HOUSE OF ASSEMBLY

Wednesday 9 March 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:01 and read prayers.

GRAIN HANDLING INDUSTRY

Mr PEDERICK (Hammond) (11:02): I move:

That this house establish a select committee to investigate the grain handling industry, and in particular—

(a) the capacity of the market to ensure a vigorous and competitive marketplace for grain growers;

(b) grain classification and standards, and whether internationally approved grain testing options should be available to growers on request;

(c) service delivery, including human resources, operating hours and storage capacity of grain handling points;

(d) export and shipping arrangements, including port access and associated costs;

(e) grain quality management, including receiving and out-turn;

(f) open and transparent information on all grains, including stock disclosures;

(g) adequacy of road and transport infrastructure for the grain industry; and

(h) any other related matter.

Before I commence speaking—

Mr Williams: You have commenced speaking.

Mr PEDERICK: Well, I have commenced speaking to the motion, but I would just like to indicate to the house my interest in grain growing. My family has been growing grain in South Australia since 1840. I have held grain shares, but I do not believe I have any shares in my name as I speak. My father does have a limited number of grain shares, so I just lay that out for the house's information.

It became very apparent to me during harvest from the number of calls from grain growers and truck operators that there were major problems with the way receivals were classified during harvest. Yes, we did have a difficult harvest, but we have had difficult harvests before. I myself endured a difficult harvest in 1992, when we had rain during harvest and we had shot or sprouted grain. This is where grain starts to grow in the head. Thankfully, South Australia did not have the same problems as New South Wales where, after many years of drought, massive amounts of rain fell on the crops, and the sprouting I saw in the photos was just tremendous.

There certainly were issues, and everyone knows that as soon as there is shot grain and too much rain during a harvest people will be losing money, essentially. Shot wheat especially cannot be used for good bread making. Viterra, which owns probably 95 to 98 per cent of the storage facilities throughout South Australia, made a decision not to use what is called a falling number machine.

A falling number machine is a grain quality test which measures the degree of weather damage in wheat and is based on the unique ability of alpha amylase (an enzyme released during seed germination) to liquefy a starch gel. The strength of the enzyme is measured by a falling number defined as the time in seconds required to stir plus the time it takes to allow the stirrer to fall a measured distance through a hot aqueous flour or meal gel undergoing liquefaction. The falling number test is an alternative to visual assessment for sprouted grains and always overrides the official grain assessment. While I am talking about falling number tests, Grain Trade Australia in its recommendations for classification states:

> If 1 per cent or more sprouted grains are present (more than three grains per 300) conduct a Falling Number test on that load and classify accordingly...It should be noted that a Falling Number result always overrides the sprouted grain tolerance for each wheat delivery. Where a Falling Number result is reported, report result to the nearest second.

Falling number is a test that goes over 300 seconds or five minutes, and, yes, it does take a bit of time, but it certainly can give us as accurate a measurement as we can get at this stage of the quality of grain.

Visual assessment, which is what Viterra chose to use during harvest because they had the excuse of saving time, is just not accurate. When I met with Viterra representatives, they said farmers were looking at buying their own falling number machine—they might get a $10,000 Chinese machine—and they asked whether it would be calibrated or not. I said that you could have 400 or 500 eyes across the state as classifiers and none of those sets of eyes are calibrated with each other. This is the whole issue. Relying just on visual assessment alone caused much grief and much angst throughout this harvest.

It all depends on an individual's perception when they do the 300 grain test in a tray on the visual assessment, and all in the name of so-called saving time. I have received reports directly and in my office that grain growers from the Riverland were driving down to the grain flow site at Pinnaroo because they were using falling numbers and making $130 a tonne. That is serious money. That is serious money for a B-double load of grain; it would be about $5,000 a load.

There were many instances of this across the state. We had farmers at Cowell who brought in their own falling number machine—I think they sourced that through CBH in Western Australia—so that they could have a good look at what they were getting and whether it was worth taking their grain to Crystal Brook. We had EP Grain using a falling number machine, and it managed to secure at least 100,000 tonnes of grain, I believe.

So, there is a whole range of issues relating to falling numbers. Viterra decided not to use them on site. They were running what is called a 1,000 tonne average, but that average was coming way out above classification in reports made to me, especially from the Pinnaroo site.

General purpose wheat which needs a falling number of 200 was going into a bunker and coming out on a 1,000 tonne test at times well over 400, so well into good quality milling grade wheat. What happened here is that we had loads of grain going all over the state because not only was visual assessment the only assessment being used but there were also different tolerances of how many per cent of visual grain, how many per cent of sprouted grain, would be used to knock the wheat into another classification. So, there was a stage where the assessment was tougher down at Keith; so all the South-East trucks were coming up, blocking up the system at Tailem Bend, where a lot of my local growers deliver.

There were many, many stories of problems with classification around the state, and I had many discussions with people from Viterra. I must commend Paul Tierney, Corporate Affairs Manager, for always getting back to me and keeping me in the loop, and I kept him in the loop. As I said to Paul the other day, 'If we are not getting hit around the head with an issue, if there was not an issue, we not would not have to act, but we have to act because there is so much angst across the state.'

I think the worst story I heard about a load being shuffled around the state was a load of barley, which got taken into the Gladstone silo, but because of different classification and storage issues it came to Adelaide, and then it went to Ardrossan. At the end of the day, the farmer just got frustrated and went back to his home silo at Gladstone and tipped it off. We need to go through major issues as far as classification is concerned.

We also need to look at the broader issues of the shipping stem, demurrage costs, whether competitors in the system can get their boats in on time, and we need to look at the efficacy of information, the transparency of information. We also need to look at the whole transport arrangements in this state regarding both rail and road and every matter to do with grain, and the readiness, especially of Viterra, this year. They were building bunkers throughout harvest. They had couple of bunkers they were building at Tailem Bend that were not ready until the end of January. They should have been ready at the start of harvest because Tailem Bend is a significant site.

There are many, many issues. I would call on the house in a bipartisan approach to set up this select committee. There are no real politics in this. We need to do this for the farmers of this state, and I urge everyone in this parliament to get on board and to set up this select committee, because it needs to happen. We need to do it for the multibillion dollar grain industry for this state that has enough to put up with, without being unable to deliver grain at the appropriate times and at the appropriate classification.

Just in my closing remarks, this is not just about Viterra; Viterra is the main operator. We also need to look at what the other options are in this state, what other people are doing and what options may be there in the future, and we must also make it far more streamlined so that we do

not see this level of angst again in the industry. So, I move this motion today and I hope that everyone can come with me.

Mr VENNING (Schubert) (11:13): Some would say it is probably unwise for me to say anything during this debate, but I will. I do rise to support the member for Hammond's motion asking for a select committee, but I do straightaway, instantly, declare my conflict of interest in this matter.

A little bit of history here, madam: my father was a director of Cooperative Bulk Handling many years ago. He ended up as chairman of directors of that company, Cooperative Bulk Handling. My brother Max then became a director of SACBH and then chairman of AusBulk, and then, of course, he was one of the chief motivators in amalgamating the company. Today he is a director, one of two Australian directors, the only farmer director of Viterra.

So, that does put me in direct conflict not just within the parliament and my job here but also within our family, because we just cannot discuss these matters—and he does not, because now that it is a publicly listed company with a share price, you just cannot discuss it. I said to him that, if I was as unpopular in my job as he was and in his, I would have to consider my position. That is a bit tough, because my brother Max takes his job very seriously and he has done all he can—farmers ring him up all hours of the night—that is technically allowed in the situation we now see ourselves to address this. So, I do have a conflict.

I also have a conflict in that I am still a wheat and barley grower, and it will always be that way. As an MP, one can have a conflict or semi-conflict or even a strong interest in the matter. If it is an interest outside of this place, it does put us under some question regarding conflict. So, I will be very careful in what I say and do. However, I understand this is going to be supported by the government, and I hope it is because it is worthy of it, as this issue needs to be aired.

It is both a sad and a good day in relation to this issue. It is good because the state had a very good harvest—an abundant harvest one would say in biblical terms. However, that abundant harvest caused a bad day in that there was so much grain that the system could not cope with it and the inability to handle the crop caused a lot of concern amongst the growers and they certainly were not satisfied.

I will not go through the technical problems in sprouted grain and the test because the member for Hammond has already done that very well. With the falling number machines and farmers being downgraded, which could cost thousands of dollars less per load—as I said, up to $130 per tonne which could be up to $5,000 per load of downgrading–in those instances, these falling number machines should have been used. I will not wear the argument that these machines were not available because I was in Western Australia during that time and there was any number of these machines not being used. They could have been brought over and rented, or whatever, from Western Australia. They were available but for some reason they were never asked for.

I believe that where there was some dispute in relation to the load, where this downgrading was about to happen, the grower should have had the right to ask that these machines be used because then there is no doubt. Having a visual inspection on a loss like that I do not believe was fair or right. That is the nub of the whole problem, the nub of the huge losses that some farmers took purely on a visual appraisal. As I said, the member for Hammond has explained the technicalities of that, so I will not go any further into it.

I inquired of the company (not my brother) about the use of these machines and the company correctly said that, if every load was tested with a falling number machine, it would have caused huge delays at the receival points. Yes, it would have. However, I am not saying that. When there was no dispute and the load went through on sample, there was no problem. If the grower knew or could actually see that the grain was sprouted, there was no problem. However, when there was a dispute, I believe that every grower should have had the right to ask that a machine be used. That was not the case—at least initially. Yes, I agree that it would take more time if every load was tested; there is no doubt about that and there was a big enough delay as it was. However, I still believe that when there is a contested downgrade that the machine should always be used.

We also found that during the harvest there was competition with Viterra. I am careful about what I say here about this whole Viterra thing. I have said before in this house that I hate to use the phrase 'I told you so'. However, if you go through my earlier speeches in this house (17 or 18 years ago), you could see this coming when we started to deregulate our grain system. At the time we had a grower-owned handling and storage system and grower-shareholders in both the

barley board and the wheat board. We only needed to allow private business into that. We have monopolies here that should never have got into the hands of private companies because that is what we now have—a private company basically in charge of a monopoly.

I do not want to throw any ideas around about that but we, the farmers, via this house, deregulated the barley industry. It happened in here and I fought against it. It was the same with the Wheat Board before that. We are a part of the problem that we now see ourselves in. They were ripe for the picking and the only reason they could not have been picked is because they had the protection of this parliament through statutory laws. We took them away and we allowed private enterprise to come in and pick the cherry. Now, one company, Viterra, has the lion's share of the storage and handling and, of course, more importantly, controls ports. This is not a good situation, and I think we need to work through that.

However, the parliament could have avoided this. I know that of the members in this place—and most of them are still here—only five MPs supported the push to try to stop the Australian Barley Board losing the single desk status and its right. As soon as that went, the rest automatically fell over; it had to, under corporate law. It could not remain like that, so now we have the farming situation, with the storage that the farmers built now in the hands of private enterprise. All the farmers got out of that were shares, and a lot of them had to sell those during the drought. So now we have this problem.

The other thing is competition in the system. We have to do whatever we can, wherever possible, to make sure that we have competition. We heard Crystal Brook mentioned today by the honourable member, and why? In Crystal Brook we had Viterra operating as well as the Australian Wheat Board, operating as GrainFlow, and because they were side by side we had competition and guess what? Better service. Viterra would sometimes close its yard at 6 o'clock on a good reaping day, but GrainFlow stayed open until midnight.

In fact, I got home at 10.30 after a meeting, and I delivered a load at quarter past 12 that night! I had to put on the coloured vest, and I looked around and farmers were manning the silo on a second shift. Great! That was fabulous. I say 'Good on them.' Dave Arbon was a local farmer up there who managed the wheat board site, and good on him. He motivated himself and we got good service. So, competition always needs to be there.

I welcome the fact that Viterra does realise the problem it is having. It does realise it has made mistakes, and it is having a report put together, chaired by Rob Kerin. SAFF is involved as well, and I do question that. I do not believe SAFF gets any glory out of what has happened because I blame it a lot for what has happened. There was no leadership at all in relation to the history of this issue, but I do welcome Viterra's efforts to fix the problem. I do not think it will happen again. As I said, it is good news that we had a great year, but it is bad that we were not able to handle the crop. However, generally we were very lucky.

I have another little issue here. I believe that farmers should cooperate more with each other. We got our crop in half a day before the storm. Why? We knew it was going to come, we knew a month before that we were going to have some weather problems, and we got other machines in from the east, where it was too green for farmers to reap. We brought their machines in and really got into it, and we took our crop off before the storm.

