Order! The Minister for Water Security.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:01): It gives me great pleasure to answer the question from the member for MacKillop, the shadow water security minister—

Mr Williams interjecting:

The SPEAKER: Order, member for MacKillop!

The Hon. K.A. MAYWALD: —because the issue of stormwater is an important one and it is a very important component of the South Australian government's four-way strategy to water security. The Salisbury local government is to be commended for its work in this area and, in particular, Colin Pitman and former mayor Tony Zappia, who have done an extraordinary job in actually driving a stormwater agenda. Right across the state there have been a number of stormwater projects that have been introduced and invested in, and apparently—

Ms Chapman interjecting:

The SPEAKER: Order! The member for MacKillop has a point of order.

Mr WILLIAMS: The point of order is one of relevance, sir. The question was specifically about the advice out of the Attorney-General's Department to the Attorney-General.

The SPEAKER: No, there is no point of order. The Minister for Water Security.

The Hon. K.A. MAYWALD: There is certainly a very strong commitment from this government to stormwater projects. This government established the stormwater authority—

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop has already been warned once.

The Hon. K.A. MAYWALD: —on 1 July 2007 to actually coordinate the response—

Ms Chapman interjecting:

The SPEAKER: Order, the deputy leader!

The Hon. K.A. MAYWALD: —for flood mitigation and stormwater re-use between local government and state government. It is really quite interesting that the commentary from the opposition and others is endeavouring to ensure that this issue of stormwater becomes just a state government issue.

It is not just a state government issue. It is a combined issue of local government, state government and also the federal government. The projects that have been most successful in harvesting and re-using stormwater have been a partnership between local government, state government and federal government.

We continue to enter into those arrangements with our partners to maximise the opportunities for stormwater projects. The Cheltenham Park development is a good example of this, and we recently announced on 5 February that it would include a large wetland and aquifer storage and recovery scheme with the capacity to harvest 1.2 gigalitres of stormwater from the development site. This is a terrific project. We have also provided support for the Water Proofing Northern Adelaide project—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —which is a fantastic project that the Salisbury council is involved in, and also a number of other local governments including the Playford council and the Tea Tree Gully council. The state government and the federal government are also involved in those projects.

We also have the metropolitan Adelaide stormwater re-use project, which could substitute up to one gigalitre per year of water that would otherwise be drawn from Adelaide's groundwater system. It is another great project. We are also working with the Onkaparinga council in the Water Proofing the South project, and SA Water and other stakeholders will continue to work together to maximise this project. It is estimated that the total value of the stormwater component of that project will be around $14.5 million. We are also investing heavily in the Lochiel Park project. They are terrific achievements that are actually on the ground.

I would like to draw attention to what the Liberal Party promises in elections. I understand from the leader that we do not listen to anything he says in between elections; it is only what they say at election time that counts. Their policy, which was released just before the last election, stated that the Liberal government will 'convene a high-level group to evaluate the alternative water source options, so that by 2009 a plan is in place to remove Adelaide's reliance on the River Murray and water restrictions'. Look at that! What they promised in 2006 was to plan—

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. K.A. MAYWALD: —for a plan by 2009. What we are doing is actually investing in projects. That is the difference between this government and the opposition. They also promised to investigate options for more innovative use of aquifer storage and strengthen the state government's support for local government ASR and water conservation projects. We are already doing it. They are also going to look at exploring all viable alternative supply options such as recycled water for non-potable use. That is what they promised at the last election. They promised to investigate, they promised to explore, and they promised to convene a high-level group to evaluate water options. We are actually doing the job whilst they would still be planning.

The other thing that they promised to do at the last election was to ensure that the management of the River Murray stayed in state hands—state hands. You promised to keep the management of the River Murray in state hands—that is what you promised—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —so believe what you promise at election time. That is what the leader has told us to do—

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: —and we believe it.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The house will come to order! The member for MacKillop is warned a second time. I think the minister has strayed into debate.

STORMWATER HARVESTING

Mr WILLIAMS (MacKillop) (15:07): Once again, my question is to the Attorney, and I hope and pray that he answers it. Attorney, what is the scientific basis of your comments, on behalf of the government this week, that deride stormwater harvesting—

An honourable member interjecting:

Mr WILLIAMS: —I think I got the answer, sir—treatment and re-use is a danger to the public? Is this now the official view of the government?

The Attorney-General volunteered a range of thoughts deriding the capture, treatment and re-use of stormwater during a call he made to radio station FIVEaa on Monday. However, a number of councils across Adelaide are successfully and profitably making use of stormwater. The Attorney-General's comments conflict with statements made by his cabinet colleagues and prominent water experts such as the CSIRO, Mr Colin Pitman, and a number of city mayors.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:08): Once again, I take great pleasure in answering this question. The state government's position on stormwater is that we think that stormwater is a worthwhile pursuit. We are investing heavily, with our local government partners, in stormwater projects. What the state government does not support is the direct introduction of stormwater into our potable water supply.

The South Australian government believes that there are too many risks and too many variables in the current known technologies in stormwater treatment to inject that water directly into our drinking supplies. The South Australian government will not put at risk the drinking water of South Australians.

Members interjecting:

The SPEAKER: Order!

The Hon. K.A. MAYWALD: We will, however, do what is currently being done by the Salisbury council and other local governments. We will invest, with our partners, in harvesting, treating and reusing stormwater for non-potable uses such as parks, gardens and industries. That is what is happening in Salisbury. That is what we intend to do, unlike the opposition which is committed to putting stormwater directly into the drinking water supply, which, of course, this government would not risk.

GRIEVANCE DEBATE

THUMM, MR H.

Mr VENNING (Schubert) (15:10): I begin with these words:

> For my father and tutor, who taught me to respect the vine and its products; for my wife, who has had such infinite patience; for my sons and grandsons, who have added so much satisfaction to my life's work; and for my business competitors, who have challenged me so much and so often. H. Thumm-1996.

Mr Thumm passed away two weeks ago, aged 96. Today, I pay tribute to a man whom I have known for a long time and who was a true Barossa legend. Mr Thumm was born in Georgia, Russia, and was the youngest of 10 children. After fleeing the Stalinist regime, he started a small soap-making business in the late 1930s in Persia. He then migrated to South Australia in 1946, after being sponsored by Pastor Theodore Herbert from Langmeil Lutheran Church. Hermann later married the pastor's daughter, Inga, and together they began building their business and their family, with their two sons, Dieter and Robert.

Following his arrival in South Australia, Hermann followed in his father's footsteps and went into the wine business. In 1947, after being in South Australia for only one year and working very hard, he bought an old flax mill on the North Para River, which became Chateau Yaldara and which has won many awards, including several national tourism awards.

In 1999, more than 50 years after forming Chateau Yaldara Pty Ltd, Hermann Thumm sold the famous Barossa Valley chateau and the winery that bears its name. He turned his attention to developing the nearby Barossa Park Motel into Chateau Barrosa, incorporating a baroque-style chateau surrounded by 30,000 roses and filled with one of the world's great collections of Meissen porcelain, antique furniture, tapestries and paintings.

Her Majesty Queen Elizabeth II visited the rose garden—one of the biggest rose gardens of its kind in the southern hemisphere—during her 2002 visit to South Australia, planting a Queen Elizabeth rose and unveiling a plaque to formally open the rose garden before attending a lunch with 70 guests in the chateau.

We as MPs have lots of memories in this job, and I have a great vision of seeing Hermann—this lovely man, this statesman for whom I had so much time—in deep conversation with Her Majesty. They strolled along like old mates, not a nerve in his body, and she was obviously quite taken by him. The Queen also enjoyed some of Hermann's famous old Yaldara whites.

In 1980, Mr Thumm received a Centenary Medal in recognition of his contribution to the success of Australia's first 100 years as a federal nation and specifically for his innovative approach to winemaking. He also had a street in the Barossa named after him in honour of his service to business—Hermann Thumm Drive in Lyndoch—and he was one of the first Barons of the Barossa.

A few years ago, Hermann saw the problem of oversupply of wine grapes was causing, and he set about finding a solution to the problem. The solution he came up with was to make other products with wine grapes, and that is exactly what Hermann did: he created grape beer, and he also had an idea to help save our water supplies. Hermann also developed numerous other food products from wine grapes, of which grape spread is but one, and these were and still are extremely well received.

Hermann was a wonderful family man, entrepreneur and innovator. I thank Hermann Thumm very much for being part of the reason that the Barossa is what it is today. He had been in the region for over 80 years. We talk about Barossa wine and food but, more importantly, we have Barossa people. Throughout his life in the Barossa, Hermann was extremely supportive of the community and made donations to all sorts of events and various organisations throughout the Barossa. He was a very generous man.

Hermann will be missed very much by the Barossa community, and I am proud of what he achieved. I am proud to have known him, and I was proud that I could be part, albeit a small part, of his life. I send heartfelt condolences to his sons, Dieter and Robert, to his grandchildren, to their families and to their loyal staff. We are often told that no-one is indispensable but, in relation to Hermann John Thumm AM, I very much doubt it. Glory to Barossa!

POINT LOWLY

Ms BREUER (Giles) (15:15): I rise today to give notice that I intend writing to the Minister for Regional Development to ask him to investigate the Whyalla Economic Development Board, following allegations about a potential serious conflict of interest with respect to the proposed development of the deep water harbour in the middle of the quite globally significant cuttlefish aggregation on the Point Lowly peninsula near Whyalla. These allegations are serious and go to the heart of good governance.

A decision was supposedly made by the board to support the port on the Point Lowly peninsula and ignore the investigation of alternative sites. A press release was issued on 26 February in the CEO's name, and subsequent stories were published in the *Whyalla News* and *The Advertiser* as a result. I am told that the CEO of the board and the chair made the decision without consulting their own board. Board members were advised by email of the press release.

Firstly, I believe that as a matter of urgency the chair of the Whyalla Economic Development Board needs to clarify his relationship with one of the companies involved in the consortium planning to build the port on the Point Lowly peninsula and that any investigation needs to answer the following questions:

1. Is BIS Industrial Logistics part of the consortium looking to build the port on the Point Lowly peninsula?

2. Does the chair of WEDB hold a senior state management position in BIS Industrial Logistics?

3. If the chair holds a senior position in BIS Industrial Logistics, have his actions been endorsed or encouraged by the company and, if not, what is the company's view on his actions?

This chair is an outstanding member of our community, and he has served for many years in various roles. However, I believe that in this situation he needs to be extremely careful in his role as chair when decisions are made that directly affect his business involvements. Also, I believe that the members of the Whyalla Economic Development Board have to ask whether they should be consulted on major policy directions or whether the board is just a rubber stamp for the CEO and the chair; and they need to ask whether they accept what might turn out to be a major conflict of interest.

The statement issued by the CEO and the chair is in direct conflict with the stand taken by the Whyalla City Council, which was based on extensive consultation with the Whyalla community, and directly criticised the council, which substantially funds the organisation. I will be asking the new Minister for Regional Development, Paul Caica, to have a serious look at this matter.

I fully support the unanimous position taken by Whyalla council following an extensive community engagement process, and now I note that the council's position was fully endorsed by the Eyre Peninsula Local Government Association at its AGM on Monday. So, now all local and regionally elected representatives are calling for a new port site selection process that involves regional communities and other interested parties from the start and a process that takes into account from the beginning environmental, social and economic considerations.

The current process patronises regional communities and amounts to a handful of senior bureaucrats in Adelaide making all the decisions and at the end of the process giving communities a few minutes to react, followed by a big rubber stamp. Regional communities deserve to have a real say about what happens in their backyards. We always have the welcome mat out for new investment, but that does not represent an invitation to come and trash our backyard and ignore the residents.

It is in the interests of all parties to work together on site selection so that the long-term needs of the mining industry can be met in a way that does not compromise important environmental and social assets. I believe that the Whyalla Economic Development Board, with whom in the past I have had a productive and respectful alliance, should have understood our community and its role in it and supported the people of Whyalla in opposing this port in the present location.

NAIRNE PRIMARY SCHOOL CROSSING

Mr GOLDSWORTHY (Kavel) (15:19): I am pleased to speak today on an issue that I have raised in the house on a number of occasions, and it concerns the ongoing problems and issues in relation to the Nairne Primary School crossing down on the main street in that township in my electorate. There has been some progress in looking to resolve this issue of traffic congestion, the safety of the school children and a number of related issues where we have seen a commitment of $1 million from the three levels of government, federal, state and local, in an effort to solve the problems with the school crossing.

That involves: the construction of a left-hand turning lane on Saleyard Road, which is the road that runs up to the school, in particular; moving the school crossing to the other side of the Woodside Road intersection; some upgrading of some footpaths; and another pathway from the main road into the school grounds.

Last week in our local Adelaide Hills newspaper, *The Courier*, there was an article identifying the commitment of funds and the scope of the works in an effort to improve the situation, and there was a very good editorial that basically said this is a bandaid solution to fixing the problems. There has been extensive consultancy work on this matter, and the scope of the works the government is undertaking is not the preferred option.

Some more extensive works had been proposed but the government has decided to take the cheaper option, if I can say that, even though it is costing $1 million. It is a very expensive bandaid solution. I had the pleasure of writing a letter to the editor of the local newspaper, which was published in today's edition, highlighting the point that it is a very expensive bandaid solution to the problems of the primary school crossing and I doubt very much that it will solve those problems.

I know that the government bureaucrats have had meetings with the local council and other stakeholders and shown them some computer modelling—supposedly, the latest and greatest computer modelling—on how the traffic flow will improve, but we all know that what we see on computer screens and virtual reality is far different from the reality of the situation, and we will see—

The Hon. M.J. Atkinson: What does the local mayor think of it?

Mr GOLDSWORTHY: We will come to that. So, we will see if these works bring about the results proposed. However, I doubt very much that we will see a vast improvement in the situation, and members of the school community share that view.

This matter goes back quite a number of years, and I have endeavoured to involve the previous minister for road safety. I invited her to a community meeting, which she refused to attend. It was only a meeting with the school principal and some local people. She refused to attend that meeting. She sneaked up in her big white car to have a look at the situation herself. I expect a vastly improved level of engagement by the newly appointed Minister for Road Safety, but we will see where we go with that.

Talking about letters to the editor of the local paper, a letter was published, along with mine, from Mr Andrew Milazzo, Executive Director of Transport Services for the Department for Transport, Energy and Infrastructure, and I have a couple of comments to make about that. It is rather odd that a senior bureaucrat would write a public letter questioning the opinion of a member of parliament. The local federal member of parliament has given his opinion, and we see Mr Milazzo questioning that.

Time expired.

DEUSCHLE, VIOLET

Ms BEDFORD (Florey) (15:25): Today I would like to acknowledge that the land we meet on is the land of the Kaurna people. During this week of International Women's Day, I would like to pay a special tribute to one of South Australia's leading Aboriginal women who very sadly passed away on 28 February. Violet Deuschle, known to many people as Auntie Vi in the wider community, was a woman who worked tirelessly for Aboriginal people and who was involved in a large number of significant organisations.

She was born in 1931 at Kingston in the South-East. Auntie Vi was the fifth child of Maria and Lindsay Watson; and, through her Victorian mother, her totem was the red-tailed black cockatoo. A proud Ngarrindjeri woman, Auntie Vi always said that being Aboriginal was one of her great strengths before being Aboriginal and the Aboriginal culture was beginning to be valued and understood. She came to Adelaide in 1952, the first generation of her family to leave their home town. It was in the city that she married and had two children, Karen and Narelle.

Family was a great joy and of great importance to Auntie Vi, and her life's work has been to see improvements and benefits for them and, in turn, for everyone else. In the mid-1970s, after a 36 year break from formal education, Auntie Vi returned to her studies and at the Underdale campus (now UniSA's Unaipon School) completed her associate diploma. I know the high regard in which Auntie Vi is held by Professor Peter Buckskin of UniSA, who is also the Co-Chair of Reconciliation South Australia, and that all members and associates of Reconciliation South Australia feel the same way.

Auntie Vi went on to become a tutor and the first Aboriginal lecturer at the university. In later years she realised her goal and completed her bachelor degree in Aboriginal studies, only retiring from UniSA in 1993. Auntie Vi was committed to her community and spent most of her life seeking to improve conditions for Aboriginal people. She was always dignified in her approach, willing to debate points logically and never losing her demeanour despite provocation and insensitivity, often due to a lack of understanding of the subject at hand. To get a result she was prepared to stand up and ask the tough questions, something she has always encouraged others to do.

She was at the forefront of the beginnings of the reconciliation movement, and from the very start her quiet presence was reassuring and knowledgeable and something I noticed when I first began to make connections and to work with Aboriginal people. She was one of the first members of the Aboriginal Housing Board in the 1970s and was heavily involved in the land rights campaign during this time. As chair of the Aboriginal Executive of South Australia's Jubilee Sesquicentenary Aboriginal Committee in 1986, she was very proud of being a part of the

organisation that secured the recognition and development of the Tandanya Aboriginal Cultural Centre and the production of the book called *Survival in Our Own Land.*

Auntie Vi was also heavily involved with NAIDOC and the South Australian Reconciliation Committee in Adelaide, and spent an enormous amount of her time organising events each year to celebrate Aboriginal people and their communities. The 1990s saw Auntie Vi working to establish and develop the Aboriginal women's shelter, Nunga Miminis, at North Adelaide to assist women in her community. She was involved in a number of campaigns fighting for the rights of women, including International Women's Day.

With her educational experience and commitment to social justice, Auntie Vi also worked with the Aboriginal Justice Advisory Committee and the Aboriginal Justice Consultative Committee to assist with the implementation of the recommendations that came about as a result of the Royal Commission into Aboriginal Deaths in Custody. I know she was always working on the implementation of those recommendations, and, sadly, so many of them are still outstanding.

On a personal note, along with Shirley Peisley, Auntie Vi played a dynamic role in establishing the Florey Reconciliation Task Force. She continued to offer her support and wise counsel whenever it was sought. We owe her a great deal for lending her name and giving her time to many of our local groups' activities.

We are very proud that Auntie Vi Deuschle was part of the South Australian community, and I would like to acknowledge her strength, dedication and commitment on so many levels. Auntie Vi lived through many struggles; and, in speaking with her family before making this contribution, I can assure the house that this lifetime of experience helped sustain her through her final battle with cancer.

Her legacy lives on through her two daughters, Karen and Narelle, their four children and two great-grandchildren. Although she will not see them grow up she will be with them every day. Auntie Vi was greatly loved by all and will be sadly missed.

RIVERLAND IRRIGATION

The Hon. G.M. GUNN (Stuart) (15:28): I would like to draw to the attention of the house concerns which have been brought to my attention by my constituents in the Riverland and which have been conveyed to the minister by the Chief Executive of the Central Irrigation Trust, Mr Jeff Parish. I want to quote from that document because I think it is important that the house is aware of the difficulties these people are facing. The letter states:

> The directors of the Central Irrigation Trust would like to formally convey to you the concerns that I outlined when giving the opening address to yourself and your parliamentary colleagues and community members at the Murray-Darling Association meeting.
>
> The substance of my address was that, whilst long term planning for the Riverland is a worthwhile activity that CIT supports, there is a much more pressing issue at the moment as the engine room of our region, the horticultural industry, faces the biggest crisis during the next six months that I have seen in over 40 years involved in irrigation.
>
> Our two biggest commodities, citrus and wine grapes are suffering from extended and ever worsening water restrictions that at the moment we see no end to. Irrigators and their water allocations are being strangled by obligations on our State to use most of our monthly shares of available water to meet payback requirements and provide for critical human needs in advance.
>
> CIT applauds your initiative to provide Critical Water Allocations to ensure the survival of trees and vines, the continuation of carryover provisions and support we know our State gave for introduction of Small Block Exit Grants by the Commonwealth. We also cannot overstate the importance of Exceptional Circumstances provisions for assisting many of our family farmers with interest rate subsidies and living allowances and the good use made of the Commonwealth $20,000 Irrigation Grants for installation of drip irrigation in this region as a drought measure.
>
> To date, farms exiting the industry have been mostly marginal businesses but this year will see the departure of second and third generation farmers as well. The regional economy is about to be exposed to a harvest that will cripple many soundly managed properties due to the combined impacts of low water allocations, prices for temporary water that cannot be recovered growing many of our traditional fruit varieties and unknown as yet low prices for our main commodity, wine grapes. To add to our difficulties, since my address to the MDA the region has experienced 40C temperatures for the last eight days with a further three forecast—

I am reading this because it is terribly important. The letter continues:

> CIT Directors and Managers are frequently hearing from farmers that intend to review their future in the industry after harvest. Their properties cannot be sold as going concerns and many intend to sell the only redeemable asset on the farm, the water entitlement. Even the CIT policy of permitting 12 per cent of permanent water be traded out will not cope with the expected departures from industries in 2009...Secondly, by urging the

Commonwealth to urgently extend Exceptional Circumstances status for the region, to continue and extend the provision of Small Block Exit Grants to include large properties and to reinstate Irrigation Grants for further installation of drip irrigation as a drought survival measure.

The right mix of safety nets can provide multiple benefits by assisting the majority of farmers to stay on the land...On behalf of 1,500 family growers from the 10 irrigation districts in the CIT group, and in the interests of all irrigators, the CIT Directors urge you to strongly support the safety net programs outlined in our letter so that our horticultural industry can survive the current downturn and minimise the crisis we expect the Riverland to face in 2009.

I think it is very important that the house is aware of these hardworking people. I only represent a small section, but when you see orchards and vines dying, it is most heartbreaking for all concerned. I will be visiting some of my electorate late Friday afternoon.

I am most concerned about the effect it will have not only on the growers but on the region and the people who support the region, because, unless we have reasonable numbers, we will not be able to maintain the infrastructure. I say to the government: it is a great pity it has decided not to continue sealing the Blanchetown to Morgan Road, which is a long overdue project which the people in the Riverland want and which they have been denied.

LAUNER, MRS G.

Mr PICCOLO (Light) (15:34): This Sunday, 8 March, women across the world will be celebrating International Women's Day. I draw the house's attention to one particular woman in my electorate, Gert Launer. Gert will be celebrating a special day on this occasion as well; she will be turning 100. A Gawler East resident, Gert was born 100 years ago on a farm in the Koonunga district south-east of Kapunda at a time when horses were still the main form of transport and power for farm machinery.

Gert attended Upper Bright School (which closed in 1955), just a few miles out of Robertstown, which meant a six mile walk or a ride on the neighbour's horse and cart to the small school of under 20 students. The school was a galvanised iron clad building lined inside with ceiling board. While times were tough, Gert is still able to recall some fond memories, like the time when the horse and cart tipped over into the creek alongside the road and she lost her lunch tin. One of her strongest memories is the day her younger brother Norman, 11 years her junior, was born.

At age 12, Gert started work cleaning farmhouses and carrying out other domestic duties on nearby farms. While she worked long and hard, as was the custom in those days, Gert would hand her wages to her father for the benefit of the whole family. When you speak with Gert you get a feel for the harsh landscape that many farmers encountered, as she talks about the wind and the dust storms dominating the countryside for long periods.

Gert met her husband, Karl Launer, who was 14 years her senior, at the local Lutheran Church in Upper Bright (formerly the Zion Lutheran Church, Bright) and, after a short courtship, she married at the age of 18. According to Gert it was 'no big deal', as she had known Karl for many years as a fellow parishioner. Marriage was no escape for Gert from a hard farming life, as she worked a farm with her husband at Worlds End Creek near the Burra Creek. Karl built the four roomed house they lived in.

Gert gave birth to two daughters: Venda, on 11 February 1928, and Bernice the year after, on 12 February. As it turned out, the two sisters married two brothers and they both became Falkenbergs. However, work did not stop while Gert was with child, and she narrowly escaped serious injury when she fell through a hole in a wagon when she was six months pregnant.