After that, we went across and returned the favour later. It is silly to see machines idle in the shed when there is work to do, so more farmers should get out there and cooperate, particularly when we are going to have weather interfering with harvests. We want to see more cooperation with farmers, reaping a month, say, before the others. It works, and a bit of cooperation and common sense is needed there.

I think this select committee will be interesting. I presume that the minister will say that the government is going to support this. I cannot and will not be available—I do not think it is wise that I should—but I certainly support the motion.

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture and Fisheries, Minister for Forests, Minister for Energy, Minister for the Northern Suburbs) (11:23): The government supports the motion. The previous speaker is very fast off the blocks—obviously a former sprinter. I would have liked to have been able to get in behind the shadow minister because this is very much a bipartisan proposition, and we are putting forward two of our parliamentary secretaries in recognition of how seriously we take this proposition. Also, the Independent, Mr Geoff Brock, is chair. We want this well handled and, as far as the government is concerned, we want a bit of intellectual horsepower put into the process.

South Australia is on track for a record harvest in terms of both total grain production and yields per hectare. In fact, the PIRSA Crop and Pasture Report, which was released today, has revised up the harvest to a record 10.34 million tonnes, which contributes around $3.4 billion to the state's economy, so we are talking about a very important contributor to the South Australian economy. According to ABARE, South Australia's estimated wheat production is more than double the five year average production, with yields estimated at a record 2.56 tonnes a hectare. Barley production is estimated at a record 2.64 tonnes a hectare, while canola yields are estimated to be a record 1.85 tonnes a hectare.

Coincidentally, this record harvest coincides with a 5.5 per cent rise in international wheat prices and an 8.4 per cent rise in international barley prices during the December quarter. Normally, this would be unequivocally good news for South Australian farmers, particularly coming at the end of a prolonged drought that strained not just individual farms but entire communities.

I am aware of some farmers that were at their wits' end as to how they would find the money for fertiliser for the last season. They were stretched to the very limits financially. My understanding is, if we had remained in drought, we would have had widespread bankruptcies across the rural sector. More favourable growing conditions across South Australia compared with the previous season provided an opportunity for people to address cash flow deficits and have probably restored the financial underpinnings to a lot of family farms.

Unfortunately, this uplifting result was marred by excessive rain in some areas, which not only resulted in a reduction in grain quality for some farmers but also shortened and delayed the harvest season. Normally, the downgrade is in the range of 4 to 6 per cent; this year it was around 40 per cent. The shadow minister made reference to the predicament elsewhere in Australia. Fortunately, we did not have the 50 per cent downgrade that occurred along the eastern seaboard. We were probably fortunate in having the 40 per cent but, as I said, it is usually 4 to 6 per cent.

A record harvest was always going to be a major test of the logistics and infrastructure of South Australia's grain harvesting, transport receivals and storage systems. The wettest December in 18 years, with rainfall over such a wide area of the state, helped to complicate an already difficult situation. I think we all acknowledge that. I have had several discussions with Viterra, and they acknowledge and are fully aware that the situation was not managed as well as it could have been.

The question now is: how do we respond in a way that addresses the grain industry's demands for answers and Viterra's ability to put in place systems that will minimise the chances of a repetition of the unacceptable problems faced this summer? I believe that the interests of the farming industry will be best served by a post-harvest review that is quick, responsive and dedicated to putting in practical and affordable measures so that our grain-handling system can cope with the combination of factors that arose this harvest. That is why I have supported the decision by Viterra to commission an independent review.

To that end, the company has appointed Rob Kerin to conduct this review—and it was something that I asked for when I met with them. I am particularly pleased that Rob has decided that he will take on this role. I am sure that members opposite have gained a certain sense of reassurance and surety in the stewardship that Rob will give this particular process. I also insisted that PIRSA be represented, and that request has been acceded to. In addition, Peter White, the President of the South Australian Farmers Federation, will also be represented on the working group. I have a lot of time for Peter. He is a very level-headed individual and has considerable analytical ability, so he will be a benefit to this process.

I have been assured by Viterra that the independent examination of this year's harvest will critically evaluate its performance and identify ways to improve service delivery. I believe that they are actually quite serious about this. They have purchased a big business and, unless they start to get things right and get on top of this within the next couple of months, they are going to find that the inherent value in the business that they have acquired will dissipate, and dissipate rather rapidly.

This process means a thorough analysis of the issues and consultation with stakeholders, and I hope a conclusion will be arrived at within several months—and I think that is Viterra's desire also. We want to ensure that all the changes in staffing management (and they came through as being a major issue), plus capital acquisition, are decided upon so they can be put in place.

As far as the motion is concerned, I commend the shadow minister because, rather than buying into a Viterra witch-hunt, I think there has been an acceptance by the opposition that Viterra will attempt to get its house in order, but there are some bigger and broader issues that have to be

addressed in relation to grain handling that go well beyond the issues that were foremost in primary producers' minds this particular season but also intersect with the immediate issues.

One of these is grain classification and standards and, importantly, the new and fast testing technologies that we hope will be explored by the select committee. Fortunately, there is a meeting, I think within the fortnight, at the Waite Institute, which I am attending, which is bringing the industry together to look at this issue of technologies. The shadow minister talked about the delays associated with the falling numbers machine. We are hoping that ultimately we might be able to arrive at a cheaper and faster testing proposition that can get away from visual inspection.

Similarly, export and shipping arrangements need serious consideration. I am a former executive of Elders and I have had a discussion with them—actually, well in advance of this issue—and they have their concerns. I think we have to ensure that everyone gets access, and that leads me on to the competitiveness within the sector.

It was a monopoly single desk structure. We have to ensure that it is further widened to competitive pressures, and I believe that the select committee will address that issue as well and ultimately come back to the parliament with a set of recommendations which address all of the terms of reference and give us a fairly clear idea where we ought to be taking the industry within the state of South Australia. So the government is very firmly behind the select committee and will provide whatever necessary support through PIRSA to ensure that the resources are there.

Mr BIGNELL (Mawson) (11:33): I also rise to support this motion and commend the member for Hammond for bringing it to the house, and also the minister for agriculture. We have been in discussions over the past few months about some of the concerns that I picked up out in the regions when I was carrying out the infrastructure discussions throughout regional South Australia in the second half of last year.

Even before harvest began, I was starting to hear some real concerns in various parts of the state about the way things were headed and the changes that had been made during the preceding 12 months, so I think it is timely that we have a select committee look into these affairs because the engine room of this state's economy is out in the grain fields of this state, and we need to do everything we possibly can to support our farmers and make sure the dollars stay in the regions and in South Australia rather than go offshore.

Some members opposite have mentioned that they have either held shares or are current shareholders in the grain industry. That would not come as a surprise to anyone, of course, because of the way the shares were given out after the industry changed a few years ago. While I might not be a financial shareholder in any company, entity or farm, everyone in this house has an interest in the grain industry, and it is with that in mind that we need to get this select committee together and not only take submissions here in Adelaide but also get out into the regions. I am looking forward to doing that with the members for Frome, Chaffey, Light and Hammond and getting out on the road and taking evidence out there and seeing first hand what people are up against in the regions.

The Hon. S.W. Key: If successful in being voted in.

Mr BIGNELL: Yes, if successful in being voted in. I do not want to be too pre-emptive in suggesting that that might be the make-up of the select committee. We have five people with the grain industry at heart, and we have a strong interest in ensuring that the regions and the people in the regions have the very best model in place so that they can get the very best price for their grain and have to go through the least possible inconvenience to get that grain from their farm into the silos and off to market. I commend the motion and look forward to spending the next few months working on it.

Mr PICCOLO (Light) (11:36): I rise to support the motion and the establishment of the select committee. I will speak briefly to it to bring to the attention of the house a meeting I attended on Tuesday 1 March with 170 local farmers at the Freeling Football Club to air their grievances regarding the management of this year's grain harvest by Viterra. The meeting was organised by the Freeling Agricultural Bureau on behalf of local farmers, who had been very vocal about the perceived failures around the delivery, grading and storage of the 2010-11 harvest.

While the farmers at the meeting were very civil in their behaviour, they were still quite angry about the way they perceive that Viterra managed the recent harvest. Farmers expressed concerns about the following: first, inconsistencies in the assessment and the grading of grain delivered to local silos and other facilities; secondly, the long delays and queues in the unloading of

grain at the various facilities in the electorate and their region; thirdly, inconsistent messages regarding the site allocation, in other words, farmers are being sent from one site to another to unload, and that has caused quite a bit of grief among the farmers; and, fourthly, they were concerned about the poor site operating times, in other words, the farmers think that when the sun shines you have to harvest but the sites are closed.

Additionally they also talked about the out-turning pricing policy by Viterra and had concerns about whether grain purchased from the farmers at one grade was being onsold at the same grade in the same markets. Concerns were also expressed about the sharing of information, and it was the farmers' view that certainly some of these issues could have been avoided had Viterra been prepared to share information about the harvest or the management of it. As the member for Hammond already mentioned, there are issues around competition in the actual market itself.

While the mood of the meeting suggested that some of the concerns were addressed—the Viterra people at the meeting addressed some of the practical issues—there was still certainly an underlying lack of trust in Viterra among many of the farmers. Viterra has commissioned an independent review of the management of the recent harvest under the guidance of former Liberal premier the Hon. Rob Kerin and with the involvement of the South Australian Farmers Federation's Mr Peter Smith. That working party, I understand, hopes to report by mid to late May this year, which obviously will be a welcome input into the process that hopefully we are establishing today.

While farmers welcomed the post-harvest review by Viterra, they are still concerned about its independence. In fairness to Viterra, on the night of the meeting they agreed and appointed a silo committee to help with some of the practical issues in that region, and that is a welcome addition to helping address the issues. My personal view is that this proposed parliamentary inquiry is very worthwhile and would complement the Viterra inquiry, as I said, and also would help ensure confidence of farmers and industry more generally in its recommendations. I will be consulting further with local farmers and other people in the industry to ensure their concerns are addressed. This week I met with Viterra and had a tour of one of its sites, so I got a better understanding of how the operation works.

In closing, I would just like to say that, if it wants to have a harvest of trust, Viterra needs, first, to sow the seeds of transparency and accountability.

Mr PEDERICK (Hammond) (11:40): I know that many other members on this side of the house could speak on this debate, but they are very keen—as I am sure members are on the other side—to put the vote and, if possible, get this committee going and on the ground.

I would just like to acknowledge the Hon. Robert Brokenshire, who moved a similar motion in the upper house, because we both recognised that a motion of this kind needed to come forward for the farmers of this state. In saying that, I also acknowledge the bipartisanship and goodwill of this house. It is not often that we see goodwill like this in this house, and I acknowledge the minister for agriculture's words today, as well as the contributions of the member for Light and the member for Mawson.

I think that, if it is established today, this committee will do very good work. We will be able to hear from trucking operators, farmers, operators of grain silos and grain traders, as well as any other matter that might be relevant that we may have missed in the reference points. I believe that it will be an involved committee. The main focus will be on the classification and storage problems from last harvest, which will need to be dealt with early in the committee proceedings.

However, there are many other things that we need to debate, as I said in my earlier speech, about transport, infrastructure and other items that, perhaps, the parliament can assist with over time. With those comments, I applaud the bipartisanship of the house today, and I hope that we can get this committee established.

Motion carried.

The house appointed a select committee consisting of Messrs Bignell, Brock, Pederick, Piccolo, Treloar and Whetstone and the mover; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 14 September 2011.

Mr PEDERICK (Hammond) (11:44): I move:

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

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

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

Motion carried.

SPEED CAMERAS

Mr VENNING (Schubert) (11:46): By leave—and with the support of the member for Fisher—I move my motion in a slightly amended form:

That this house establishes—

Members interjecting:

The DEPUTY SPEAKER: Order! I am sorry, member for Schubert, but I am finding it hard to hear you. Can members either return to their places or perhaps go outside for a lovely beverage?

Mr VENNING: I move:

That this house establishes a select committee to examine the use and effectiveness of speed cameras and other speed measuring devices used by South Australia Police in South Australia.

Speed cameras were introduced into South Australia in 1990 as an intended road safety initiative to reduce the number of fatalities and serious injuries caused by road accidents. There are currently 18 mobile and 78 fixed speed cameras within South Australia, and other speed devices operated by the Traffic Camera Unit of the South Australia Police.

Since speed cameras commenced operation, there has been much debate regarding their effectiveness to reduce road fatalities and injuries. There have been claims against the government that speed cameras are merely used as a revenue raising measure. Much of this debate has arisen as a result of the placement and location of such cameras being on roads that have no significant accident history. The Traffic Camera Unit does not have any input with regard to where speed cameras are used, instead a general order approved by the Commissioner of Police governs where cameras are placed.

Road safety is a serious issue, especially as the number of vehicles and road users increases, but we need to ensure that the state's resources are targeted at the most effective safety measures, and that motorists do not become victims of the tax collector. A number of factors other than speed are likely to cause fatalities or serious injuries in road accidents: driving under the influence of alcohol or drugs, fatigue, inattention and road conditions. The Minister for Road Safety said in a recent interview on the ABC that:

Out of the 119 fatalities last year, there were only three that weren't caused by one of the major five, which is drinking and drugs, not wearing a seatbelt, fatigue, inattention or speed—

He does not mention roads—

...all of these factors can apply to anyone on our roads today.

I ask the question, are effective measures being used to try to combat all of these five causes of fatal crashes, or is speed disproportionately being focused on?

Figures released last year under a freedom of information request by a member in another place show that in 2009 just two of the top 10 revenue raising speed camera sites were located in South Australia's worst blackspots—only two. The police data for 2009 showed blackspots were throughout the metropolitan area on main arterial roads, and the roads which generated major revenue were in the CBD and the eastern suburbs—60s and 50s.

The member who made this FOI request said the records for 2008 and 2007 also showed that in most cases the top earning speeding camera locations were not in the worst places for speed related accidents. Positioning cameras where the risk of a serious accident causing injury or death is low, makes people resistant to the anti-speed message that we are trying to get out because they are cynical of the real motives behind that message.

There is also concern within the community regarding the pressure that police officers have placed on them to meet detection target numbers; in other words, quotas. The Rann Labor government has indicated that it wants to raise an extra $44.8 million from speeding fines over the next three years, which indicates that it views speed cameras as a source of revenue and not necessarily a road safety device. It makes a lie to the statement when an MP is crossed on the matter, to say, 'These matters are under the purvey of the police commissioner, he makes the decisions.' When you see that the government wants him to raise $44.8 million it certainly puts a lie to that fact.

An issue that causes angst for motorists is inconsistent speed zones, particularly the confusion that exists between 50 and 60 speed zones, and the placement of cameras in these speed zones. There are many cases where cameras have been placed in, say, a 50 kilometre zone on a road that appears to have a relatively low level risk with regard to serious injury or fatalities, but because it results in a larger number of fines being issued the camera remains and it becomes a frequent spot. King William Road, outside Parliament House down to Adelaide Oval, is just one example: a major road, 50 kilometres.

Cameras are placed where there is a higher level of motorists who would not have the local knowledge of what the speed limit is, and country people are certainly victims of that. You would just assume that it is a 60 zone and if you do not see the sign then you are gone. A fact that I find rather interesting is that if you are caught speeding over the limit anything up to, but not including, 15 kilometres per hour, you get a fine of over $200 but only lose one demerit point. Does this make sense? Basically, it is saying that we will give you 12 opportunities to speed before we take away your licence. Does that not send the message that catching you speeding is more about the fine paid than losing your licence? That is up for public debate, and I would not necessarily always agree with that.

As a result of the endless debate regarding whether or not speed cameras are revenue raisers or life savers, I requested my 2009 Adelaide University intern, Ms Jasmin Weatherly, to investigate the subject, and, again, I received an excellent report. The report she produced is extremely comprehensive and cites many case studies from other states and countries about the effectiveness of speed cameras. These case studies demonstrate that speed cameras are certainly causing problems to people out there and need to come under some scrutiny as to whether they are revenue raisers or not.

She recommends that a select committee be established to examine their impact on reducing fatalities and serious injuries caused by road accidents. I am happy to supply a copy of the report to those who would like further information on this subject. Much of the detail included in this speech is taken from that report. I would like to take this opportunity to commend Jasmin for her work, it has been very useful. I will also comment on how much value I get out of this university scheme, and I know that other members participate in it. I pay credit to the organisers of that scheme, particularly Professor Clem Macintyre.

The research included in this report shows that the introduction of advanced speed cameras in 1999 had no significant effect on the road toll. In fact, the road toll actually increased by 13 the following year, even though the revenue generated from speed cameras increased by over $1 million from 1999 to 2000. I would not necessarily agree with that, but I think that a select committee could certainly have a good look at this research and examine it in detail, because that is a fairly controversial thing to say.

Reports show that other measures aimed at curbing causes of serious injury and fatal crashes have produced far better results. In 2005, 24-hour mobile random breath testing units, anti-hoon legislation and immediate loss of licence if you were found to be drink driving were introduced. This saw the road toll reduce significantly in 2006 from 147 to 117. The introduction of drug-driving testing in 2007—something that I personally lobbied hard for a long time to see introduced; I was the first to introduce a drug-driving bill into this place—resulted in the road toll for 2008 reducing from 125 to 99: a good move. Comparing the same two years (2007 to 2008), the percentage of speed related fatalities remained almost unchanged, causing 37 per cent in 2007 and 36 per cent in 2008, respectively.

These figures motivated me to move this motion. It makes you think about whether more drug driving, more random breath testing stations and road upgrades at blackspots would have made a better impact on reducing the road toll than, say, a speed camera on King William Street. I think this would be the case.

However, the first step is to investigate the effectiveness of speed cameras, examining the placement of the cameras, the operation of those cameras—I have no doubt the member for Fisher will have a fair bit to say about not just cameras but also the speed detection devices—and the correlation with serious and fatal accidents in relation to blackspots and the impact they have on reducing the road toll. Comparisons could then be made and examined regarding the different road safety measures—drug-driver testing, random breath testing, etc.—to see which initiatives are most effective in reducing the road toll. Funds and efforts can then be targeted at those measures.

Also, the recent removal of the 'speed camera in use' sign has upset many people. Why were they removed? I know. We passed the legislation on the condition that those signs would be used. Minister Brokenshire, who was a minister in our government at that time, insisted that that be part of the legislation. Now, they have been removed. Well, we know why: policemen were being intimidated and harassed. Maybe that was highlighting a problem that could have been addressed in another way.

Now, without those signs there, a person could go through two or three cameras within an hour, particularly in relation to the distance they are apart in some cases—and the member for Fisher will probably talk about that—and you have lost your licence without realising you have even been past a camera. So, as I said, I raised this personally with the police commissioner and that was the reason, but I do not agree with it. In my opinion, dangerous driving and drink or drug driving are more likely to cause a serious or fatal accident compared to motorists who slightly exceed the speed limit. I say that I have no problem with speed cameras on the open road; no problem at all on the open speed limit. I am happy with that.

According to the statistics published on the South Australia Police website, in South Australia in 2009, 36 per cent of people who died in road accidents had a blood alcohol concentration (BAC) of .05 per cent or higher. I say that again: 36 per cent of them. Now, what is the message when 36 per cent of them had a blood alcohol concentration of higher than .05? Isn't there a message there? No wonder a backbencher for the opposition pushed this issue six years ago. I will repeat that, in 2009, 36 per cent of the people who died in road accidents had a blood alcohol concentration of .05 per cent or higher.

Inattention was also reported as a contributing cause in 52 per cent of fatal accidents and 40 per cent of serious injury accidents, from July 2009 to June 2010. We know that we can all be victims of this. We all get very blasé. I do 60,000 kilometres a year and I probably do things in that car that I should not. You take your eyes off the road. You have just got to continually remind yourself and pay attention because, a few seconds, and you have an accident.

Mrs Geraghty: Keep your hands on the wheel.

Mr VENNING: Keep your hands on the wheel; exactly right, as the member for Torrens reminds me. Absolutely. We are out there for hours and hours—and the member for Goyder would be the same. You are out there and become very blasé about these matters? No, you are driving a deadly machine.

As I said, I particularly support the use of speed cameras on the open road policing the 110 km/h speed limit. Members of the public are getting very concerned about getting large fines—more than $200 for doing 58 in a 50 km/h zone. They thought it was 60 because it was a busy main road and simply did not see the sign.

I think the practices of some police officers should also be assessed in the way they operate the machines, where they place them and their attitude to some of the people. It is sad because our police have enjoyed a very good reputation, probably one of the world's best. It is sad to see these cameras used to belittle our police force.

An investigation into the effectiveness of speed cameras is warranted in order to try to determine whether they have an impact on reducing road toll accidents causing injury and death or whether these cameras simply generate revenue for the government. If for nothing more than to improve public perception and reiterate the road safety message, I ask the house to support this motion.

The Hon. R.B. SUCH (Fisher) (11:59): I strongly support this motion and seek leave to continue my remarks.

Leave granted; debate adjourned.

ELECTRONIC TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (12:00): Obtained leave and introduced a bill for an act to amend the Electronic Transactions Act 2000. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (12:00): I move:

That this bill be now read a second time.

Members will be aware that the Electronic Transactions Act 2000 has equivalents in all states and territories. It came about as a national project to adopt the 1996 UNCITRAL model provisions into domestic law. The provisions were intended to make clear that electronic communications can be used to create valid contracts and to provide that certain legal requirements, such as a requirement for signature or a requirement to provide information in writing, can be complied with electronically.

Since 2000, international work on this topic has continued and, in 2005, the United Nations reached agreement on a Convention on the Use of Electronic Communications in International Contracts. This convention was based on the 1996 provisions but then amended in some respects.

Australia wishes to accede to this convention and so intends to bring its domestic laws into conformity with it. Accordingly in May 2010, the Standing Committee of Attorneys-General agreed that the commonwealth and all the states and territories would amend their existing electronic transactions laws following model provisions prepared by the Parliamentary Counsel's Committee.

The amendments are largely technical, and their effect is as follows. The act currently makes clear that a requirement to give information in writing can be satisfied by giving the information electronically. An amendment is required to make clear that the provisions dealing with requirements to give information in writing include a requirement for a contract to be in writing.

It is also proposed to amend the wording of the signature provisions from 'indicate the person's approval' to 'indicate the party's intention' in respect of the information communicated. This is because to sign a document might not always connote that the person approves of its contents, for example, where a signatory is simply a witness to another person's signature.

It is proposed to add a safeguard to the existing signature provisions to prevent parties from arguing that a signature fails the reliability test in the act. The current test depends on showing that the method of identifying the person and indicating their intentions was 'as reliable as was appropriate for the purposes for which the material was communicated', that is, it was reasonably reliable in the circumstances.

It is proposed to provide, in addition, that the method equates to a signature in any case where the method can be proved in fact to have identified the signatory and indicated the signatory's intention in respect of the information contained in the electronic communication. I seek leave to have the remainder of the second reading explanation inserted into *Hansard* without my reading it.

Leave granted.

The definition of a 'transaction' in the Act is to be amended to make it clear that, for the purposes of a transaction in the nature of a contract, a 'transaction' includes dealings in connection with the formation and performance of a contract, consistently with the definition of 'communication' in article 4 of the Convention.

The Bill proposes to add a provision that proposals to enter into a contract made by electronic means to the world at large are to be treated as an invitation to make offers, unless there is a clear indication by the trader of an intention to be bound. This clarifies the position where a trader's website offers goods or services on specified conditions to any interested visitor to the site. There may well be a limited supply of the goods or services and it would not make sense that the trader be legally bound to supply them no matter how many persons sent a message to the site seeking to obtain the goods or services. It is more sensible to analyse the transaction so that the trader is merely inviting the public to deal with his or her business, and a legal offer only comes into existence when the visitor to the site submits an order for the goods or services. At that point, the trader can decide whether he or she can fill the order and, if so, can accept the offer, thus forming a contract. This provision is in addition to, and is not intended to derogate from, general consumer protection laws.

The Bill also deals with the situation where a trader accepts and processes orders by means of a computer programme, without any human being necessarily scrutinizing the exchange of information. It proposes to add to the Act a provision to clarify that contracts resulting from the use of automated message systems are not invalid simply on that ground. It is proposed to insert a definition of 'automated message system' meaning 'a computer program or

an electronic or other automated means used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system'.

The Bill also proposes to amend the Act to incorporate article 14 of the Convention, which gives a natural person who interacts with an automated message system the right to withdraw the portion of the electronic communication in which an input error was made. This right only applies if the automated message system does not provide the person making the input, or the party on whose behalf that person was acting, with an opportunity to correct the error. Many traders do, of course, include in their automatic message systems a screen that displays the information entered by the customer and asks the customer to either confirm or resubmit the information. As long as traders do that, they are not affected by the proposed right of withdrawal. For those who do not, however, they bear the risk that a customer might make an error and need to withdraw the erroneous portion of the information. The customer must act promptly to notify the trader of the error and, in any case, the customer cannot withdraw after he or she has had the benefit of the goods or services.

These proposed provisions are not limited to business-to-business contracts but apply to transactions in general, including transactions with consumers.