While horses were the main form of transport on the farm, they had a 1926/28 Rugby Buckboard that had been converted from a car to move around the district. Gert said that the horses were kept for ploughing and harvesting. 'We never had a tractor,' she said.

The depression hit the farms hard. Gert said there was no money for Christmas presents and the like and that about one in 10 years were good years on the farm. Daughter Venda recalls those shocking years, and if it were not for the home-grown chooks and trapping rabbits there would have been no meat on the kitchen table. Gert said, 'Rabbit pie was pretty good, but those rosellas were no good to eat. They only looked nice.'

During the 1950-52 period Gert and Karl moved to Nuriootpa and started a new life by tending their vineyard and fruit trees. Shortly after moving to Nuriootpa the girls married: Venda in 1953 and Bernice in 1954. The hard life took its toll on Gert and Karl. They longed for an easier life,

and moved to Dirty Corner just outside of Nuriootpa, where they grew strawberries, tomatoes and gherkins.

In 1966 Karl died from a sudden stroke, leaving Gert to fend for herself. Like the country folk before her, Gert was too proud to seek government assistance and, at age 57, she once again went cleaning houses and picking grapes around the district. The stoicism that saw her through the depression years was again on display as she adjusted to a life without Karl. She spent later working years as an in-house carer for a number of prominent older women in the area. When not working, Gert would live with her daughter Venda and son-in-law Clarence. Daughter Venda said that her mum was 'really good with old people', not noticing the irony of her comments.

In reminiscing, Gert remembers the long, lonely days on the farm, stooking, kangaroo hunting and spotlight shooting for food. For Gert, hunting was not a sport but a necessity of life. It is when you speak with people such as Gert that you get an understanding of the reality of how life in our rural areas was, rather than the one that is often romanticised in our literature and the media. They were extremely tough times.

Gert has spent the past 14 months as a resident of Southern Cross Homes in Gawler East, when she takes time to think about her life and wonder about how her family has grown to include six grandchildren, 13 great grandchildren and two great, great grandchildren. Her quiet, unassuming and shy demeanour belies the steely courage she has had to muster throughout her life to earn the right and privilege to celebrate her 100th birthday this Sunday.

Time expired.

ARCHITECTURAL PRACTICE BILL

Second reading.

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security) (15:39): I move:

That this bill be now read a second time.

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

Leave granted.

The Architectural Practice Bill repeals the old Architects Act and replaces it with up-to-date legislation to govern the activities of the architectural profession in line with contemporary consumer protection legislation such as, for example, the *Medical Practice Act 2004*.

The Architects Act dates from 1939 and an overhaul is long overdue. I understand that the State Review Panel commenced reviewing the Act some 10 years ago. The primary motivation for a revamp of this legislation is the need to meet the Competition Policy Agreement between the Commonwealth and State Governments to remove anti-competitive provisions in legislation.

The Bill achieves this by—

- removing ownership restrictions on companies and partnerships providing architectural services; and
- removing restrictions limiting remuneration for architects; and
- removing restrictions on advertising by architects; and
- removing restrictions on companies practising in partnership.

Removal of ownership restrictions on companies and partnerships providing architectural services

The current Act governs the registration of companies of architects. It contains restrictions on the purpose, ownership and control of architectural firms. The Act limits the extent to which architectural firms can establish themselves as multi-disciplinary practices.

The Bill replaces the existing restrictions with a requirement that if a body corporate is to be registered as an architectural business and the governing body consists of an even number of members, at least half of the members must be registered architects. If the governing body has an odd number of members, a majority of the members must be registered architects. In the case of a partnership seeking registration as an architectural business, if the partnership consists of an even number of partners, at least half of the partners must be registered architects. In the case of a partnership with an odd number of partners, a majority of the partners must be registered architects.

Removal of restrictions limiting remuneration for architects

The State Review Panel reported that the current Code of Professional Conduct endorsed by the Architects Board under the current by-laws places restrictions on the work an architect can do for free, to demonstrate their skills to a client, and on the form and amount of remuneration for architectural services.

These provisions restrict competitive conduct among architects and between architects and non-architects. The State Review Panel concluded that these restrictions were not justified by any public benefits they may achieve.

The Bill does not include such restrictions on remuneration for architects.

Removal of restrictions on advertising by architects

Advertising restrictions have traditionally been associated with notions of professionalism and the current Act specifies the form of advertising an architect can undertake.

The Bill does not include these restrictions. The State Review Panel considered that sufficient protection for consumers exists under the State *Fair Trading Act 1987* and the Commonwealth *Trade Practices Act 1974* in relation to misleading or false advertising, without imposing further restrictions under the architects legislation.

Removal of restrictions on companies practising in partnership

The current Act prohibits companies registered as architects from practising in partnership with any other person. The Bill does not include this restriction.

Inclusion of consumer and other representation on the Architects Board

The State Review Panel recommended that membership of the Architects Board include a consumer representative, as the role of the Board is to protect public interests, rather than the interests of the architectural profession. Clause 5(1)(b)(iv) of the Bill introduces a requirement that 1 member of the Board be a person who is not eligible for appointment under a preceding provision of subclause (1) (ie is not a registered architect, a lawyer, or a person with qualifications or experience specified in paragraph (b)(ii) or (iii)). The Bill also introduces a requirement that the Board have a member who is a lawyer, another member with qualifications or experience in accounting, business or finance, and a person with qualifications or experience in urban or regional planning or building surveying or construction, or with knowledge of, or experience in, the building and construction industry, to give the Board wider experiential representation than under the current Act.

Right of appeal against the Architects Board decisions

Under the existing Act a person aggrieved by a decision of the Board can appeal to the Supreme Court. While this provision is an important safeguard it can be expensive to take matters to the Supreme Court and such an appeal right increases the workload of that Court.

To implement the State Review Panel's recommendation, the Bill provides a right of appeal to the Administrative and Disciplinary Division of the District Court rather than the Supreme Court. This will reduce the litigation costs for both appellants and the Board.

The Bill provides modern legislation for the 21st century, using gender neutral language and requirements for gender balance on the Board.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause provides definitions of words and expressions used in the measure and contains provisions to assist interpretation.

Part 2—Architectural Practice Board of South Australia

Division 1—Establishment of Board

4—Establishment of Board

This clause establishes the Architectural Practice Board of South Australia.

Division 2—Board's membership

5—Composition of Board

This clause provides that the Board consists of 7 members appointed by the Governor. 3 must be registered architects chosen at an election. 4 must be persons nominated by the Minister. Of these 1 must be a lawyer and 2 other persons must have qualifications, experience or knowledge in specified fields. 1 must be a person who is not otherwise eligible for membership of the Board. The clause requires at least 1 member to be a woman and 1 to be a man, and provides for the appointment of deputies.

6—Elections and casual vacancies

This clause provides for elections to choose registered architects for appointment to the Board to be conducted in accordance with principles of proportional representation and sets out rules for filling casual vacancies in the membership of the Board.

7—Terms and conditions of membership

This clause provides for members of the Board to be appointed for terms not exceeding 3 years, limits membership of the Board to consecutive terms totalling 9 years, sets out the grounds on which a member may be removed from office and the circumstances in which the office of a member becomes vacant. The clause allows former members to continue to act as members to continue and complete disciplinary proceedings after their terms expire or they resign from the Board.

8—Presiding member

This clause requires the Minister to appoint a registered architect member of the Board as its presiding member.

9—Vacancies or defects in appointment of members

This clause ensures that a vacancy in the membership of the Board or a defect in the appointment of a member does not render an act or proceeding of the Board invalid.

10—Remuneration

This clause entitles a member of the Board to remuneration, allowances and expenses determined by the Governor.

Division 3—Registrar and staff of Board

11—Registrar of Board

This clause provides for the appointment of a Registrar of the Board on terms and conditions determined by the Board.

12—Other staff of Board

This clause provides for the Board to have other staff as it thinks necessary to properly perform its functions and states that an employee of the Board is not a Public Service employee. The Board and a Minister may make an arrangement under which the Board can make use of the services or staff of an administrative unit of the Public Service.

Division 4—General functions and powers

13—Functions of Board

This clause sets out of the functions of the Board and requires the Board to perform its functions with a view to achieving and maintaining high professional standards both of competence and conduct by registered architects and registered architectural businesses.

14—Committees

This clause empowers the Board to establish committees to advise the Board or Registrar or to carry out functions on behalf of the Board.

15—Delegations

This clause empowers the Board to delegate its functions or powers.

Division 5—Board's procedures

16—Board's procedures

This clause prescribes the quorum for meetings of the Boards and makes other provisions relating to procedures to be followed at meetings.

17—Conflict of interest etc under Public Sector Management Act

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector Management Act 1995* just because the member has an interest in the matter that is shared in common with registered architects or registered architectural businesses generally or a substantial section of registered architects or registered architectural businesses in South Australia.

18—Powers of Board in relation to witnesses etc

This clause empowers the Board to compel the attendance of witnesses and the production of documents for the purposes of proceedings before the Board.

19—Principles governing hearings

This clause provides that in proceedings before the Board, the Board is not bound by the rules of evidence and may inform itself as it thinks fit. The Board must act according to equity, good conscience and the substantial merits of the case, with regard to technicalities and legal forms. It must keep the parties to the proceedings properly informed as to the progress and outcome of the proceedings.

20—Representation at proceedings before Board

This clause entitles a party to proceedings before the Board to be represented at the hearing of the proceedings.

21—Costs

This clause empowers the Board to award costs against a party to proceedings before the Board and provides for the taxation of costs by a Master of the District Court in the event that a party is dissatisfied with the amount of costs awarded by the Board.

Division 6—Accounts, audit and annual report

22—Accounts and audit

This clause requires the Board to keep proper accounting records in relation to its financial affairs, to have annual statements of account prepared in respect of each financial year and to have the accounts audited annually by an auditor approved by the Auditor-General and appointed by the Board.

23—Annual report

This clause requires the Board to prepare an annual report for the Minister and requires the Minister to table the report in Parliament.

Part 3—Registration and practice

Division 1—Registers

24—Register of architects

This clause requires the Registrar to keep a register of architects and specifies the information to be included on the register. It requires a registered architect to notify the Registrar of changes in particulars relating to the architect. A maximum penalty of $250 is fixed for non-compliance. The offence is expiable and an expiation fee of $80 is fixed.

25—Register of architectural businesses

This clause requires the Registrar to keep a register of architectural businesses and specifies the information to be included on the register. It requires an architecture business to notify the Registrar of changes in particulars relating to the business. A maximum penalty of $250 is fixed for non-compliance. The offence is expiable and an expiation fee of $80 is fixed.

26—Register of removals

This clause requires the Registrar to keep a register of persons, bodies and partnerships that have been removed from the register of architects or register of architectural businesses and have not had their registration reinstated. It specifies the information to be included on the register.

27—General provisions relating to registers

This clause requires the Registrar to correct errors in the registers and requires the registers to be made available to the public at the office of the Registrar and on the Internet.

Division 2—Registration of architects

28—Registration of natural persons as architects

This clause provides for the registration of natural persons on the register of architects. It provides for full and limited registration.

29—Application for registration

This clause deals with applications for registration. It empowers the Registrar to grant provisional registration if it appears likely that the Board will grant an application for registration.

30—Removal from register

This clause requires the Registrar to remove a person from the register of architects on application by the person or in certain specified circumstances (such as the death of the person or suspension or cancellation of the person's registration).

31—Reinstatement on register

This clause enables a person to be reinstated on the register of architects.

32—Fees and returns

This clause requires registered architects to pay an annual fee and furnish the Board with an annual return. It empowers the Board to remove a person from the register of architects if there is a failure to pay the annual fee or furnish the annual return.

Division 3—Registration of architectural businesses

33—Registration of bodies corporate and partnerships as architectural businesses

This clause provides for the registration of bodies corporate and partnerships on the register of architectural businesses.

34—Application for registration

This clause deals with applications for registration.

35—Removal from register

This clause requires the Registrar to remove a body corporate or partnership from the register of architectural businesses on application by the business or in certain specified circumstances (such as cessation of the business or suspension or cancellation of the businesses registration).