The Bill also proposes that the Act should incorporate provisions that clarify rules for determining a party's place of business. In keeping with the Convention, these rules are proposed to be as follows:

(a) a party's place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location;

(b) if a party has not indicated a place of business, and has more than one place of business, then the place of business is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;

(c) a location is not a place of business merely because that is:

(i) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or

(ii) where the information system may be accessed by other parties;

(d) the fact that a party makes use of a domain name or electronic mail address connected to a specific country does not, of itself, create a presumption that its place of business is located in that country.

It is proposed to insert a definition of 'place of business' for a private entity as 'a place where a party maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location'.

The Bill also proposes amendments to the default rules in the Act for timing of dispatch so that:

(i) the formula for determining time of dispatch ('when it enters an information system outside the control of the originator') reflects instead the Convention's formula ('when it leaves an information system under the control of the originator'); and

(ii) if the electronic communication has not left an information system under the control of the originator (e.g. where the parties exchange communications through the same information system or network) the time when the electronic communication is received.

The default rules in the Act for timing of receipt are also proposed to be amended so that:

(i) the time of receipt of an electronic communication is the time when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee (an electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address); and

(ii) the time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to that address.

The rules in the Act for time and place of dispatch and receipt would also make it clear that the fact that an information system of an addressee is located in a jurisdiction other than that in which the addressee itself is located does not alter the application of the rules in articles 10.2 (time) and 10.3 (place) of the Convention.

An amendment is made to the regulation-making power. It is proposed that there should in future be regulations, consistently with the Convention, providing for the exclusion of specific financial transactions and negotiable instruments, documents of title and similar documents when the subject of an international contract. It is not intended that the general rules in the Act should apply to situations that are already covered by more specific regulation, such as money-market transactions.

Finally, the Bill would amend the Act to incorporate the definitions of 'originator' and 'addressee' used in the Convention.

The model law has already been enacted in New South Wales and other Australian jurisdictions are expected to enact it soon.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Electronic Transactions Act 2000*

4—Amendment of section 4—Simplified outline

Clause 4 is a consequential amendment on the insertion of proposed new Part 2A into the principal Act.

5—Amendment of section 5—Interpretation

Clause 5 inserts definitions necessary for the measure.

6—Insertion of section 6A

Clause 6 inserts a new section 6A into the principal Act to provide that the regulations may provide that all or specified provisions of the Act do not apply to specified matters, circumstances or laws. This regulation making power was previously in various sections of the Act.

7—Amendment of section 7—Validity of electronic transactions

This amendment is consequential on the insertion of new section 6A.

8—Amendment of section 9—Signatures

Section 9 of the principal Act provides that if the signature of a person is required, that requirement is taken to have been met in relation to an electronic communication if, amongst other things, a method is used to identify the person and to indicate the person's approval of the information communicated. The proposed amendment removes the word 'approval' and instead provides that the requirement is taken to have been met in relation to an electronic communication if a method is used to identify the person and to indicate the person's 'intention in respect of' the information communicated.

Currently, section 9 provides that the method used to identify the person and to indicate the person's intention in respect of the information communicated must be as reliable as appropriate for the purposes for which the information was communicated. The amendment proposes to add that the method will also equate to a signature if it does, in fact, identify the person and indicate the person's intention in respect of the information communicated.

9—Repeal of section 12

This amendment is consequential on the insertion of new section 6A.

10—Substitution of section 13

It is proposed to delete section 13 of the principal Act and replace it with new sections 13, 13A and 13B to alter the requirements with respect to the time and place of dispatch and receipt of an electronic communication. New clause 13 provides that the time of dispatch of an electronic communication is the time when the electronic communication leaves an information system under the control of the originator or, if the electronic communication has not left an information system under the control of the originator, the time when the electronic communication is received by the addressee.

New clause 13A provides that the time of receipt of an electronic communication is either—

- the time when the electronic communication becomes capable of being retrieved by the addressee at an electronic address designated by the addressee; or
- if being received at another electronic address of the addressee, is the time when both—
  - (i) the electronic communication has become capable of being retrieved by the addressee at that address; and
  - (ii) the addressee has become aware that the electronic communication has been sent to that address.

New clause 13B provides that an electronic communication is taken to have been dispatched at the place where the originator has its place of business and is taken to have been received at the place where the addressee has its place of business. For the purposes of this—

(a) a party's place of business is assumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location; and

(b) if a party has not indicated a place of business and has only 1 place of business, it is to be assumed that place is the party's place of business; and

(c) if a party has not indicated a place of business and has more than 1 place of business, the place of business is that which has the closest relationship to the underlying transaction, having regard to the

circumstances known to or contemplated by the parties at any time before or at the conclusion of the transaction; and

(d) if a party has not indicated a place of business and has more than 1 place of business, but paragraph (c) does not apply—it is to be assumed that the party's principal place of business is the party's only place of business; and

(e) if a party is a natural person and does not have a place of business—it is to be assumed that the party's place of business is the place of the party's habitual residence.

The proposed clause also provides that a location is not a place of business merely because that is where equipment and technology supporting an information system used by a party are located or where the information system may be accessed by other parties, and the fact that a party makes use of a domain name or electronic mail address connected to a specific country does not create a presumption that its place of business is located in that country.

11—Amendment of section 14—Attribution of electronic communications

This amendment is consequential on the insertion of new section 6A.

12—Insertion of Part 2A

Clause 12 inserts a new Part 2A into the principal Act to provide additional provisions to apply to contracts involving electronic communications. In particular, proposed new clause 14B provides that a proposal to form a contract made through an electronic communication that is not addressed to 1 or more specific parties and is generally accessible to parties making use of information systems, is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound if accepted.

New clause 14C provides that a contract formed either by the interaction of an automated message system and a natural person or by the interaction of automated message systems, is not invalid, void or unenforceable on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

New clause 14D provides that if a natural person makes an input error in an electronic communication exchanged with the automated message system of another party, and the automated message system does not provide the person with an opportunity to correct the error, the person has the right to withdraw the portion of the electronic communication in which the input error was made if—

- the person notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication; and
- the person has not used or received any material benefit or value from the goods or services received from the other party.

Debate adjourned on motion of Hon. I.F. Evans.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (12:04): Obtained leave and introduced a bill for an act to amend the Evidence Act 1929. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (12:05): I move:

That this bill be now read a second time.

Labor's Strengthening our Police Service Policy 2010 said:

'Line ups' require substantial police resources often requiring up to 10 police officers and up to 60 hours of police time to arrange. A re-elected Rann Government will amend legislation that will allow identification of a person suspected of committing an offence via photographs or video (including still or moving digital images) in lieu of physical 'line ups'. Police will be able to use technology such as PowerPoint presentations or mobile data terminals located within vehicles to present photographs to victims and witnesses. These changes will increase the efficiency of police investigations; relieve victims of the trauma of having to see the offender again and most importantly free up valuable police resources. Any changes to the legislation and procedures will ensure that the use of identification evidence in criminal proceedings will not be compromised.

A properly conducted identification parade or line-up has been traditionally regarded as giving rise to the most confidence in a reliable identification. As was explained by Gibbs J in the leading authority Alexander (1981) 145 CLR 395 at 401:

The safest and most satisfactory way of ensuring that a witness makes an accurate identification is by arranging for the witness to pick out from a group the person whom he saw on the occasion relevant to the crime.

Identification by means of a parade or line-up is traditionally preferred to other alternatives, such as from photographs, at least when a named suspect is reasonably known to the police (although the High Court accepted in Alexander that photographs were unobjectionable and probably unavoidable in the investigative stage when a suspect was not known). Alexander has been followed in South Australia. In Deering (1986) 43 SASR 252, King CJ said:

Where there is a clear and definite suspect or where an arrest has been made the proper procedure to be followed is for the police to arrange an identification parade if the suspect or arrested person is prepared to participate in such a parade. If that procedure is not followed it gives rise to a discretion in the trial judge to exclude the evidence of identification by other means and that discretion will be exercised having regard to all relevant factors including, of course, the public interest in ensuring that persons who have committed crimes are convicted and punished for those crimes. It may be necessary to present photographs to an alleged victim of a crime at a stage of the investigation at which no person has been arrested and at which there is no definite suspect, in order to provide an opportunity for the victim to pick out the offender.'

The traditional assumption favouring line-ups also gives rise to the potential for comment or warning to the jury by the trial judge that the weight of the photographic identification, whilst admissible, is inherently inferior to that of a line-up. Such comments are open to criticism as confusing, unnecessary and even wrong.

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

Leave granted.

However, it is clear that, notwithstanding *Alexander*, photographic identification evidence is used at trials in South Australia. The practice of the courts has moved away from *Alexander* and toward the use of photographic identification evidence. It is widely accepted in practice as relevant and admissible evidence.

The traditional assumption that line ups are a superior form of identification was accepted by the Australian Law Reform Commission in the 1980s and incorporated into the *Uniform Evidence Act* which has been enacted in New South Wales, Victoria, the Commonwealth and the Australian Capital Territory (although not on this point in Tasmania). However, the traditional assumption has come under increasing challenge over recent years on account of practical considerations, psychological and academic research, and technological advances. Other jurisdictions, notably Western Australia (by judicial ruling) and England, have explicitly departed from the preferred use of line ups and recognise the benefit of identification by means of photographs or a video.

The West Australian Court of Appeal in 2007 in *Western Australia v Winmar* considered the available research and 'firmly rejected' any suggestion that the identification from a photoboard (which is typically used in South Australia) was 'inherently inferior' to identification from a line up. The court observed:

The court should not, as some past authority may tend to suggest, attempt to discourage the use of the digiboard [the West Australian term for a photoboard] for identification, either by requiring trial judges to warn juries specifically about the dangers of that process as compared to an identification parade, or by requiring trial judges to suggest that the process is inherently flawed, or by suggesting that trial judges should be readier in the exercise of their discretion, to exclude digiboard identification than they might be to exclude evidence of identification by other means.

It can be argued that the practical problems that have arisen with line ups are:

- Victims and witnesses are reluctant to face offenders (especially an issue in dealing with organised crime);
- The major difficulties in securing the attendance of victim(s) and witnesses, suspects and sufficient volunteers of similar appearance to the accused at the same location for what can be a considerable time;
- The increasing multinational and multicultural diversity of South Australia often makes it difficult, if not impossible, to arrange line ups if the suspect comes from a minority group;
- It may be that some accused are of a unique or unusual appearance so that is impossible to organise a fair line up;
- There simply may not be enough volunteers of similar appearance to the suspect to hold a line up—it is increasingly difficult to assemble volunteers to participate in line ups. The days of police going to the local university and finding a ready pool of volunteers appear to be over;
- Suspects can (and often do) sabotage the identification process by failing to arrive at line ups arranged with considerable difficultly, by arbitrarily challenging the suitability of participants, by disrupting the process and by changing their appearance since the commission of the alleged crime;
- Where identification is an issue, it is crucial that the identification of the suspect should be done as soon as possible after the offence—line ups cannot be arranged at short notice which prevents timely identification and weakens the probative value of any subsequent positive identification;

- Line ups are time consuming and relatively expensive to arrange and hold. There are only limited facilities available. Although they may be realistic in serious crimes, they are not a realistic or cost effective solution in dealing with less serious but high volume crime, such as car theft, assaults or break ins. This results in solvable crime going undetected and the culprits going unpunished;
- The difficulties in arranging an identification process are compounded when investigations are conducted in regional or remote locations.

There has also been research, notably by Professor Neil Brewer at Flinders University, that highlights that traditional line ups are not as reliable as was commonly supposed. It has been found that witnesses have a tendency to compare the appearance of each person in the line up to each other. They adopt this strategy as part of a strategy to find the person who most closely resembles the culprit. The process of comparison means that a witness is likely to make an identification, although not necessarily the correct one. A further problem that arises is that the 'simultaneous' format (where the witness views everyone at once) associated with traditional line ups has been found to increase the risk of false identification. Professor Brewer and others have found that a sequential form of identification (where the witness views the images one at a time) produces a substantially reduced rate of wrong identification.

Alexander was decided when black and white photographs were still routinely used. Photographic identification has become more sophisticated and effective in replicating real life. Although photographic identification is not without its difficulties, it is now arguable that photographic evidence is as reliable (if not even more so) than identification from a line up.

The use of photographs provides a fair and effective means of identification. There are a number of powerful advantages associated with modern photographic or video identification. It may be argued that:

- It enables swift and timely identification which furthers the policy of detecting and identifying an accused at the earliest possible opportunity after a crime;
- Prompt identification processes aid the police investigation of crime and also enable the prompt elimination of innocent suspects;
- Photographs offer great advantage over line ups in the ability to feature persons of similar appearance to the suspect, especially if the accused is of unusual appearance or comes from a minority group;
- Greater fairness to a suspect can be achieved by adjustment to photographs or identifying features to ensure the volunteers most closely resemble the suspect;
- Photographs can be readily distributed to all regions of the State almost immediately;
- Modern photographs are as reliable and accurate a means of identification (if not more so) than traditional line ups;
- Photographs represent a realistic and cost effective means of identification thus enabling proper investigation of a wider range of crimes where identification is an issue.

Identification evidence has long been regarded as inherently problematic by the criminal justice system owing to the well documented risk of a mistaken identification by even honest witnesses leading to the real risk of a wrongful conviction. The difficultly in cross examining confident but wrong identification witnesses has long been recognised. The common assumption is that human memory is an uncomplicated photographic-like process but, as jurists and researchers note, the reality is that identification evidence presents its own real dangers. The potential unreliability is due to the subconscious frailties of observation and memory. To try and alleviate the dangers associated with identification evidence, the courts have long insisted that the jury must be warned as to the dangers of relying on identification evidence, both in general terms and in specific terms appropriate to the facts of the particular case (see *R v Turnbull* [1977] QB 224 and *R v Domican* (1992) 173 CLR 555). It is not proposed to dilute or remove this warning. This warning applies to all forms of identification evidence without discrimination and should remain where there is a real issue in the trial on point.

The form of the proposed amendment is designed to be technologically neutral.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Evidence Act 1929*

4—Insertion of section 34AB

This clause inserts new section 34AB.

34AB—Identification evidence

The proposed section provides that evidence of the identity of the defendant is not inadmissible merely because it was obtained other than by an identification parade, if the judge is of the opinion that the evidence has sufficient probative value to justify its admission.

Proposed subsections (2) and (3) govern the information to be given to a jury by a judge in a criminal trial where the identity of the defendant is in issue and evidence of the identity of the defendant is admitted.

Debate adjourned on motion of Hon. I.F. Evans.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

In committee.

(Continued from 23 February 2011.)

Clause 7.

The Hon. I.F. EVANS: The minister and his advisers will be pleased to know that we have broken the back of this bill, so this should not take much longer.

An honourable member: We were having so much fun!

The Hon. I.F. EVANS: It was fun, good fun. Clause 7 of the bill amends section 124 of the Motor Vehicles Act which has to do with the duty to cooperate with the insurer. This particular provision seeks to insert into section 124(1) of the current act the requirement that the name, date of birth and address of the driver of the motor vehicle at the time of the accident be inserted into a list of requirements that exist in the act where there is a duty to cooperate with the insurer.

I want to make some comments on behalf of the industry groups that we consulted with in regard to this. Their views are summarised by the Australian Lawyers Alliance who argue that the requirement for the name, date of birth and address of the driver being inserted into section 124 via clause 7 is, arguably, not necessary.

The circumstances of the accident in subsection (c) would incorporate such information. In the Australian Lawyers Alliance's view, no-one should be convicted of an offence against subsection 124(1)(ca) as it fails to delineate that each of the factors in subsection (1) unfortunately just talk of 'the accident'.

Regarding subsection (3a), it should be specified that the requirement relates only to the information known to the individual or that the section should be amended to provide a specific defence where certain information is not known to the defendant; that is, certain information requested in subsection (1). The penalty of $5,000 is too high, and the penalty in subsection (2) is only $1,250 and imprisonment for three months. There should be some consistency between the penalties and therefore subsections (2) and (3a) should be, at the most, $1,250 for the maximum penalty.

Treasurer, I wonder whether you wish to explain why there is an inconsistency in the penalties and why this is not already covered by the other aspects of the act as outlined by the Australian Lawyers Alliance.

The Hon. J.J. SNELLING: We respectfully disagree with the views put forward by the Australian Lawyers Alliance. Paragraph (ca) is a new provision because there is a difficulty obtaining the name, date of birth and address of the driver, particularly where family is involved and they do not want to get a family member into trouble. So this new provision has been put in there to overcome what is currently a problem in obtaining the details of the driver.

The new penalty of $5,000 applies to a breach of subsection (3a) which provides an onus on the person in charge or the driver of the motor vehicle to cooperate fully with the insurer in respect of a claim made. Currently, the penalty is $250. The penalty for not cooperating will be increased from $250 to $5,000. So the $5,000 penalty only applies to a breach of that subsection (3a) which already exists in the legislation.

The Hon. I.F. EVANS: Given that the government is proposing to increase the penalty significantly in relation to this particular provision and, in the existing act, as the minister has advised the committee, there are the words 'to cooperate fully with the insurer', I just want to pick up a point raised by the Law Society of South Australia and reinforced by the Australian Lawyers Alliance. That is, generally in the principle of this issue of 'to cooperate fully with the insurer' (which actually also comes later in the bill—inserted in section 127, if I recall), they make the point that the wording is far too wide and requires refinement as to what information can and cannot be relevant

and reasonably sought by the insurer, and when such information is to be sought. They make the point that, by prescribing that the driver must cooperate fully, where is the boundary in that issue?

I will just make the point generally—and the minister might want to address the principal question—that once you start putting 'you must cooperate fully' into bills and acts, there is no reasonableness test in the provision, and so the insurer can ask you anything and demand of you anything. If you are not cooperating fully, you automatically breach the act and incur a $5,000 fine under this provision—I am not sure what the other provision is—so there is no reasonableness fence around that clause. I just wondered whether the minister wants to address that issue, and I will certainly be making a similar comment later in relation to the other amendments.

The Hon. J.J. SNELLING: The member for Davenport makes a pertinent point, but perhaps one that is not really relevant to this debate, because this is an existing provision in the bill about cooperating fully, and a provision which I presume has been operating for many years. What we are doing is ramping up the penalty from $250 to $5,000. It is an important provision. A person, who at the time of the accident was the owner, the person in charge or the driver of the motor vehicle, must cooperate fully. I think it is a section which is operated without any of the problems which the member for Davenport asserts, and I am confident that that will continue to be the case. It is important that there is full cooperation from those involved in the accident, particularly the person who is in charge of the vehicle, or driving the vehicle, at the time of the accident. I think it is a reasonable provision and it is reasonable that there be a fairly hefty fine for someone who does not cooperate.

Clause passed.

Clause 8.

The Hon. I.F. EVANS: Clause 8 deals with section 124 of the existing act and inserts a new section 124AA. I had fun reading this clause, trying to work out what it meant, and I thank parliamentary counsel and the officers for explaining to me what it meant. My layman's understanding of what this means is this: if someone from overseas is involved in an accident and then they take action in an overseas court and they get a finding of a higher payout in that court than they would have received in a South Australian court, then this gives MAC the opportunity to recover the excess above the South Australian court payout from the person who receives it, as I understand it.

In layman's terms—which is the way I can understand things—if the person would have only received $100,000 in a South Australian court and happened to be awarded $150,000 in the overseas court, then MAC has the opportunity to try to recover the $50,000. I think it is a provision that is going to be very rarely used but, if it protects our scheme, then the opposition does not see much problem with this particular clause and I will not put the minister through the pain of any questions about this particular clause.

The CHAIR: Minister, did you want to say something anyway?

The Hon. J.J. SNELLING: Just to make it clear; I am not sure if this is what the member for Davenport was suggesting, but the excess—in the member for Davenport's example, the $50,000 difference—would be recovered from the person who has received the payment, not from the person who was insured. I am not sure if the member for Davenport understood that, but, essentially, what he said is correct and a good summation of the clause.

Clause passed.

Clause 9.

The Hon. J.J. SNELLING: I move:

Page 7—

Line 17 [clause 9(2), inserted paragraph (c)]—After 'insured person' insert:

is guilty of

Line 18 [clause 9(2), inserted paragraph (c)(i)]—Delete 'committed'

Line 20 [clause 9(2), inserted paragraph (c)(ii)]—Delete 'committed'

Lines 36 to 39 and page 8, lines 1 to 5 [clause 9(7), inserted subsection (2b)]—Delete subsection (2b) and substitute:

(2b) For the purposes of this section, a person will be taken to have committed—

(a) an offence against section 43 of the *Road Traffic Act 1961*; or

(b) a relevant offence against a heavy vehicle driver fatigue scheme,

if, and only if, the person has been found guilty of the offence.

Page 8, after line 39 [clause 9(8)]—After inserted subsection (6) insert:

(7) A court before which an action is brought for recovery from a person of a sum paid by an insurer to satisfy a liability incurred by an insured person must, if the court is to determine the amount that it is just and reasonable in the circumstances for the insurer to recover from the person, take into account—

(a) the extent to which the person contributed to or is otherwise responsible for the liability incurred; and

(b) any other matter that the court considers relevant.

Amendment No. 6 refers to a debate which we have already had about a chain of responsibility and a change that was made after consultation that, before there can be a recovery against a person, we are lifting the burden of proof to one of basically criminal burden of proof, so someone will have to be found guilty of an offence before recovery can be made against them. So, amendment No. 6 is consequential on the parliament having already made that change, and amendments Nos 7 and 8 relate to the same: 'committed' refers to 'committed an offence', so they have exactly the same effect.

Amendment No. 9 does the same; it refers to someone actually having to commit an offence before a recovery can be made against them, whether that be an offence against the Road Traffic Act or against the Heavy Vehicle Driver Fatigue scheme. Amendment No. 10 defines the definition of 'just and reasonable'. It seeks to tighten that up. Again, the amendments are being introduced after consultation.

The Hon. I.F. EVANS: In relation to the amendments just moved by the Treasurer, just to clarify it for those who are in their offices following this debate with great interest, section 124A deals with recovery by the insurer in relation to insured vehicles.

In the previous part of this debate a couple of weeks ago, we had a debate under the then appropriate clause of the bill and section of the act about the capacity to recover by the insurer for uninsured vehicles. It was at that point we had the debate regarding the issues raised by industry groups about the fact that, under the government's original bill, you did not have to be found guilty or it was not clear that you had to be found guilty of an offence before certain other elements of the bill kicked in. So, the Treasurer's amendments bring that element into the bill in both this provision and the previous provision. It also brings in the issue that the court can consider how the person who has committed these offences and has been involved in the accident contributed to the injury. So, it was the driver fatigue laws—I think there were three offences under the driver fatigue laws as an example.

The industry groups lobbied strongly that if you are going to make these offences have greater impact or a different recovery mechanism it should be limited to the contribution of that offence to the injury, the loss, or the liability of MAC. The Treasurer's amendments to this provision are exactly the same as those he moved in the previous provisions. The houses had the debate on them. The opposition has an amendment, but I will not move it because the government has already made its position clear on the principle.

The house has already made its position clear on the principle, and we lost it; that is, our provision was that, although the government has moved in its amendments to narrow what are just and reasonable circumstances for the purposes of the insurer to recover, the government included the words 'for any other matter that the court considers relevant' and also 'or is otherwise responsible for'. From memory, the opposition's amendment was to limit it to the words 'the extent to which the person contributed to the liability'.

We have had that debate; the opposition amendment lost. There was a similar amendment for this particular provision; we will not move it, but for the sake of clarity that is the debate we are having here. Because it is a repeat of the previous argument, the opposition is not going to ask any questions about this particular provision.

Amendments carried; clause as amended passed.

Clause 10.

The Hon. I.F. EVANS: Clause 10 deals with amendment of section 124AB of the act, which deals with recovery of excess in certain circumstances. As I understand it, when someone is involved in an accident not only may there be an excess paid to their private insurer for repair of the vehicle but MAC also charges an excess in the process.

The Lawyers Alliance makes some comments in regard to this particular issue. For the completeness of the record, I will just put them on the record. In regard to excess recoveries, the Lawyers Alliance states:

> The [government] amendments attempt to increase the excess amount payable where you are more than 25% at fault in a collision to a maximum of $460, to be indexed annually [after that]. Superficially [this may be] attractive, the question really is whether or not a statutory scheme such as this, which is or was originally described as a social insurer, whether [in fact] any excess should be payable.
>
> The real problem is that you are imposing a right of recovery in a compulsory insurance scheme. People do not have a choice of moving to another scheme which may not have an excess component.

So, Treasurer, the questions are: what is the current excess, when was it last put up and how big is the increase? There is also confusion in the marketplace. My understanding from the Law Society and the Lawyers Alliance is that a lot of people get very confused about the fact that they are paying two excesses and they would like to know whether there can be clarification of that when they are dealing with the claims because their clients get a lot of complaints about it.