36—Reinstatement on register

This clause enables a body corporate or partnership to be reinstated on the register of architectural businesses.

37—Fees and returns

This clause requires a registered architectural business to pay an annual fee and furnish the Board with an annual return. It empowers the Board to remove a body corporate or partnership from the register of architectural businesses if there is a failure to pay the annual fee or furnish the annual return.

Division 4—Restrictions relating to provision of architectural services

38—Illegal holding out as architect

This clause prohibits a person, body corporate or partnership that is not registered under the measure from holding out or being held out as an architect or partnership or firm of architects. The maximum penalty is $50,000 or imprisonment for 6 months.

39—Illegal holding out concerning limitations or conditions

This clause prohibits a person whose registration as an architect is limited or subject to conditions from holding out or being held out as having registration that is not limited or subject to conditions. The maximum penalty is $50,000 or imprisonment for 6 months.

40—Use of certain titles or descriptions prohibited

This clause prohibits the use of prescribed words and expressions (such as 'architect') and their derivatives from being used to describe a person, body corporate or partnership, or services they provide, if the person, body corporate or partnership is not registered.

41—Exceptions for certain titles and descriptions

This clause makes a number of exceptions to clauses 38 to 40 to enable certain titles and descriptions to be used by unregistered persons.

Part 4—Investigations and proceedings

Division 1—Preliminary

42—Interpretation

This clause enables disciplinary proceedings to be brought against natural persons, bodies corporate and partnerships that were registered at the relevant time but are no longer registered.

43—Cause for disciplinary action

This clause specifies the grounds that constitute proper cause for disciplinary action against a registered architect or architectural business.

Division 2—Investigations

44—Powers of inspectors

This clause sets out the powers of inspectors to investigate when there are reasonable grounds for suspecting that there is proper cause for disciplinary action or that a person has committed an offence against the measure.

45—Offence to hinder, etc inspector

This clause makes it an offence for a person to hinder an inspector, use certain language to an inspector, refuse or fail to comply with a requirement of an inspector, refuse or fail to answer questions to the best of the person's knowledge, information or belief, or falsely represent that the person is an inspector. The maximum penalty is $10,000.

Division 3—Proceedings before Board

46—Obligation to report unprofessional conduct of architect

This clause requires a person who provides services through the instrumentality of a registered architect to report to the Board if of the opinion that the architect has engaged in unprofessional conduct. The maximum penalty for non-compliance is $10,000. The Board must cause a report to be investigated.

47—Inquiries by Board as to matters constituting grounds for disciplinary action

This clause requires the Board to inquire into a complaint relating to matters alleged to constitute grounds for disciplinary action against a person unless the Board considers the complaint to be frivolous or vexatious.

If after conducting an inquiry, the Board is satisfied that there is proper cause for taking disciplinary action, the Board can censure the person or order the person to pay a fine of up to $10,000. If the person is a registered architect, the Board may impose conditions on the person's right to provide services as an architect, suspend the person's registration for a period not exceeding 1 year, cancel the person's registration, or disqualify the person from being registered.

In the case of a registered architectural business, the Board may suspend the registration of the body corporate or partnership for a period not exceeding 1 year, cancel the registration or disqualify the body corporate or partnership from being registered.

If a fine imposed by the Board is not paid, the Board may remove the person, body corporate or partnership from the relevant register.

48—Constitution of Board for purpose of proceedings

This clause sets out how the Board is to be constituted for the purpose of hearing and determining disciplinary proceedings.

49—Provisions as to proceedings before Board

This clause deals with the conduct of disciplinary proceedings by the Board.

Part 5—Appeals

50—Right of appeal to District Court

This clause provides a right of appeal to the District Court against certain acts and decisions of the Board.

51—Operation of order may be suspended

This clause empowers the Board or the Court to suspend the operation of an order made by the Board where an appeal is instituted or intended to be instituted.

52—Variation or revocation of conditions imposed by Court

This clause empowers the District Court, on application by a registered architect, to vary or revoke a condition imposed by the Court on his or her registration.

Part 6—Miscellaneous

53—Variation or revocation of conditions imposed by Board

This clause empowers the Board, on application by a registered architect, to vary or revoke a condition imposed by the Board on his or her registration.

54—Offence to contravene conditions of registration

This clause makes it an offence for a person to contravene or fail to comply with a condition of his or her registration and fixes a maximum penalty of $75,000 or imprisonment for 6 months.

55—Improper directions to architect

This clause makes it an offence for a person who provides services through the instrumentality of a registered architect to direct or pressure the architect to engage in unprofessional conduct. The maximum penalty is $75,000.

56—Procurement of registration by fraud

This clause makes it an offence for a person to fraudulently or dishonestly procure registration or reinstatement of registration (whether for himself or herself or another person) and fixes a maximum penalty of $20,000 or imprisonment for 6 months.

57—Statutory declarations

This clause empowers the Board to require information provided to the Board to be verified by statutory declaration.

58—False or misleading statement

This clause makes it an offence for a person to make a false or misleading statement in a material particular (whether by reason of inclusion or omission of any particular) in information provided under the measure and fixes a maximum penalty of $20,000.

59—Registered architects to be indemnified against loss

This clause prohibits registered architects from providing services as such unless insured or indemnified in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in connection with the provision of services as a registered architect. It fixes a maximum penalty of $10,000 and empowers the Board to exempt persons or classes of persons from the requirement to be insured or indemnified.

60—Information relating to claim against architect to be provided

This clause requires a person against whom a claim is made for alleged negligence committed by a registered architect in the course of providing services as a registered architect to provide the Board with prescribed information relating to the claim. The clause fixes a maximum penalty of $10,000 for non-compliance.

61—Victimisation

This clause prohibits a person from victimising another person (the victim) on the ground, or substantially on the ground, that the victim has disclosed or intends to disclose information, or has made or intends to make an allegation, that has given rise or could give rise to proceedings against the person under this measure. Victimisation is the causing of detriment including injury, damage or loss, intimidation or harassment, threats of reprisals, or discrimination, disadvantage or adverse treatment in relation to the victim's employment or business. An act of victimisation may be dealt with as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

62—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment. However, the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than an offence relating to the provision of false or misleading information.

63—Punishment of conduct that constitutes an offence

This clause provides that if conduct constitutes both an offence against the measure and grounds for disciplinary action under the measure, the taking of disciplinary action is not a bar to conviction and punishment for the offence, and conviction and punishment for the offence is not a bar to disciplinary action.

64—Vicarious liability for offences

This clause provides that if a body corporate is guilty of an offence against this measure, each person who is a member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless it is proved that the person could not, by the exercise of reasonable care, have prevented the commission of the principal offence.

65—Application of fines

This clause provides that fines imposed for offences against the measure must be paid to the Board.

66—Ministerial review of decisions relating to courses

This clause gives a provider of a course of education or training the right to apply to the Minister for a review of a decision of the Board to refuse to approve the course for the purposes of the measure or to revoke the approval of a course.

67—Confidentiality

This clause makes it an offence for a person engaged or formerly engaged in the administration of the measure or the repealed Act (the *Architects Act 1939*) to divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this measure or any other Act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this measure or the repealed Act; or

(d) to an authority responsible under the law of a place outside this State for the registration or licensing of persons who provide psychological services, where the information is required for the proper administration of that law; or

(e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions.

However, the clause does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates. Personal information that has been disclosed for a particular purpose must not be used for any other purpose by the person to whom it was disclosed or any other person who gains access to the information (whether properly or improperly and directly or indirectly) as a result of that disclosure. A maximum penalty of $10,000 is fixed for a contravention of the clause.

68—Immunity from liability

This clause grants the Registrar of the Board immunity from civil liability for an act or omission in the exercise or purported exercise of powers or functions under the measure. An action instead lies against the Board.

The clause does not prejudice rights of action of the Board in respect of an act or omission of the Registrar not in good faith.

69—Service

This clause sets out the methods by which notices and other documents may be served.

70—Evidentiary provision

This clause provides evidentiary aids for the purposes of proceedings for offences and for disciplinary proceedings.

71—Regulations

This clause empowers the Governor to make regulations.

Schedule 1—Repeal and transitional provisions

This Schedule repeals the *Architects Act 1939* and makes transitional provisions with respect to the Board and registrations.

Debated adjourned on motion of Mrs Redmond.

SUPPLY BILL

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:40): Obtained leave and introduced a bill for an act for the appropriation of money from the Consolidated Account for the financial year ending on 30 June 2010. Read a first time.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:40): I move:

That this bill be now read a second time.

This year the government will introduce the 2009-10 budget on 4 June 2009. A supply bill will be necessary for the first three months of the 2009-10 financial year until the budget has passed through the parliamentary stages and the Appropriation Bill 2009 receives assent.

An additional allowance has been included in this bill to cover the impact of the revised funding arrangements with the commonwealth. Under these revised arrangements, funding that was previously provided to agencies will now be paid into Consolidated Account and then appropriated to agencies as required.

In the absence of special arrangements in the form of the supply acts, there would be no parliamentary authority for expenditure between the commencement of the new financial year and the date on which assent is given to the main appropriation bill. The amount being sought under this bill is $2,750 million or $2.75 billion.

Debate adjourned on motion of Mrs Redmond.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—ALCOHOL AND DRUGS) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1815.)

Mrs REDMOND (Heysen) (15:42): I am pleased to advise the house that my comments should not take very much longer. Members may recall that, earlier, I was a bit lost in terms of my own notes on the bill and I could not find the relevant section but, happily, over the break, I have managed to locate the section, because my notes said that I found subclause (4) of clause 20 of the bill confusing.

I will just read subclause (4). It deals with inserting a new subsection into section 81AB of the Motor Vehicles Act, and states:

(3b) If a licence is not issued subject to the alcohol interlock scheme conditions but the application for the licence was made following a period of disqualification ordered by a court for a serious drink driving offence committed on or after the commencement of section 81E, the conditions imposed by subsection (1) are effective for—

(a) a period equal to the period of disqualification for the offence ordered by the court; or

(b) a period of 3 years,

whichever is the lesser.

I am sure that the minister understood that instantly and will be able to explain to me what it means, but I want to put to him what I think it means. In order to do that, I need to go to existing section 81AB which, basically, in subsection (1) provides—and I am summarising a little—that where a person applies for a driver's licence after being disqualified because of a drink driving offence, or by order of the court in any other state or territory, when they get their licence back, there are certain conditions that automatically apply.

Those conditions are, firstly, a condition that the holder of the licence must carry the licence at all times while driving a motor vehicle pursuant to the licence; secondly, a condition that the holder must not drive a motor vehicle or attempt to put a vehicle in motion on a road whilst they have the prescribed concentration of alcohol present in his or her blood or the prescribed drug present in his or her blood or oral fluid; and, thirdly, a condition that they must not incur two or more demerit points.

It is almost like going back to probationary licence conditions, where they can potentially lose one demerit point, but as soon as they reach two they are in breach of that condition; or, if they drive with any alcohol or drug in their system they are then in breach of the condition, and, if they do not carry their licence with them at all times while they are driving they are in breach of that condition.

So we know that that is what 81AB provides. The new inserted provision provides that, if a licence is not issued subject to the alcohol interlock scheme conditions but the application for the licence is made following a period of disqualification ordered by a court for a serious drink-driving offence committed after these new provisions about serious drink driving offences come in, the conditions imposed by subsection (1) (that is, the three conditions that I just read out) are effective for a period equal to the period of disqualification or for a period of three years, whichever is the lesser. I just want to clarify. I found that very confusing to read, but I think I have deciphered it, and I want to get confirmation from the minister in due course.

Don't I like the sound of saying 'the minister' and looking across at the member for West Torrens and seeing—

The Hon. A. Koutsantonis: Don't we all.

Mrs REDMOND: And I am sure I don't like it nearly as much as the member for West Torrens enjoys my reference—

The Hon. A. Koutsantonis: It's better than chocolate.

Mrs REDMOND: Better than chocolate, but is it better than—

The Hon. A. Koutsantonis: I'm married, I wouldn't know.

Mrs REDMOND: Just married. I want to be clear on this, and, first of all, it provides: 'if a licence is not issued subject to the alcohol interlock scheme', which I assume means that it is a licence issued not subject to the alcohol interlock scheme. I am interested in the placement of that, but you know how the Attorney and I go on about the placement of words in legislation. However, you have a licence not issued subject to the alcohol interlock scheme but after this has come into play.

So, for some reason they have not got the alcohol interlock scheme even though they have a conviction and even though they have a period of disqualification. But, in essence, what it will mean in practice is that, as well as having to serve that period of disqualification, they are, effectively, back on their P plates for either the period equivalent to their period of disqualification, which they have already served, or three years, whichever is the lesser. Therefore, if their period of disqualification is more than three years, they are on their P plates, effectively, for three years. I do not know whether they call them P plates, but that is the effect of the conditions.

So, I want to clarify this and get the minister's confirmation that my understanding of that section is correct. I cannot wait for the committee stage of this bill so that I can hear the minister's explanation of what I perceive to be the complexities of the way this operates.

As said, I do not have a great deal more. I have already mentioned the fact that the Registrar must be satisfied that prescribed circumstances exist in order to allow someone who would otherwise be subject to the alcohol interlock scheme to avoid having a licence that is subject to that scheme. Indeed, I wonder if that is when the particular section I have just been talking about comes into play.

I want to briefly cover a couple of matters. Essentially, clause 24, as I was saying before the lunch break, sets out the details of how it works. Basically, it provides that you have to be convicted of a serious drink-driving offence. A serious drink-driving offence is anything more than a conviction of a category 1, which is .05 to .08, or a conviction of a category 2 offence, which is .08 to .05 if it is only a first offence. However, if you commit a second offence within five years, that becomes a serious drink-driving offence, and you are then subject to the alcohol interlock scheme, as I understand it.

I understand all that. Once you have had that, you have to serve the extra time (up to three years), after which you can apply for your licence back, provided that you have not breached any of the conditions (either the conditions already in the act or the conditions relating to the alcohol interlock scheme), and you can obtain an unrestricted licence.

In order for the whole scheme to apply, there has to be a nominated vehicle, but I could not see a provision in the bill for variation of that. It seems to me that it would be reasonably likely that, at sometime in the future, someone who is subject to one of these will sell a car, buy a new car or whatever. The legislation contains some provisions relating to cancelling and so on, but it struck me as odd that there was no specific provision to deal with the changeover of a car, so I invite the minister to comment on that.

No doubt, the minister's advisers are having all sorts of fun trying to keep up with the questions that have to be answered, but they can take comfort from the fact that, once upon a time, it was my job to try to keep up with the questions being asked so that I could write answers for the minister. Before leaving clause 24, new section 81E sets out, amongst other things, what constitutes a serious drink-driving offence. New section 81E(3) provides:

> …if a person who applies for a licence—
>
> (a) has been disqualified from holding or obtaining a licence by order of a court on conviction for a serious drink driving offence committed on or after the commencement of this section; and
>
> (b) the person has not held a licence since the end of the period of disqualification,
>
> a licence issued to the person will be subject to the mandatory alcohol interlock scheme…

I seek the minister's clarification on this point. I assume that the new section is intended to get over the potential problem of someone today, for instance, who has served their disqualification period and who has applied for their new licence but is still within the five years once the new legislation comes in. I want clarification that that is, indeed, the correct reading of the new section.

The contravention provision seems quite straightforward, and it is found in new section 81H, which provides that the holder of a licence must obey and not contravene any of the conditions. New subsection (2) provides:

> A person must not assist the holder of a licence subject to the mandatory alcohol interlock scheme conditions to operate a motor vehicle, or interfere with an alcohol interlock, in contravention of any of the conditions.

The maximum penalty is $2,500, and I assume that its intention relates to someone who has an alcohol interlock device fitted to their car and who may invite a family member or a friend (such as me, for example, as I do not drink) to blow into the relevant piece of equipment so that it reads zero, thus enabling them to circumvent the alcohol interlock device, or lend them a car that does not have an alcohol interlock device. However, I assume that, in order for an offence to be committed, the person would have to know that the person to whom they are lending their car is subject to conditions.

Obviously, if someone asks you to blow into the little interlock device you are likely to be alive to the issue of their not being absolutely kosher. However, if for instance it was just a friend who says, 'Hey, can I borrow the keys to the car? I need to go down to the shops,' does the burden of proof change in any way, or does the burden of proof rest on the person who has provided that assistance, albeit unwittingly, to prove that they did not know, and could not reasonably be expected to know, that the person was subject to an alcohol interlock device?

A couple of other things I want to mention. The question of the differential costs I mentioned in my opening comments. Schedule 6, section 8, which appears in the bill at page 42, concerns financial assistance for use of alcohol interlocks. I indicated that the Liberal Party expressed some concern early on, because it seemed that the government's intention was to have a sort of graduated system of payment so that the individuals obliged to put these items into their car for the nominated period would have to pay varying amounts depending on their financial capacity to pay.

As I already said, that seems to be fraught with difficulty. The bill appears to provide that there will be a flat fee; however, if you are in a circumstance where you can show that you are so impecunious that you simply cannot afford it and it would be an unreasonable hardship, you can apply for a concession on the cost and some form of financial assistance. The wording is 'to obtain loans or other assistance (subject to a means test and conditions determined by the Minister) for the purpose of gaining the use of alcohol interlocks'.

I do not have any difficulty with that concept, but I would be interested if the minister could expand upon what loans might be put in place, because normally I would expect to see other assistance—in the form of concessions, for instance—so there might simply be a reduction in the amount that is payable. I understand that the system will operate through private enterprise, so there will be at least two private firms engaged to put these devices into the relevant vehicles. I am pleased to see that the minister is much relieved by the arrival of certain advisers.

So, you have the private enterprise aspect and, clearly, private enterprise cannot be expected to meet the cost of the fact that someone cannot afford to put the thing in. So, I can understand that we will have to come to some sort of mechanism whereby a person can access the interlock scheme and the private firm that is putting it into the car gets its normal pay regardless of the financial capacity of the person. At the end of the day, I expect therefore that the government will provide some sort of subsidy or something like that. When I saw the word 'loans' there, I thought it was an unusual thing to put into legislation, and I would be interested in an explanation as to what the minister is contemplating in terms of loans.

The second to last point I want to address is the amendment of the Road Traffic Act in clause 29 of the bill, and I make the comment that what that does is make it clear that prior offences are those involving driving with either alcohol or drugs in your system, so it makes it clear that both of those are now captured by the concept of prior offences.

Lastly, I want to refer to clause 37, and I apologise that I did not have time to do any further investigation into this. When I looked at clause 37, which is an amendment of section 47J of the Road Traffic Act, it talks about deleting paragraph (a) and substituting a new paragraph (a) that says 'is convicted of a prescribed offence that was committed in metropolitan Adelaide' before the prescribed day, and I was curious for an explanation because I was not aware until I read that that there was any differentiation under the Road Traffic Act for offences committed within the metropolitan area, as opposed to offences committed outside the metropolitan area. So I invite the minister to comment on that, also.

With those words, I conclude my remarks on the bill. As I said, as a former member of the Road Safety Advisory Council of this state, I welcome any initiatives that may reduce either drink driving or drug driving in our community, because the loss of life and damage that reverberates from loss of life and significant injury, not just for the person involved but also their family, friends and the wider community, is quite extraordinary. I sometimes note that on occasion we have been known to talk a lot about the impact of gambling on our community but, in fact, the statistics are fairly similar, and I confirmed this fairly recently.

In terms of percentage, the number of people impacted by road accidents roughly equates. For example, if 2 per cent of the population have a significant gambling problem, it is about 2 per cent of the population that is significantly impacted by road trauma. So, it is significant, and for some reason we seem to be quietly accepting of losing in excess of 120 lives on the roads of this state last year and the various terrible traumas that people sustained in accidents throughout the state. Of course, part of the reduction of our road toll is because we are better at saving lives, so sometimes it is not that we have not had the accidents but that people survive them now.

So it is a significant issue for our community. I welcome the initiative. I thank the member for Schubert for his input early in trying to make this parliament address the issue of drug driving in the first place, and I wish the bill good passage through this house, since it has already been through the other place.

Dr McFETRIDGE (Morphett) (16:02): I formally congratulate the member for West Torrens on his elevation to the ministry. It is long overdue.

I rise in support of the Statutes Amendment (Transport Portfolio—Alcohol and Drugs) Bill. The issue of drink driving and driving under the influence of drugs (and alcohol is a drug but it is a legal drug) is a very serious issue for every member in this place and should be for every member of the community yet, every day, we see more reports of people being pulled over for drink driving or driving under the influence of drugs. I am continually amazed at the stupidity of the many people

who get caught at well over the blood concentration limit for alcohol and with the presence of illicit drugs in their system.

I congratulate the member for Schubert for having been on the case of drug driving for many years now and trying to raise the awareness of this parliament and the population generally to the dangers of drug driving, and it is good to see that the government did take note, and this legislation in its initial form was put before both houses and passed, and now it is being reviewed. There is a real need to keep reviewing this sort of legislation to ensure it is working properly because if the motorists who are flouting the system and driving under the influence of alcohol or drugs are able to get away on a technicality or through some loophole and keep driving and keep endangering not only themselves but, more importantly, innocent road users, we need to ensure the legislation is looked at and improved so that everyone is protected, including the idiots who put themselves in danger.

The shadow minister has made a number of remarks about the bill and I am not going to go into the detail of it. I am sure her questions will be answered by the new minister. I want to emphasise the fact that my constituents in the electorate of Morphett are aware of this issue. They are excellent people to represent in this place and, certainly, while there are some issues with the excessive consumption of alcohol at some of the venues in Glenelg, I am sure the owners of those venues are doing their utmost to ensure those people are not endangering their own safety. This legislation will at least make sure that anyone who does indulge in excessive alcohol or drug use and then decides to drive a boat—or even go water-skiing—will be caught up, because it is a very serious issue. I look forward to its passage through the house.

Mr PEDERICK (Hammond) (16:05): I also rise to support the Statutes Amendment (Transport Portfolio—Alcohol and Drugs) Bill. I commend the member for Schubert on his untiring efforts to have drivers tested for drugs. Much carnage is caused on the roads today and, if we can limit that by taking the drug drivers and the drink drivers off the road, the world, and also the state, will be a better place.

This bill combines two initiatives. It implements the government's response to the review of the first year of the operation of the Road Traffic (Drug Driving) Amendment Act 2005 and, as has been mentioned, introduces a mandatory alcohol interlock scheme. The Road Traffic (Drug Driving) Amendment Act 2005 came into operation on 1 July 2006 and empowered South Australian police to conduct roadside saliva testing for the prescribed drugs of THC, methylamphetamine and MDMA. The government only progressed that legislation and subsequently added MDMA on the insistence of the Liberal opposition. The amendment act required the legislation to be reviewed after the first year of operation and a report to be laid before both houses of parliament.

The report indicated the operation of the act had been effective but suggested a number of improvements in the drug driving provisions, some of which included amendments to the drink driving provisions. The government has implemented several elements not requiring amendments to the principal legislation, and that includes increasing expiation fees and demerit points for drink and drug driving offences, which came into operation on 1 July 2008, as well as the testing of blood samples of all drivers and riders for prescribed drugs, which commenced on 1 July 2008. I note that the disqualification periods for second, third and subsequent category 1 offences have been increased to six, nine and 12 months to provide for appropriately escalating penalties. Other changes include:

- counting prior alcohol-related driving offences;
- lowering the age of all people attending or admitted to a hospital as a result of a vessel or motor vehicle accident from whom a blood sample must be taken from over 14 to over 10 years of age; and
- requiring a drug dependency assessment in cases where a person has a second drug offence within a five year period, and if found to be dependent have the licence cancelled until further assessment indicates the person is no longer dependent.

A raft of other changes are included.

I will make some comment about the mandatory alcohol interlock scheme. This voluntary scheme under the Liberal government came into effect in October 2001. I note that the Road Safety Advisory Council has recommended that the interlock scheme be made mandatory for serious and repeat drink driving offenders.