The Hon. J.J. SNELLING: I am informed that an excess has existed since 1987. Whether there should be an excess or not has been debated and resolved. The issue that the member for Davenport raises about having—

The Hon. I.F. Evans interjecting:

The Hon. J.J. SNELLING: Yes, I will get to that. The issue that the member for Davenport raises is about people being subjected to two excesses and I presume he is talking about third party property damage and personal injury where you are being insured for two different things. They are two different insurance policies: one is for personal injury and the other is for property. They are two different insurance policies and each would be subject to their own excess. I do not see a problem with someone being charged for an excess under each individual policy. I am informed that the excess at the moment is $300 and that that was last set in 1993—when I think the member for Davenport first became a member of this place. So, it has been a frightfully long time and I think it is a reasonable increase and to have it indexed, as well, is a reasonable thing to do.

The Hon. I.F. EVANS: Let me understand this. In 1987 a Labor government introduced the excess for this social insurance scheme. From 1993 to 2002 the Liberal Party in good conscious did not increase the excess. Now the Labor Party has come in and is increasing it by 50 per cent in one go, from $300 to $460. How is that social and just, Treasurer?

The Hon. J.J. SNELLING: You could buy a lot more in 1993 for $300 than you can now.

The Hon. I.F. EVANS: What is the total amount collected from the excesses currently and what is the estimated amount to be collected by this increase in excess?

The Hon. J.J. SNELLING: In 2010, $944,087 was collected from this excess. I am advised that no projections have been made as to what might be the effect of the increase in this excess. I guess, in a very crude way, you could add 50 per cent to that to get an idea of how much it might increase, but it will depend on any number of different factors.

The Hon. I.F. EVANS: The MAC kindly provided some figures. How much does MAC recover through receiving excesses each year? We were told that in 2006-07 it was $930,000; 2007-08, $960,000; 2008-09, $889,000; and in 2009-10, $944,000. What is MAC's annual premium income? In 2006-07, it was $389 million basically, and that year it recovered $930,000 through excesses; last year premiums were about $476 million and it recovered $1 million. So increasing it by 50 per cent is really very minor to MAC in the scheme of things, but it has a bigger impact on the public who are paying it. I wonder if it is really worth the effort to make this recovery.

If you take the broad calculation used by the Treasurer, half of $930,000 is $450,000, and $450,000 recovery will not have a significant amount of impact on premiums or the viability of the scheme. Has the Treasurer actually thought through whether it is worth the pain on the families concerned with regard to the actual collect, given the huge premium collect? Of course, there is also all the income MAC makes off its investments. It is hardly key to your income stream.

The Hon. J.J. SNELLING: We have arrived at the $460 through the CPI increases over time since 1993, and then rounded down. The circumstances in which someone is liable to pay an excess is where they have contributed more than 25 per cent to the accident.

The Hon. I.F. Evans interjecting:

The Hon. J.J. SNELLING: No, that is not the case. I certainly have no difficulty with the principle of there being an excess and of people who contribute to a road accident having to make some financial contribution, albeit a token one, potentially, towards the cost of the injuries that have been incurred as a result of their driving. I think, in principle, it is not a problem.

In 1993, the parliament decided that $300 was a reasonable excess to expect of people. We are simply continuing what has already been established by the parliament, and applied an index according to CPI. That is how we have come at the figure of $460 and, so that we do not have to continually revisit this going into the future, when the parliament wants to make changes, simply attached CPI increases. We think it is perfectly reasonable.

Clause passed.

Clause 11.

The Hon. I.F. EVANS: Clause 11 relates to amendment to section 127 of the act, which deals with medical examination of claimants. Under this particular provision, if the claimant fails to comply with subsections (2)(a) and (2)(b), which provide that the claimant must submit himself or herself to a medical examination by a qualified medical practitioner nominated by the insurer, and, within 21 days of consulting a legally qualified medical practitioner in relation to the injury, do certain things. Then, within 21 days, a written report from a legally qualified medical practitioner has to be sent through to the insurer, in broad terms.

If the claimant fails to do that, amongst other things, the current act says that the claimant is not entitled to damages or compensation for any period during which the failure occurs. In this provision the government wishes to insert the words 'interest or costs' after the words 'damages or compensation'. So, if the claimant does not perform those matters set out in section 127(2) of the act, then they will not be able to claim damages, compensation and then interest or costs.

Can the Treasurer advise why they are inserting 'interest or costs' into this provision? There obviously must be some huge cost to MAC, because we are trying to cap it. So, what has been the cost of interest and costs in the last 12 months and, if you cannot give me the last 12 months, for any period that MAC has available? There must be someone in MAC who has looked at this and said, 'Gee, this is costing us money; we had better narrow it.' How much are we saving the scheme by putting in the words 'interest or costs' in this particular provision?

The Hon. J.J. SNELLING: Essentially, this is just a tidy up of the legislation. There is no huge liability associated with this provision. It is simply a tidy up of the legislation for the purposes of clarifying it.

The Hon. I.F. Evans: There is no calculation?

The Hon. J.J. SNELLING: There is no calculation. It may not even save a cent. It is simply for the purposes of making the legislation clear. If we have accepted the principle that compensation and damages are not payable, then it simply makes sense that interest and costs not be payable either. This is simply for the purposes of tidying the legislation up and not much else.

The Hon. I.F. EVANS: Under that provision, if MAC and the insured (or their representatives) are in dispute, who resolves whether MAC has acted unfairly in the dispute? If MAC wants certain information out of my client, I say, 'Get nicked,' and we sit there and have an argument and it goes on for months, who is to judge whether MAC has acted unreasonably and driven my costs up, which I cannot recover? To a point, I can understand interest and damages, but costs are a slightly different question, because either party can act unreasonably and drive costs up. It is a great tactic of lawyers to not get you in the courts but get you in the banks by making you spend lots of money. On the question of costs, where is the protection, that MAC, knowing that you cannot recover costs, then drives up your costs?

The Hon. J.J. SNELLING: Ultimately, if the court decides, there is nothing in this provision that would in any way hinder the discretion of the court when it makes a decision on awarding costs.

The Hon. I.F. EVANS: How can the court have a discretion about costs when the legislation says that under no circumstances can you claim them?

The Hon. J.J. SNELLING: This subsection hinges on whether the court has decided there has or has not been a failure. Before this comes into play, the court will have to make a decision on whether or not there has been a failure. If the court decides that there has been a failure, then this comes into play and the court will make a reduction in costs accordingly. That cannot happen unless the court has made a finding that there has been a failure. In the circumstances which the member for Davenport describes, where essentially through vexatiousness the insurer is making a claim or there is an allegation of failure, then the court will make a decision accordingly, and presumably it would make a decision that failure has not occurred and make an award of costs accordingly.

The Hon. I.F. EVANS: I will read the minister's answer between the houses but, for the sake of the record, I note that under this provision, if the proceedings have been commenced the court may award costs against the claimant, and that would be on the basis there might have been a failure, as the Treasurer says. Then it goes on to say that the claimant is not entitled to damages, compensation, interest or costs, full stop.

The Hon. J.J. SNELLING: Only for the period of the failure.

The Hon. I.F. EVANS: Only for the period in which the failure continues.

The Hon. J.J. SNELLING: Yes, that is right.

The Hon. I.F. EVANS: So, the reality is, on the question of costs for the period during which the failure continues, the court has a very clear instruction from the house: they can't issue costs. But I will read the answer between the houses.

Clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 12:57 to 14:00]

FORESTRYSA

Mr PEGLER (Mount Gambier): Presented a petition signed by 1,111 residents of Mount Gambier and greater South Australia requesting the house to urge the government to take immediate action and stop the forward sale of harvesting rights of ForestrySA plantations.

VISITORS

The SPEAKER: I would like to draw the attention of members to the fact that we have, I think, three groups visiting us in the gallery today. We have people from Pathways Training and Placements, who are the guests of the member for Hammond. They will be there somewhere. We also have a group from Adelaide Secondary School, year 11, who are guests of the member for Croydon.

Also, we have some guests of the member for Adelaide from Pulteney Grammar School, year 12. I think there are some. Welcome to you all. We hope that you enjoy your time here. I am sure that our members will be extremely well behaved; they will be on their best behaviour for you.

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:02): I bring up the 19th report of the committee.

Report received.

QUESTION TIME

YUENDUMU FAMILIES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:02): My question is to the Minister for Aboriginal Affairs and Reconciliation. Has the minister offered the Warlpiri Aboriginals from Yuendumu in the Northern Territory relocation from the Adelaide Parklands to the government's transitional accommodation centres; and, if not, why not?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:03): There are a couple of things that I would like to say about this matter. The first—

An honourable member: Answer the question.

The Hon. G. PORTOLESI: I will answer the question. The first thing is that camping in the Parklands is not acceptable behaviour, and about that we can be very clear. The second thing is that—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —finding a resolution to this matter is slightly more complex. However, I can say very confidently that my officers and the officers of a number of other government agencies, together with the Adelaide City Council, have been working with this group to ascertain the status of this group. As part of that, they have been offering them a number of options for accommodation. I need to check on the transitional—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: I need to be clear. At last count we were dealing with a small number of people who were camping in the Parklands. We were dealing with a number of, say, 10 to 15. That is much smaller than the group who actually came down from the Northern Territory. My officers have been having detailed discussions with these people. I can get back to you about that particular service, but I can tell you—

Members interjecting:

The Hon. G. PORTOLESI: Do you want an answer? I can tell you that—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —Street to Home has been down there. I can tell you that people have been staying with family and friends. We are not dealing with people who are homeless. We are dealing with people who came down here because, as I understand it, they were attending a football carnival. We are dealing with people who would—

Mr PENGILLY: I rise on a point of order: relevance. The question was very direct and the minister is waffling.

The SPEAKER: No. Sit down. I do not think this is irrelevant. This is a particular issue that is in the news. I think we need to listen carefully to the minister's response.

The Hon. G. PORTOLESI: As I understand it, we are dealing with people who were here for a football carnival; they were here for South Australia's famous Spirit Festival; they were here visiting family and friends; they have been here painting, they have been painting, exhibiting and selling their work. We are not dealing with homeless people. We are dealing with people who have an income.

Mr Marshall interjecting:

The SPEAKER: Order! Member for Norwood, you were warned twice yesterday. You will go out today, if you are not careful. You have a very loud voice.

ROYAL ADELAIDE HOSPITAL

The Hon. S.W. KEY (Ashford) (14:05): My question is directed to the Minister for Health. How will new the Royal Adelaide Hospital achieve energy savings compared to the current site?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:06): I thank the member for Ashford for her question and I acknowledge her very strong environmental credentials going back many decades—not that many decades but a few decades anyway—in public life.

An honourable member interjecting:

The Hon. J.D. HILL: A couple. The new Royal Adelaide Hospital will be built with regard to attaining high standards in all key elements required in a modern health facility. It will have an advanced clinical model, it will have a higher ICT capacity and it will be post-disaster capable. Additionally, it will be significantly more energy efficient than the existing Royal Adelaide Hospital.

Mr Pengilly interjecting:

The SPEAKER: Order! Member for Finniss, behave!

The Hon. J.D. HILL: I would say to the members of the opposition who interject upon me, please ask me further questions. I am happy to answer all of your questions; I always am.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: You should do it in an orderly fashion though, members of the opposition. As a minimum standard, the project company building the new Royal Adelaide Hospital must demonstrate at least a four-star Green Star design and as-built rating. I will explain that: they need to design it so that it is four-star, but when it is built, which will be in five years, it has to be at least four stars at the standard that applies at that time. Just to give members some indication, I understand that the standard has improved by about 15 per cent over the last year. So, it will need to be at least four stars.

The Hon. I.F. Evans interjecting:

The SPEAKER: Order, member for Davenport!

The Hon. J.D. HILL: Member for Davenport, ask me as many questions as you would like. I would love to hear you ask questions in an orderly fashion in question time. In comparison to the new hospital's planned best practice energy efficiency, the existing Royal Adelaide Hospital—remember the existing one, the one that the members on the other side wanted to save and ran a campaign to save—does not even have a Green Star rating. In fact, it is one of the highest consumers of utilities within our health department.

The information regarding the new Royal Adelaide Hospital in the public realm is that the new facility will use a maximum of 139 kilograms per CO_2 per M^2, which is 139 kilograms of carbon dioxide per square metre, and the facility will be 17,460 square metres. I will let the geniuses on the other side do the maths there. We can therefore extrapolate quite a lot about the stand-alone effect of the new Royal Adelaide Hospital—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —on government building CO_2 emissions. Despite being bigger, having more beds, a bigger emergency department, more operating theatres and more equipment, the new Royal Adelaide Hospital will be 40 per cent more carbon efficient than the existing hospital—the hospital that members opposite wanted to save, the polluting hospital that they wanted to save. As a stand-alone effect, this will reduce health's CO_2 emissions by 7.9 per cent. So, across the whole of the health portfolio, building this new hospital will reduce the carbon emissions by about 8 per cent. That is a major breakthrough in terms of dealing with the impact on climate change.