This bill provides that drivers convicted by a court of a serious drink driving offence will, first, be eligible to apply for a driver's licence with alcohol interlock scheme conditions after having served the full period of the court imposed licence disqualification, provided there is no other barrier to the issue of a licence; and, secondly, they will be eligible to apply for a driver's licence without alcohol interlock scheme conditions after having had an alcohol interlock device installed for the same length of time as the disqualification period up to a maximum of three years.

I note that the Liberal Party is supporting the bill. As I said earlier, I certainly support legislation such as this. My property is dissected by the Dukes Highway with thousands of vehicles going past every day. I can go over periods in my life, and not all the accidents I have witnessed or have come across soon after they have happened have been caused by drugs or alcohol. However, you only have to see a semi-trailer that has sideswiped a B-double and everything has gone up in flames to see what happens when people are either not rested or they are under the influence of drugs and alcohol.

Nearly every time there are fatal consequences, and sometimes multiple fatalities occur. I certainly commend the local CFS and all CFS, ambulance and SES personnel who come out to these accidents and witness some horrific scenes. As I said, when vehicles come together—it could be at a combined speed of up to 230 km/h and sometimes more—it is one heck of a mess. I commend the bill and I hope it has a good passage through parliament.

Mr VENNING (Schubert) (16:11): I have some passion for this subject, as you would know, Madam Deputy Speaker. I thank the other members who have already spoken with reference to me and my campaign in relation drink and drug driving over many years. This bill aims to alter the laws dealing with the testing of and the penalties for drivers who are affected by alcohol and drugs. As crash data shows, people continue to take drugs and drink alcohol (or both) above the level of .05 BAC and drive. That was always my concern. Drink driving was bad enough, drugs are worse, but when you put the two together you have a very potent mix.

This bill combines two initiatives: implementing the government's response to the review in the first year of the operation of the Road Traffic (Drug Driving) Amendment Act 2005, and introducing a mandatory alcohol interlock system. This legislation is largely aimed at repeat offenders. A previous minister, the Hon. Diana Laidlaw, first introduced these. We thought they were just toys when they were first talked about, but certainly they have now become a critical part of dealing with a problem.

As you know, madam, I have been a long-time campaigner against drug driving. In 2003 (a long time ago now), I first called on the state Rann Labor government to examine the feasibility of adopting random drug testing of drivers and the feasibility of implementing such testing in conjunction with random breath testing for excessive alcohol consumption.

I then introduced subsequent bills which would legislate for random drug testing to be introduced in South Australia. However, the government did not adopt such legislation until late 2005, even though the Victorians had already introduced it and were making it work; and various universities had done a lot of work on it, too. It was happening. We could have been the second cab off the rank on this but, as it turned out, we were not: we were the fourth or the fifth and people lost their lives in the interim.

I was always very concerned. I reckon that when a person causes a death some of these statistics ought to be known, for example, whether the driver who caused the accident was under the influence of a drug or alcohol. I do believe that should be published so that we know, because we know that the statistics are very damning indeed.

The Road Traffic (Drug Driving) Amendment Bill 2005 then came into effect on 1 July 2006 and allowed for SAPOL to conduct roadside saliva testing for methamphetamines, THC and MDMA. The amendment bill required the legislation to be reviewed after its first year of operation. The report was to be presented to both houses of this parliament; Mr Bill Cossey was commissioned to prepare that report, and this bill is the result of his recommendations. Equal to my disappointment that the state Rann Labor government took so long to introduce drug driving legislation in the first place, is the fact that it has taken so long for the review and its recommendations to be acted on by the government and for this legislation to come before the house.

The most significant change to the legislation is that it introduces a three month licence disqualification for the first conviction by a court for a person driving with a prescribed drug in their system, with a similar charge for a category 1 driving offence, which is someone who is above

.049 BAC and lower than .08. At this point I want to be very controversial. I am a little concerned at this because .049 is not very high: it is on the edge of impairing one's coordination.

I have now been using a police type breathalyser machine for over two years. After a while, you do get to know where your impairment is in relation to the reading. Luckily, I have a wife who does not drink at all. Over a period of time, I have been able to judge my own levels against my ability to drive a motor car. You will never ever get me for drink driving, I can assure you, because—

The Hon. A. Koutsantonis: What about speeding?

Mr VENNING: That is a different matter. You are allowed to have one sin: you cannot have two. That is a different issue and I am happy to address that, too, and we will. I raise my concern in relation to the .049. I can be .047 and can almost guess that I am pretty safe. I have got it pretty close to that. Looking at this matter, I do agree that there should be loss of licence at less than .08, but I still believe that .049 is on the edge for some people, and you would not know. I would have considered a mark perhaps halfway between them, say, .065; that would have been a good way to go and then, if it does not work, drop it to .05, if you wish. I do not have a problem with .05 but, for some people who do not have machines, it is very difficult to tell, and that is the biggest crime, I think. I believe that it ought to be compulsory for all those large institutions selling alcohol to provide their patrons with a machine so that at least they have an idea before they get into their car whether they have—

The Hon. I.F. Evans: What's their responsibility?

Mr VENNING: The member for Davenport says, 'What's their responsibility?' How do they know? I know because I own a machine which I bought from the Queensland police. Our local police would not sell me this machine, I got it from the Queensland police, and I find it invaluable. It cost a lot of money, but to me in my job and in the seat that I represent it was worth it. I know that the local newspaper, the *Barossa and Light Herald*, will be reading this. They read *Hansard* regularly and they do report on activity, and Mr Nathan Gogoll, who is the reporter, will be reading this. It is a very big issue in the Barossa, with a group called 'Barossa's Most Wanted'. I have said at times that we have had trouble with this young gang of hooligans. We have just introduced these dry zones across the Barossa because of hooligans and outlandish behaviour. It is a big issue.

I believe that these machines ought to be available to people, particularly the people who do not know. You can buy the little 'el cheapo' machine in various commercial outlets, and I have to say that, generally, they are a waste of money. They give you some idea, but if you are going to the margin, I tell you it is a waste of time. It is not worth putting your licence, your passengers or your life at risk. Invest in a decent one, otherwise do not drink, or have another person drive the car.

Another change will ensure that prior alcohol related driving offences are counted in the determination of whether a drug driving offence is a subsequent offence and vice versa. This is logical, and this is what I tried to do in the first place: I said that you should put them together, there is no difference. It is a logical amendment as both offences put the safety of road users in danger and, as such, should not be considered independently of each other. I invite members to check *Hansard*: I said exactly that in 2003. I am surprised that this was not included in the original act.

The second part of the bill seeks to introduce a mandatory alcohol interlock system. As I said earlier, alcohol interlocks are fitted to vehicles to prevent their being driven if the person's BAC is above the designated concentration for that person. As these devices are fitted for serious drink driving offences, the prescribed amount of alcohol is usually set at zero. In 2001, under previous minister Laidlaw in the Liberal government, South Australia was the first Australian state to introduce a voluntary alcohol interlock scheme for serious drink driving offenders. The scheme has continued on a voluntary basis until now.

This bill will provide a legislative framework so that, in future, drivers convicted of a serious driving offence will have to serve the full period of a licence disqualification determined by the courts, and then have the alcohol interlock system fitted to their vehicle for the same period thereafter. I understand that the government has proposed some amendments in relation to clarifying definitions and removing references to the voluntary alcohol interlock system, as this has been replaced with a mandatory system. We on this side of the house have no problems with these changes. Of course, I do highlight the problem today (as I did many years ago) about these machines; that is, the ability for a driver who has not been drinking to blow into it and then to switch over and drive the vehicle. We now have random tests whereby the machine can beep at any time;

if you do not blow into it and get a reading, it will stop, anyway. That was a very good technological change and an improvement. So, I think we are doing a lot.

We have come a long way in terms of our acceptance of this problem in saying, 'Well, hang on. We all enjoy a drink, but we have to be responsible.' The bill will strengthen the legislation that is in place by penalising drug and/or drink drivers who continue to get behind the wheel of a car under the influence and put other road users in danger. Any legislation that helps to make our roads safer can only be a positive for South Australia.

I am very passionate about this subject. It is blatantly wrong that our loved ones—my wife, my children and grandchildren—and ourselves are placed at risk by idiots who drive up the road so badly impaired that they kill themselves and innocent people. None of us should say that we oppose measures such as this because, after all, we all transgress at times, but we know what the rules are and the penalty has to be steep enough to make sure that we do not ever consider driving a motor car if we have had a drink—and I do not believe that people should take drugs at any time. I certainly support this bill. It has taken a while, but I think we will eventually get there.

Mrs PENFOLD (Flinders) (16:23): The Liberal opposition supports the bill, but it is very evident that people living in rural, regional and remote South Australia will again be disadvantaged. Drivers who are disqualified because of driving infringements are severely disadvantaged the further away they live from the Adelaide metropolis. The necessary assessment procedure in a drug and alcohol clinic prior to applying for a renewal of a driver's licence is only available in Adelaide. A constituent in my electorate was advised in 2008 that an appointment at the clinic was not available until 2010, which is totally unacceptable. What are people to do in the meantime to hold down a job and live their lives, particularly when they live in remote country areas?

The licensing of a private clinic at Mile End to undertake these assessments to overcome the backlog again discriminates against those who can least afford it. I ask that at least one other assessment clinic, possibly at Port Augusta, be set up to alleviate the unconscionably long waiting time at the Adelaide assessment clinic and to better serve rural and regional South Australia.

I commend the former Liberal government for making South Australia the first Australian state to introduce a voluntary interlock system for serious drink driving offences in October 2001. The Liberal opposition supports the recommendation of the Road Safety Advisory Council that the scheme be mandatory for serious and repeat drink driving offences. However, for a law to be applied justly, all members of the public must be treated fairly and equally. Already country drivers who are disqualified are severely disadvantaged compared to their city counterparts. There is no public transport system—which, again, is supported financially for city residents by all South Australians through the taxes and charges that are levied on all of us. In many country towns no bus, train or plane services are available.

It has been stated by Labor sources over the years that it would not matter if all people moved from the country to the capital cities to live. That attitude displays a colossal ignorance of the revenue foundation on which our nation and our society is based. It also tries to manipulate people to fit one mould, ignoring the fact that some people psychologically cannot live in the city. This is attested to by some of our most talented indigenous Australian rules footballers, who give away playing at the top level because they cannot abide city lifestyles.

I appreciate the Premier's accepting the resignation of the Minister for Road Safety in another place. It took repeated contacts with the former minister over some months to elicit a reply to the questions which my constituent mentioned previously needed answers (incidentally, this constituent moved to the country from the city for health reasons). One of the measures of a just and democratic society is the equal application of the law and equal access to justice for all citizens. Our regional people must be considered when our laws and their application are being considered, and I ask that they are considered in this bill, with a view to reducing the impact caused by isolation.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister for Youth, Minister for Volunteers, Minister Assisting the Minister for Multicultural Affairs) (16:26): I thank all members for their contributions and their kind words about my elevation to the ministry. I pay tribute to the Hon. Carmel Zollo, who introduced this bill in the upper house, for her tireless work in road safety and her devotion to her portfolio areas. She has been a close friend of mine for a long time, and I wish her well in her future endeavours. I am sure she will be a great advocate for the people of South Australia in the upper house for as long as she wishes to remain there.

I will make a few brief points before proceeding to the summary. I completely reject the notion that the government is in any way somehow disadvantaging rural people by bringing in this scheme. I remind the member for Flinders that the person who first called for this scheme was a rural member. I think that the member for Flinders somehow takes her passion for her constituents to a point where she feels that none of us is listening. I can assure her that the government is listening. One thing that I would hate is to see us reach a point where we say it is okay to drink drive in the country because of rural isolation.

An honourable member: She didn't say that.

The Hon. A. KOUTSANTONIS: I know she was not saying that, but it is very hard to govern an entire state and bring in laws that provide equal protection (which is what I think she was trying to say) for every citizen of the state, in terms of the application of the law. However, the government is not in any way deliberately trying to isolate rural residents or her constituents with this scheme. We are trying to save lives, because one death on our roads is one too many. I never want to see the day when any government or minister (and I am sure the member for Heysen, after her time on the Road Safety Advisory Council, would agree) would say, 'Well, we've reached 100 a year; that's enough. That's the best we can do.' It is not. I will not say that we can achieve it, but I want to aim for zero tolerance of deaths on our roads, because those deaths are meaningless and they are so wasted.

I want to respond to some of the questions and concerns raised by honourable members earlier in the debate, and I will address their points in turn. However, before I do so, I want to take the opportunity to clarify concerns raised in another place in relation to the offence of assisting the holder of a licence subject to the mandatory alcohol interlock scheme conditions to operate a motor vehicle in contravention of any of the conditions. The concern was whether the offence would apply to a person who was assisting the interlock licence holder to drive a vehicle other than the vehicle fitted with an interlock device and whether a person might inadvertently commit this offence.

I am advised that the offence does apply to the use of any vehicle, but that it requires a mental element. The onus would be on the prosecution to prove beyond reasonable doubt that the offender knew that the person was subject to the mandatory alcohol interlock scheme conditions or was reckless as to whether the person's licence was subject to those conditions. Based on this advice—and I agree with the advice—no amendment to this offence is necessary because if the offence is inadvertent, the required intention will be absent. So, if you do not do it on purpose, if you do not know that the person is subject to these conditions, then you will not be prosecuted.

It is also appropriate for the offence to apply to any vehicle because otherwise it would not be an offence for a person to permit the interlock licence holder to use another vehicle even though the person knew it was against the conditions. This would allow a person to knowingly circumvent the scheme.

I now turn to the concerns of the members of this house. One comment was that the three month disqualification period for a first drug driving conviction is being introduced to bring it into line with a first conviction for a category 1 BAC (blood alcohol content) offence. I inform the member that the government is actually introducing a three month disqualification period for first convictions for both drug and drink driving offences.

The Road Traffic Act currently provides that the first offence for both prescribed drug and category 1 BAC be dealt via an expiation notice. Subsequent offences incur more substantial penalties as determined by the court. A first offence that is expiated, however, is not recorded as a conviction, so a court must treat a second-time offender not as a repeat offender but as a first-time offender and, therefore, no disqualification would be imposed. This amendment will remove this anomaly and, in doing so, increase the deterrent effect of the provision. This will still provide the opportunity for a person to expiate the first incident and will ensure a period of court-imposed disqualification when the second incident is brought to court.

It was queried whether interlock device will be triggered by the presence of any alcohol at all in a person's breath. I am advised that the devices can be set to register any level of alcohol in the breath. They are quite sophisticated machines, but generally, as is currently the case under the voluntary scheme, the devices are not triggered by readings less than 0.02 grams in 100 millilitres of blood. This is to allow for readings caused by taking medicines such as cough mixture, or even eating ice-cream. I am not sure what ice-cream has alcohol in it, but I might find out.

The SPEAKER: Rum and raisin.

The Hon. A. KOUTSANTONIS: Rum and raisin, yes. Thank you, Mr Speaker. It is one of the provider's conditions on the use that a person not eat or drink anything within 15 minutes before using the device but sometimes traces of matter that will trigger the device will remain after that time, so a small tolerance is generally employed. This is in line with standard enforcement practices both in this state and other jurisdictions.

It was queried which people will be eligible for concessions on the scheme and how their qualifications will be tested. Concessions will be available for the holders of health care and pension cards, Veterans' Affairs gold cards (EDA, totally and permanently disabled and war widows only.)

Consistent with the general availability of concessions in South Australia, the range of concessions was decided under the advice of the Department of Families and Communities. The department or the interlock provider will not assess a person's ability to qualify for the concession. It will depend on the person's ability to qualify for the concession card in the first place.

I turn to the query about why unlicensed driving after a drug driving conviction does not attract the same penalty. This new offence was introduced as part of an interlock scheme. It is aimed at those people who are disqualified for a serious drink driving offence and go on driving unlicensed before having gone onto the interlock scheme. It is anticipated, unfortunately, that some people will continue to flaunt the law and decide that the legitimate route of regaining an unconditional licence is all too hard. That is why the penalty—

Mrs Redmond: I think you mean 'flout' the law.

The Hon. A. KOUTSANTONIS: What did I say?

Mrs Redmond: Flaunt.

The Hon. A. KOUTSANTONIS: Sorry, flout.

Mr Kenyon: She's been taking it for years from Atkinson. She's giving it back.

The Hon. A. KOUTSANTONIS: Yes, Mick Atkinson. The penalties for this particular offence have been increased over and above that of unlicensed drivers in other situations. In answer to the member's query, the offence of driving unlicensed after a drug conviction will be dealt with under the existing provisions, that is, section 74(1) and (2) of the Motor Vehicles Act.

If there were an equivalent to the interlock scheme for drug drivers, including drug drivers in this more serious offence would be appropriate because it would be a deliberate violation of a legitimate way of regaining an unconditional licence. However, the technology is not available for this as yet. I think we will go into committee, rather than my going through long, detailed answers, because we can get some faster answers for the shadow minister. I thank the house.

Bill read a second time.

In committee.

Clauses 1 to 13 passed.

Clause 14.

Mrs REDMOND: I just have one question here, and it may be something that the minister was just touching on a moment ago. I just want to get clarity about it. It is simply that the clause in question talks about duty to hold a licence or learner's permit and it says that, subject to this act, if a person drives a motor vehicle on a road and the person has, as a consequence of being convicted of a serious drink driving offence been disqualified from holding or obtaining a licence and the person has no licence elsewhere, in essence, the person is guilty of an offence. I was just curious about why that particular clause only refers to serious drink driving offences and not to drug driving offences. I apologise that I did not have time to go looking to see whether there is an equivalent clause to that somewhere else.

The Hon. A. KOUTSANTONIS: It is a question of technology, I am told. I am advised that the problem is that the machines are unable to detect drugs. Therefore, we need a provision for people to legitimately go through a route to attempt to acquire their licence and have this scheme put on. However, because technology has not caught up to the legislation—which is quite unique, because it is usually the other way around—there is no reliable technology that is effective enough to be put into these machines to detect drugs. That is why we have this scheme.

Clause passed.

Clauses 15 to 19 passed.

Clause 20.

Mrs REDMOND: I want to confirm that my understanding of the impact of subclause (4) of this clause is correct, that is, if there is a situation where someone obtains a licence that is issued after a period of disqualification but which does not come within the ambit of the alcohol interlock scheme, or is in someway excused from the alcohol interlock scheme, that person will, in fact, have the restrictions of their new licence extended for further time equivalent to what they would have had had they had the alcohol interlock scheme. I want to clarify whether that is a correct reading of that particular clause.

The Hon. A. KOUTSANTONIS: Yes, the shadow minister is correct. If the registrar decides, for a number of reasons—medical or distance—that the interlock scheme is not feasible, there is still a probationary licence for the period as if you had had an interlock scheme. Yes, you are right. The scheme provides that the probationary period is as long as whatever your disqualification was, and that is also the period for which you have the interlock on. If the registrar decides, for a number of reasons, that you cannot have the interlock scheme or that you do not qualify to have it, you must be on probation for that period as if you had had the interlock.

Mrs REDMOND: Can the minister give me some idea of the circumstances in which it is anticipated that someone who has committed a serious drink driving offence, who would otherwise be expected to go on the alcohol interlock scheme, will be issued a licence without the interlock scheme?

The Hon. A. KOUTSANTONIS: The advice that I have has reassured me because I had similar concerns to those raised by the member for Flinders. If the providers are so far away in a remote location, where it is impractical to have these machines, the registrar could then give an exemption. If there are medical conditions, if people have a psychological problem about putting these devices into their mouth (due to a sexual assault), they could be given exemptions. That is where we are going with these exemptions. It is about the tyranny of distance and any psychological or health problems.

Mrs REDMOND: I understand the potential medical problems, and even psychological problems, but, with due respect to the member for Flinders, I am a little puzzled about the idea of someone being so far away. My experience on the Road Safety Advisory Council was that, in fact, we have more problems per head of population with country drivers, or people from the city driving in the country. A lot of our major accidents are out on country roads.

My understanding of the way this would work is that, once you are convicted, you have to nominate your vehicle. It gets brought into town and has an interlock device installed and it is in there for three years. Is the problem simply in getting the vehicle to town for the insertion of the interlock device? Once it is in, it seems to me that there should not be a problem; that driver should be subject to the same rules.

The Hon. A. KOUTSANTONIS: I understand your thinking, but the reality is that these machines need to be calibrated. Every time you use them, they collect data, and that data must be downloaded. We envisage that local mechanics and local electrical companies will become licensed providers of these machines and will install them, so they need regular contact—if not monthly, then fortnightly. So, if you live 200 kilometres away, and you have to travel 800 kilometres a week, the concerns of the member for Flinders kick in. Knowing her concerns, the government has acted in advance, and that is why we have these exemptions.

Dr McFETRIDGE: Why has South Australia not considered what is happening in Sweden? If there are problems with fitting interlock schemes in relation to distance, why are we not putting in interlock schemes straightaway when people are convicted of drink driving, as they are doing overseas? I understand that in Sweden they have 30 days to fit an interlock to their car, and I believe a similar situation exists in the USA and Canada.

Why have we decided to give them a period of disqualification? I think that research shows that people who are disqualified from driving still drive anyway, so we will have either to bring forward the interlock scheme or increase the police resourcing. I think there is a real issue here that we have not caught up with.

The Hon. A. KOUTSANTONIS: The first reason is that there has to be a penalty for drink driving other than just a fine. If we are ruling out imprisonment for not as serious cases—but drink driving is a very dangerous offence—the government has a policy of fines and disqualification. We

are removing them from the roads. This government considers people who drink and drive to be a danger to themselves and others, and we want them off the roads for a period of time so that they can learn their lesson.

We also want to remind them of that lesson daily with the interlock scheme, and it is a policy decision of this government. I understand the member for Morphett's goodwill and that he is a passionate advocate about this issue. I am not trying to have a go at him, because I know what he is saying: he is trying to cut out the middleman and go straight to the heart of things. We believe that there has to be some love and punishment; they go hand in hand.

Clause passed.

Clause 21 passed.

Clause 22.

Mrs REDMOND: I have one question, and it relates to subclause (3), which inserts a new subsection (7) into section 81C of the act. It provides:

In determining whether an offence to which this section applies is a first, second, third or subsequent offence for the purposes of this section, any previous drink driving offence or drug driving offence for which the person has been convicted or that the person has expiated will be taken into account, but only if the previous offence was committed or—

if it has been expiated—

was alleged to have been committed, by the person within the prescribed period immediately preceding the date on which the offence to which this section is alleged to have been committed.

My question relates simply to the use of the word 'prescribed', as it instantly alerts me to the fact that it will be set down in regulation. My understanding was that we had come to sort of landing on how long it would be, in terms of assessing first, second, third and subsequent offences. I am curious as to why the new subsection refers to the minister's prescribing the time that will be taken into account and whether it is, in fact, building in some flexibility so that the minister can, for example, decide that he will take into account 10 years, as per the proposed amendment in the other place.

The Hon. A. KOUTSANTONIS: If the member reads on, subsection (8) of the act provides:

For the purposes of subsection (7), the prescribed period is—

(a) in the case of a previous offence that is a category 1 offence—3 years;

(b) in any other case—5 years.

Clause passed.

Clause 23 passed.

Clause 24.

Mrs REDMOND: I have a question in order to confirm my understanding of new section 81E, in particular new subsection (3)(b). The minister may recall that, during my comments on the second reading, I indicated that I anticipated that that new subsection had been inserted in that way to get over the problem of someone who currently has had a period of disqualification, who has served that period and who has applied for and obtained a new licence but before this has come into play. This new subsection is meant to deal with that person.