The new Royal Adelaide Hospital will be a vast improvement on the existing hospital in terms of health care and green credentials. I would like to emphasise that the rating tool—and this is a bit technical for members, so they might like to listen—for a healthcare facility is different to that of, for example, an office building, a school or a house, recognising the distinctly different uses that each building has. The four-star—

Mrs Redmond interjecting:

The Hon. J.D. HILL: 'Oh,' she says, as if somehow she understands all this. The Leader of the Opposition—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —is a genius in all regards. We have to acknowledge that. I am always happy to take questions from the opposition on any of these issues. Unfortunately, they leave it to the shadow minister for health, halfway through question time, to ask questions I would have already answered, but they always have the greatest questions when I am talking—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —and when I sit down they don't bother to ask them. It just means that they are just playing games.

The four Green Star certified rating signifies best practice in environmentally sustainable design and/or construction. The recent Lyell McEwin Hospital—which won environmental awards and I am very pleased about that—stage 2 redevelopment also achieved a four-star rating. Given the progressively increasing targets of the building codes across Australia—

Members interjecting:

The SPEAKER: Order! The minister will be heard in silence.

The Hon. J.D. HILL: I am glad I excite them, Madam Speaker, I am. I really am glad. Given the progressively increasing targets of the Building Code of Australia, the 2016 four-star rating will require far more energy efficiency than today's standard, for example. I have said that, where possible, the project will strive for even greater energy efficiency, a greener building than the four-star rating. So, the four-star rating is the platform and we would like to do better.

In fact, SA Health Partnership, the project company that builds the new Royal Adelaide Hospital, has strong incentives to achieve the best possible energy efficiency because they will be, in part, responsible for energy and water consumption on the site; that is, they will pay for the energy consumption, as per the project agreement. If we use more than that, then they share the cost on a fifty-fifty basis, so we both have an incentive to reduce the amount of consumption.

The new RAH energy efficiency will be achieved by the use of a range of measures such as trigeneration. Power generation on the new Royal Adelaide site will result in a smaller carbon footprint. For those who do not know what trigeneration is—and I must say I was in that category until a little while ago—it is cogeneration plus. So, cogeneration is when you generate electricity and the heat is used to generate hot water. Trigeneration is when it is used, in addition to generating hot water, to generate iced water as well. So, that is what it will be doing. They will also, of course, have solar heating and an improved patient environment with incorporated green areas, and, of course, apart from the energy side of things, water use will be reduced.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: In all elements, the new Royal Adelaide Hospital will be a more efficient hospital than the one that they wanted to save.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The one they are committed to saving. Their only health policy is not doing something and what they want to do is save an inefficient hospital.

Members interjecting:

The SPEAKER: Order!

TRANSITIONAL ACCOMMODATION CENTRES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:13): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Can the minister advise whether the transitional accommodation centres promised by the government in 2007 have been built? In October 2007, a media statement issued by the former minister for housing announced:

> ...a transitional accommodation project, for which the state government has earmarked $9 million in resources...A key part of the proposal would involve short-stay accommodation accessible 24-hours a day in four key locations...including at Coober Pedy and in the City.

I refer the minister to her government's own website which says:

Help for Aboriginal people needing to move between home and services

If you are visiting metropolitan centres from a remote community, whether to visit friends and family or to attend a medical appointment, there is safe, secure and culturally appropriate accommodation that you may be able to stay at during your visit.

Members interjecting:

The SPEAKER: Order! The Minister for Families and Communities.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (14:14): Can I start by saying that when we were advised that we had something like 100 people travelling to the city from Yuendumu—

Members interjecting:

The Hon. J.M. RANKINE: What was that?

Members interjecting:

The SPEAKER: Order, the member for MacKillop, behave!

The Hon. J.M. RANKINE: What a shame the Minister for Correctional Services is not here. That was a record; it was about three seconds that time.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: When we had only a few hours' notice that we had in excess of 100 people travelling to Adelaide from—

Mr WILLIAMS: Point of order, Madam Speaker: the question was about, as we have just been told, 10 or 15 people who are camped in the Parklands today, not a hundred people who arrived here months and months ago who, I understand, have actually returned.

The SPEAKER: Order! Sit down. I understand your point of order and I will listen carefully to the minister. We know what the question was about and therefore I think the minister can answer the question as she chooses, but I will listen carefully. It is a matter of relevance, but I think this is relevant.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. I am talking about how we accommodate remote Aboriginal people. We had in excess of a hundred people heading our way with only a few hours' notice, and I have to say that I think the efforts—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: The efforts of Housing SA, the efforts of Anglicare, the efforts of a range of non-government—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —organisations, including Anglicare—

Members interjecting:

The SPEAKER: Order! Members on my left will behave and members on my right will stop responding to them.

The Hon. J.M. RANKINE: —were actually quite magnificent in making sure that these people were safe and secure, that their health was looked after and that the children were safe. As we know—

Mr PISONI: Point of order, Madam Speaker—

Members interjecting:

The SPEAKER: Order! Point of order, member for Unley.

Mr PISONI: This question was about the building of transition centres and we are still waiting for the answer. The minister is deliberately not answering.

The SPEAKER: Sit down. I presume your point of order is relevance, and I still find this is relevant, but I am sure that the minister will get to the substance of the question quickly.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. If the member for Unley gave me more than three seconds to answer the question, he would hear the answer. We were able to accommodate those people. They were fleeing a situation where they felt they were in danger. When this—

Ms Chapman interjecting:

The Hon. J.M. RANKINE: That was 1½ seconds. When this latest group of people came to Adelaide, discussions were held with them and they made it very clear that they were coming to Adelaide as private individuals on holiday. As the minister for Aboriginal affairs said, they were coming down here to stay with family and friends and their intention was to return. We have made sure that our agencies have been out there meeting with these people, making sure there are no health problems, ensuring that they had offers of accommodation and ensuring that no children were in danger. A range of housing options were put to these people. We have two Aboriginal transition accommodation centres operating—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —one in Ceduna and one in Port Augusta.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: There has been a lot of work done to identify appropriate sites both in the city and in Coober Pedy—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —and I am pleased to tell the house that the Aboriginal transitional housing and outreach service is due to be operational by 1 July this year.

TRANSITIONAL ACCOMMODATION CENTRES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:18): As a supplementary question, can the minister tell the house where the Adelaide transition centre for Aboriginals is to be located?

The SPEAKER: Minister, do you choose to answer that question?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (14:18): This will be a cluster of 10 units with support services.

Mrs Redmond: Oh, what?

The SPEAKER: Order!

The Hon. J.M. RANKINE: 'Oh, what'—yes. There has been difficulty negotiating with some councils about an appropriate location, so we are—

Ms Chapman: You haven't even started building.

The SPEAKER: Order!

The Hon. J.M. RANKINE: We will be using some existing housing, a cluster of 10 units either in the northern or western suburbs.

Members interjecting:

The SPEAKER: Order!

CATHERINE HOUSE INCORPORATED

Ms THOMPSON (Reynell) (14:19): My question is to the Minister for Employment, Training and Further Education. Can the minister inform the house of the innovative pilot program that was recently delivered at Catherine House Incorporated, with the support of TAFE SA?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education) (14:19): I thank the member for Reynell for her question, particularly as yesterday, as we all know, was International Women's Day.

As members would be all too well aware, there are many reasons why any South Australian may find themself affected by homelessness. Fortunately, there are many excellent agencies that help people in times of need. I am thinking in particular of the Hutt Street Centre and the Salvation Army, just to name two.

The Hon. M.J. Atkinson: St Vincent de Paul.

The Hon. J.J. SNELLING: St Vincent de Paul. Thank you, member for Croydon. They are well-known and strongly supported by many honourable members.

Another is Catherine House. Catherine House is the only agency in South Australia that provides supported accommodation for women over 21 years of age who are affected by homelessness for reasons other than domestic violence. Established in 1988 by the Sisters of Mercy, Catherine House has 15 houses, one emergency house and 14 transitional houses in the inner city of Adelaide, providing lodging for up to 47 people each night.

From a grant from the commonwealth government's Homeless Innovation Fund, Catherine House and TAFE SA formed a partnership to run a Certificate II in Women's Education. The course was delivered internally at Catherine House's education centre, Sagarmatha, and externally at TAFE campuses. Clients of Catherine House come from many different backgrounds, many facing challenges including mental illness, drug and alcohol dependency, gambling and relationship and family breakdown. For these vulnerable members of our community, the chance to be in a structured, formal education course in the safety and security of Catherine House is paramount to the program's success.

For many of these women, studying in a place where they were comfortable, at Sagarmatha, helped bridge the gap between the negative experiences they have had in the past and realising the potential they have for the future. I would like to share a quick story about someone who found herself in need of help from Catherine House, a story that will give you an idea of the value of such a program. To protect her privacy I will call her 'Jane'.

Jane went to Catherine House in 2009. She was homeless after many years of family unrest and was extremely traumatised by the situation in which she found herself. She was depressed, unable to look after her own wellbeing and, ultimately, not participating in society. The worst thing for her was it meant that she was separated from her two teenage children. She had never before been apart from them, something many of us would find very difficult to imagine.

While at Catherine House I am told it took Jane some time before she was confident enough to engage with anyone apart from a quick, 'Good morning' to staff as she headed outside to sit in the garden for long periods. I can only imagine the turmoil that she was going through at the time. Each day the staff would encourage Jane to venture out to the education centre. Eventually she found the confidence to join a class. This was really her first step, the beginning of something. She did not miss a class for the next 18 months.

In mid-2009 Jane moved from Catherine House into a boarding house in the outer suburbs, which was another step towards independence, and made the one-hour journey each day to Sagarmatha. These were the beginnings of a new-found belief in herself. She began to view herself differently, she discovered an interest in many subjects, an appetite for learning and a new determination and dedication to education and self-improvement.

The opportunity of studying for a TAFE certificate was very daunting for Jane. She left school when she was in year 10. She had not studied for about 25 years. The innovative delivery model, the partnership between the two organisations enabling the course to be delivered at Catherine House, was a major factor in her decision to take the risk. Courageously, Jane signed up for the entire course in women's studies.

During the course Jane confronted and dealt with many personal challenges. She credits the focus of her studies with keeping her anchored and the structure and support surrounding the

study gave her the determination and strength to keep going. Jane successfully completed all nine modules and attained her Certificate II in Women's Education in December last year. Through this experience Jane not only found respect and appreciation for education, but a new-found respect and appreciation for herself.

She has now reunited with her children who are, rightly, incredibly proud of their mother and for the first time in four years the family is living in secure, stable housing in a brand-new home, thanks to the Affordable Housing initiative. Encouraged by her experience at Catherine House, Jane has now enrolled in a Certificate III in Women's Education. She has the desire and confidence to look for stable employment.

I am pleased to report that nine women from the 2010 program will be joined by four others who will continue their education at TAFE SA this year. Catherine House has also now been successful in winning a Foundation Skills grant through the adult community education initiative managed by the Department of Further Education, Employment, Science and Technology. They will be continuing their great work, helping these women to break the cycle of unemployment, to discover how bright their future can be. These women, TAFE and Catherine House are to be congratulated on their success.

TRANSITIONAL ACCOMMODATION CENTRES

Ms CHAPMAN (Bragg) (14:25): I did have a question for the Minister for Aboriginal Affairs and Reconciliation but I was so inspired by the Minister for Housing that I will ask her this question.

Members interjecting:

The SPEAKER: Order!

Ms CHAPMAN: Given the minister's answer on the new cluster that she is proposing, can she advise the house whether the use of existing housing in this cluster will actually comply with the federal funding rules under that initiative?

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (14:25): Yes, we received federal government funding for this transitional housing program and, as I have said, it has been incredibly difficult to find a site that is both acceptable to Aboriginal people—

Ms Chapman: It's your new cluster.

The SPEAKER: Order!

The Hon. J.M. RANKINE: —and the existing communities. I have been frustrated that we haven't been able to get a location. Part of the dilemma is the location but also the design of that, so we are not talking about town camp accommodation, we are talking about appropriate accommodation for Aboriginal people in this city as they come and go. So, we will be, in the first instance, using existing accommodation with appropriate supports in place to support—

The SPEAKER: Order! Point of order, member for Bragg.

Ms CHAPMAN: It appears that the minister didn't actually understand or hear my question because the minister is talking about what she plans to do with this cluster, apparently in the next few months. My question is: does it comply with the federal funding rules under this initiative to be able to use those existing buildings rather than build a new one?