I want to confirm that that is the correct interpretation and, if it is not, what is its purpose? It provides that it applies to a person who applies for a licence who has been disqualified from holding or obtaining a licence because of a serious drink driving offence after the commencement of the section and who has not held a licence since the end of the period of disqualification. It also states that a licence issued to them will be subject to the mandatory alcohol interlock scheme. Therefore, presumably the converse of that is that, if they have had the conviction for a serious drink driving offence and they have held a licence since then after serving their disqualification, then that it is to avoid a period of retrospectivity, but I will wait to hear what your advisers say.

The Hon. A. KOUTSANTONIS: I am advised that there is no retrospective nature to this clause: it is simply codifying the process in which you would legitimately obtain your licence. The clause is set out to define the exact procedure you need to go about to legitimately re-obtain your licence.

Mrs REDMOND: Then I am puzzled by why we need subsection (3)(b), because it would seem to me that a person who applies for a licence after they have been disqualified and served a period of disqualification will be subject to the alcohol interlock system, and I do not understand why we then need to spell out that they have not held a licence since the end of the period of disqualification.

The Hon. A. KOUTSANTONIS: It is there to ensure that, after you have gone through the process of being disqualified under paragraph (a), gone onto the interlock scheme, applied for a licence and then been in court again, there is a procedure to know exactly how you walk through the process of reobtaining a licence after reoffending. It is so we can codify exactly the procedures in place and where people should go once they have committed these offences.

Mrs REDMOND: I will accept that explanation. I only have one other section I want to ask a question on, and it is within clause 24. On the way to that section, which is the new section 81G, I will just make a couple of comments on section 81F, and it is something I discussed with the minister in conversation. Section 81F, which appears on page 33 of the bill, sets out the conditions for the operation of the mandatory interlock scheme and says that you have to have a nominated vehicle. I already alerted the minister to my puzzlement that there is no specific provision for changing the nomination of that vehicle with a changeover.

The other thing I think might be worth contemplating—and it may be able to be dealt with by regulation and it may be able to be dealt with at a subsequent time when the problem actually arises—is that I think there is potential for the need for more than one nominated vehicle if, for instance, someone has a job where they have a vehicle supplied by their employer. I would have thought the whole point is to stop them driving while they have alcohol in their blood but not to stop them driving a particular vehicle, and it would seem to me to be sensible to enable, for instance, an employer to support someone who is going through a rough patch and is going to do the right thing and not drive with alcohol in their blood. They have a job and they need to drive for their job, so they can keep their job. This section does not seem to contemplate the possibility of having more than one nominated vehicle concurrently, nor the provision for changing over if you change cars. I make that comment for the minister's thought at a later time.

My one remaining question relates to new section 81G. I simply want to confirm my reading and understanding as I expressed in my second reading contribution—that is, once you are convicted for this offence and have had an alcohol interlock scheme applied to your licence, no matter how long in the future you go without driving, when you resume driving you will still be subject to the alcohol interlock scheme. So you could have the offence, get your disqualification period, have one month of driving with an alcohol interlock scheme and 10 years later come back and apply for another licence and that licence will say that you still have two years and 11 months to do with an alcohol interlock. I take it that it works much like getting a P plate—that is, if you have to go back on your P plates you have to go through the period of the P plate requirement. I take it that is the way section 81G operates, but I want to get that confirmed.

The Hon. A. KOUTSANTONIS: The member is correct that a person cannot avoid going onto the mandatory scheme simply by handing back their licence. If they do so and then subsequently reapply for a licence, they will have to serve out the balance of the prescribed minimum period as defined in new section 81E. The proposed scheme is mandatory and the ability to avoid time on an interlock is not consistent with this approach. So, no, you have to do it. You have to serve your time.

Mrs REDMOND: Again, I simply want to confirm the expectation of my thinking which is that, once someone goes onto the scheme, they simply stay on the scheme. Theoretically, if you decided to, you could get the alcohol device fitted and use it for a month. You do not like it and do not drive for three years but keep the alcohol interlock on your car so that when the three years is up you are entitled to apply for the fresh licence, even though you have not driven, but, if you actually surrender your licence, when you go to get your new licence, you still have to go back on the scheme.

The Hon. A. KOUTSANTONIS: That is correct. You are still serving a penalty. You are still not driving. I think there is a bit of education here, as with all interlock schemes. We would prefer people to use it but, if they chose not to, as long as they had their licence that would be fine, but I think that defeats the purpose of the interlock scheme. Yes, you could do that.

Clause passed.

Remaining clauses (25 to 40) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

ADJOURNMENT DEBATE

RABBITS

Mrs PENFOLD (Flinders) (17:05): The Rann government has taken its eye off the rabbits. In fact, it has been so busy chasing headlines with its environmental projects such as unviable and ineffective wind turbines on government buildings since its term in office that an animal as simple as the rabbit will undermine any environmental credentials the government has ever aspired to. Rabbits continue to destroy our crops and native flora, and are also providing food that is assisting feral cats and foxes to thrive, which are destroying our native fauna.

Project research scientist for arid lands, Katherine Moseby, recently said on ABC Radio:

> We have about one cat per square kilometre up here and every release we've done outside our reserve, we've had animals eaten by feral cats. So unless something's done to halt the feral cat and fox problem, we haven't got a hope of getting threatened species back into the landscape on a large scale.

Land confiscated by the government without compensation during coastal freeholding of leasehold land, combined with the land currently being taken under coastal protection and native vegetation legislation, is adding significantly to the government's existing parks and reserves.

This government firmly puts the cost of controlling rabbits on private landholders and takes little to no responsibility for rabbit control that is already a major problem on the huge tracts of land under their ownership and control. Fears of a rabbit plague have again been highlighted recently in *The Advertiser* by Foundation for Rabbit Free Australia Chairman Tim Rogers. Experts warn that the rabbits are breeding up because of a reduction in control measures, the declining virulence of the calicivirus and the banning of traps and culling. Mr Rogers stated:

> We've perhaps got a catastrophe coming and we fear we won't get any help until it hits.

An article in the *Eyre Peninsula Tribune* in March highlighted the increasing number of rabbit baits being used by landholders this year to control the masses of pests wreaking havoc on their land. Laying baits, although effective, will barely put a dent in Australia's rabbit population when they repopulate so very quickly. Mr Rann loves to tout his supposed green credentials by spending taxpayers' money on projects such as solar panels on the roofs of schools, the airport and showgrounds. While it is all very nice to use solar energy, the reality is that these infrastructure already have power readily available. Our money is being wasted on gimmicks when there are far more urgent environmental needs.

If he really wanted to show how environmentally aware and advanced he is, the Premier should at least be spending equivalent amounts towards eradicating rabbits. By saving native vegetation we will at least be usefully contributing towards controlling greenhouse gas emissions, not to mention preventing the devastating effect on fragile coastal landscapes as out-of-control rabbits devour anything and everything green. It is the state government's responsibility to provide relief to the extreme situation, especially since it is the custodians of our precious coastal and national parks. The state government should be contributing more towards farmers and farming-friendly organisations to enable them to manage effective pest-control programs, and scientists must be given sufficient funds to research a new biological control agent.

Last year the Tasmanian government allocated $12.6 million over four years to the eradication of rabbits and rodents. We do not have to reinvent the wheel, there should be opportunities to work in partnership with other states for a final solution for rabbit eradication throughout Australia. Rabbits cost this country millions of dollars each year through reduced primary production and environmental damage. We have lost several species of native animals and native vegetation due to rabbits, foxes and wild cats. They devour our flora and fauna, killing outright and depriving our native animals of their food.

Rabbits demolish seedlings, preventing the new growth of native trees and shrubs. With the threat of global warming we need more not fewer plants to help absorb the rising CO_2 in the atmosphere before it gets to dangerous levels, reducing the heating of the earth's surface, and the soil and water erosion. I envisage that we can and should create microclimates across Australia that could help significantly to ameliorate the effects of climate change, but to do this rabbits must go. Rabbit numbers are creeping up once again, and they continue to be a significant threat to our land. Last year there was a notable increase in numbers on Eyre Peninsula and Yorke Peninsula.

One farmer advised that when he recently went out with a spotlight he saw about 600 in just one location. The myxomatosis virus introduced in 1950 was generally a success. However, by 1958 the disease had changed and rabbits had become somewhat immune. The virulent Lausanne strain of the myxoma virus was then imported to Australia, and later two rabbit fleas were introduced to assist with the spread of myxomatosis. While this helped to keep rabbit numbers lower for a while it soon became apparent that a stronger control measure was needed. The calicivirus or rabbit haemorrhaging disease (RHD) introduced in 1996 was very successful, particularly in lower rainfall areas, eradicating about 95 per cent of the rabbit population, but was not as successful in the higher rainfall areas of the region.

Benefits were immediate, including revegetation of native flora, more feed for native fauna and livestock and healthier soil. Unfortunately, it is no longer having the same effect on rabbit numbers as it did when it was first introduced, and rabbits have built up low levels of resistance to the RHD as well as myxomatosis. While this was expected, it was hoped that it would not happen so soon. Myxomatosis still controls 40 to 60 per cent of the population and RHD has managed to wipe out 95 per cent, but these biological control methods are not enough alone to wipe out the entire rabbit population.

Rabbits' natural predators—foxes, cats and eagles—help to control the population but feral foxes and cats themselves are a problem. They destroy native fauna, as well as some livestock, and also require control. It takes only a year for rabbits to re-establish their populations. Accordingly, before we know it, we could be back to the days before myxomatosis and calicivirus. A new biological control agent is urgently needed to wipe out the rabbit population once and for all, and it needs to be the final solution. We need to ensure that rabbits will not have a chance to build up a resistance to a new control measure and this destructive introduced species is finally totally wiped out.

The Foundation for Rabbit Free Australia has placed a high importance on the need for biological agents for rabbit control. It is the most cost effective form of rabbit control. It has a relatively low cost to introduce, with long term economic and environmental benefits. Other control methods, such as laying baits and ripping warrens are time consuming for landholders and the cost usually comes out of their own pocket. Even with the use and success of biological control methods, the Foundation for Rabbit Free Australia advises land managers that they should continue to use conventional control methods, such as baits and ripping warrens as well, especially when rabbit numbers are low, to get the best result from the combined use of all control agents.

It is important not to be complacent at a time when the population is still relatively low. This state government needs to take the initiative and allocate funds for research and introduction of a new biological control. There is a need to provide more financial assistance to landholders for pest control, perhaps by offering rebates on baits, traps and warren-ripping machinery. The government must also control the rabbits on its own land.

At the 2008 Eyre Peninsula field days in Cleve, the Eyre Peninsula Natural Resources Management Board launched a free informative DVD and booklet instructing landowners how to control rabbits effectively. The DVD (funded by the former Liberal government Australian Natural Heritage Trust program) provides information on all facets of rabbit control. Peter Sheridan, who led the project, has more than 30 years' experience in rabbit control. He has assisted many landholders over the years in successfully eradicating rabbits and now his plan is accessible to all by way of this DVD and booklet. Mr Sheridan stated:

> We worked out that the average Eyre Peninsula farm is losing about $4,000 a year in cropping and grazing production because of the damage caused by feral rabbits.

He went on to explain that planning is essential in rabbit control. This resourceful way of distributing crucial pest control information to assist landholders is a proactive approach to rabbit control and I commend the EPNRM for its initiative to instigate such a plan. It is important that landholders and government work together in controlling rabbits.

I have been a member of the Foundation for a Rabbit Free Australia for many years and suggest that others join this proactive organisation to support the eradication of rabbits from our nation. It is vital that this problem is controlled. We need to act fast and wipe out what is left of the rabbit population before Australia, once again, is in the grip of another plague. Just yesterday the *Port Lincoln Times* reported:

> Hot weather has made a dent in rabbit populations in some areas according to Eyre Peninsula Natural Resources Management Board biosecurity program manager Iggy Honan.

Mr Honan said in Streaky Bay, Coffin Bay and Port Neill the coastal rabbits were still 'quite bad'. 'We're not completely sure why but obviously think the different weather conditions are interfering with the spread of calicivirus.'

At 17:17 the house adjourned to Thursday 5 March 2009 at 10:30.