The SPEAKER: Thank you. I think you are being particularly pedantic today about the way questions are being answered. These are issues that are hitting the airwaves and people are interested—I am certainly interested in the response. I think the minister is answering the question appropriately, but I will listen very carefully.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. There is nothing precluding us using existing Housing SA stock to house Aboriginal people. What we will continue to do—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —is try and find a suitable site where we can provide specific transitional accommodation, and perhaps the member for Bragg might have a site in her electorate we can use.

Members interjecting:

The SPEAKER: Order!

YUENDUMU FAMILIES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:28): My question is for the Minister for Aboriginal Affairs and Reconciliation. Does the minister agree with acting premier Rau's remarks made last week that the Warlpiri Aboriginals camping in the Parklands should be taken to beaches at Ceduna or Streaky Bay?

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:28): Before I answer that question I have to say I think it is a disgrace that I have been Minister for Aboriginal Affairs and Reconciliation and it has taken one year for the opposition to ask me a question in this place about Aboriginal affairs—one year.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Point of order, member for Unley.

Mr PISONI: I would have asked the minister questions, but she has asked other ministers to answer them.

Members interjecting:

The SPEAKER: Order! I do not know what your point of order was there. Maybe you need a personal explanation, but that was not a point of order. Minister, I am sure you are answering the question now.

The Hon. G. PORTOLESI: There were matters reported—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —in the press. There was a meeting referred to in the press.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Thank you for your protection, Madam Speaker. I, nor any people from my office, were present at the meeting. I am not in a position to comment.

YUENDUMU FAMILIES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:29): Thank you, Madam Speaker—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: In that case my question is to the Attorney-General. Did the minister say, as reported, that the Warlpiri Aboriginals camped in the Parklands should be taken to beaches at Ceduna and Streaky Bay?

The SPEAKER: The Attorney-General.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (14:30): Thank you very much, Madam Speaker—

Members interjecting:

The SPEAKER: Order! You have asked the question; you will listen to his response in silence.

The Hon. J.R. RAU: I thank the Leader of the Opposition for her question. I am aware that the Adelaide City Council and a number of residents have concerns about the people who are currently illegally camping in the city Parklands. As Minister for the City of Adelaide, I share those concerns. In fact, I am concerned about anybody—anybody—illegally camping in the Parklands. I support—

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: If you listen—I support moves by government agencies and the SA Police to actively encourage any people who are illegally camping in the Parklands to find suitable accommodation elsewhere. I actually believe that children may also be involved in the group in the park, and if this is true, it is a matter of serious concern. Camping out involves a risk to public safety, potentially for the campers, who may, as I have said, include children, and others. It also raises public health issues.

Mr PISONI: On a point of order: the member for Croydon has time and time again pulled up members of parliament for reading their responses to parliament, and I ask that you—

The SPEAKER: Order! Sit down. The minister is referring to some notes that he has. This is a very difficult subject and I am sure the Attorney-General wants us—

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! You will listen to the minister in silence. He needs the opportunity to respond in any manner he chooses.

The Hon. J.R. RAU: Thank you.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: Thank you very much, Madam Speaker. I do not know if those opposite managed to pick up on the ABC radio program on Monday, but my colleague the Minister for Aboriginal Affairs had a number of things to say on that program.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: If members opposite had listened to that program, they would not have had—

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: —to ask a number of the questions they have asked of her today.

Ms Chapman interjecting:

The SPEAKER: Order! Member for Bragg, be quiet!

The Hon. J.R. RAU: Thank you. On 7 March, which was Monday—and this would have helped you with the questions you previously asked—the minister said:

The first thing I want to say is that camping in the Parklands is unacceptable behaviour by anyone—anyone. The Parklands are open spaces; they are not camping grounds. My latest advice and information is that

people who are camping in the Parklands have advised my officers that they intend to return home, so we are working with them on making that happen. We need to find a solution here that is sustainable.

She went on to say—

Mrs REDMOND: On a point of order: it is a matter of relevance. The question was, did the minister say that the people in the Parklands should be moved to the beaches at Streaky Bay or Ceduna?

The SPEAKER: If we had yes or no answers in this place, question time would involve 50 or 60 questions. I think the minister can answer—

Members interjecting:

The SPEAKER: Order! Minister, continue your answer. I consider what you are saying is relevant.

The Hon. J.R. RAU: Thank you. It will be much quicker if I am not interrupted.

Members interjecting:

The Hon. J.R. RAU: If I can just get on with it, she also said:

We understand that they are here visiting family and friends, as they are perfectly entitled to do. They are not homeless; they have income and they have the capacity to get themselves home. Camping in the Parklands is not acceptable by anyone. They do not need to get themselves back home. It has been made very clear to them that camping in the Parklands is unacceptable. It is unacceptable.

Madam Speaker, I agree entirely, and I am not going to canvass unsourced scuttlebutt.

Members interjecting:

The SPEAKER: Order!

YUENDUMU FAMILIES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:34): My question is to the Attorney-General again, of course. Does the Deputy Premier agree that it is inappropriate to suggest that the Warlpiri Aboriginals camping in the Parklands should be taken to beaches at Ceduna and Streaky Bay, and will he apologise for these remarks?

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (14:34): I think I have already answered that question.

ABORIGINAL WOMEN

Ms BEDFORD (Florey) (14:34): Can the Minister for Aboriginal Affairs and Reconciliation inform the house how the achievements of South Australian Aboriginal women are being recognised?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:35): I would like to thank the member for Florey and acknowledge her tireless work in advancing the cause of reconciliation in our community. Today, I had the pleasure of attending the—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —2011 International Women's Day Centenary Award Luncheon at the Adelaide Convention Centre, and I was given the honour of presenting the Gladys Elphick Award. It is an award that recognises inspirational Aboriginal women. I will go straight into some of the lucky recipients. Neva Wilson was presented with the 2011 Award and the Perpetual Trophy for her work in the recording of cultural heritage, Aboriginal family histories and genealogies.

Three other women were presented with the Gladys Elphick Award for their contributions to the community: Raylene Snow for voluntary services in the arts, Gwenda Owen for voluntary

services in community work, and Dr Alitya Rigney for lifetime services to education. This important award is named in honour of the late Kaurna-Narungga woman, elder and leader, Gladys Elphick. It is an award given by ATSI women to ATSI women in their community.

Auntie Glad was an eminent South Australian and received an Order of the British Empire in recognition of her work in Aboriginal welfare. Auntie Glad and her peers were able to overcome tremendous barriers to ensure their families and communities could have a fair go, be treated respectfully and equitably and share in the prosperity of this state and nation. We are still extremely lucky to have with us some of those pioneering women, women like Shirley Peisley, Maude Tongerie, Professor Lowitja O'Donohue, Faith Thomas and Natascha McNamara.

The challenge for all of us in this place is to encourage more Aboriginal women to take up the work of Auntie Glad, and her peers, and to assume leadership roles not only within Aboriginal communities but within the wider community. It is my role as minister to promote a number of voices of Aboriginal women, and that is why late last year I took the opportunity to appoint Khatija Thomas, a young Aboriginal woman, as one of the commissioners for Aboriginal engagement. Khatija will be—and I am deeply confident of this—an important part of getting other young women involved in the challenges that we all face.

We are well aware of the alarming facts: Aboriginal people, on average, live 17 years less than non-Aboriginal people; infant mortality is three times higher in the Aboriginal community; Aboriginal students are half as likely to stay at school until the end of year 12. The challenge for all of us is to close the gap.

The Gladys Elphick Award is an important part of recognising and supporting the work that Aboriginal women are doing in their community. I am sure that all members in this place share this goal and offer their congratulations to today's outstanding recipients.

Members interjecting:

The SPEAKER: Order!

REMOTE AREAS ENERGY SUPPLIES SCHEME

Mr TRELOAR (Flinders) (14:38): My question is to the Minister for Tourism. Now that the minister has had 24 hours to consider my question from yesterday about electricity prices in remote areas, will he admit that he was wrong to suggest that the former Liberal government sold Coober Pedy's electricity infrastructure, and will he now advise the house how he expects the Coober Pedy tourism operator to absorb a $380,000 increase in its electricity bill, taking its total bill to $700,000?

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (14:39): Thank you, Madam Speaker.

Members interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: A question has been asked relating to electricity pricing which, as the honourable member would be aware, is not part of the tourism portfolio. I understand, however, that there is already in place an arrangement whereby a subsidy exists for electricity supply in remote areas. If the honourable member's question is directed towards whether that subsidy is adequate or not, that question is not properly directed towards me. I think the honourable member might consider directing the question towards the minister who is in a position to be able to advise the parliament about energy pricing.

Mrs Redmond interjecting:

The SPEAKER: Order!

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: The question could perhaps easily have been: what am I going to do about whether a road is sealed here or there, and, unfortunately, I would have to give a similar answer, which is: I am not the minister for transport, and so on. But, if the—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU: But, if the honourable member has a question which relates specifically to tourism, I would be very happy to answer it.

STARS ON CARS CAMPAIGN

Mr PICCOLO (Light) (14:41): My question is to the Minister for Road Safety. Can the minister advise the house what the government is doing to improve road safety and reduce death and serious injury in South Australia, with particular reference to improving vehicle safety?

Mr KENYON (Newland—Minister for Recreation, Sport and Racing, Minister for Road Safety, Minister for Veterans' Affairs, Minister Assisting the Premier with South Australia's Strategic Plan) (14:41): Thank you, ma'am. I thank the honourable member—

Members interjecting:

The SPEAKER: Order!

Mr KENYON: I thank the honourable member for his question. He has a keen interest in road safety and, in fact, I am told, he is an active member of the Gawler Road Safety Committee. On 1 March this year, I launched the South Australian Stars on Cars pilot campaign. This campaign will see 26 new car dealers participating in a four-month trial to better promote vehicle safety ratings at the point of sale.

The Stars on Cars campaign has three key elements, which include training for sales staff, displaying educational materials on cars and in the showrooms, and an advertising campaign. Four and five-star safety rating stickers and swing tags will be placed on new cars at dealerships, along with other information on the benefits of purchasing the safest vehicle possible in a bid to improve the level of understanding when purchasing a vehicle.

The safety rating stickers are similar to energy rating stickers on whitegoods—the more stars, the safer the car. The pilot program is supported by an online and press advertising campaign aimed at new car buyers carrying the messages 'Beware of cars with less than four stars' and 'Check the safety rating before you buy'.

This campaign is a first of South Australia and builds on the success of similar programs in Western Australia and Victoria. I believe it has considerable potential to make a noticeable difference in making our roads safer for all of us. My advice is that if people bought the safest car available in their desired class, overall safety across Australia could be improved by as much as 26 per cent, and if each new car had the safety features of the safest car available, it is estimated that death and serious injury could be reduced by as much as 40 per cent across Australia.

Road safety experts suggest that you are twice as likely to be killed or seriously injured in a car with a one-star rating compared to one with a five-star rating. This means that by providing South Australian consumers with safety ratings for both Australian manufactured cars and imported vehicles they will be better able to make informed decisions about the safety of the car they intend to purchase.

I am very pleased to inform the house that this campaign also has the support of and the cooperation of the Motor Trade Association, the Motor Accident Commission, the RAA and the Australasian New Car Assessment Program. I commend this important road safety initiative to the house.

ADELAIDE DRY ZONE

Ms CHAPMAN (Bragg) (14:43): My question is to the Minister Assisting the Premier in Social Inclusion. Does the minister agree with the Commissioner for Social Inclusion's position that the Adelaide CBD dry zone should be abandoned?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:44): I have not seen the comments to which the member for Bragg refers, and on the basis—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —of her performance in this place I think I should—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —have a more—

Members interjecting:

The SPEAKER: Order! Point of order. Member for MacKillop.

Mr WILLIAMS: Just because the minister seems to be totally ignorant of what is going on in the state, she does not have to start to criticise people on this side of the house.

Members interjecting:

The SPEAKER: Order! I am not sure which point of order that was. I presume that you are talking about 98. Minister, can you get back to your answer, or have you finished?

The Hon. G. PORTOLESI: I'm done.

The SPEAKER: You are finished. The member for Little Para.

Members interjecting:

The SPEAKER: Order! If you had made less noise we might have heard the minister's response.

Members interjecting:

The SPEAKER: Order! The member for Little Para.

JOINT STRIKE FIGHTER PROGRAM

Mr ODENWALDER (Little Para) (14:44): Thank you, Madam Speaker. My question is to the Minister for Defence Industries. Can the minister please advise the house about Levett Engineering's involvement in the F-35 Joint Strike Fighter program, including the securing of a major contract announced at the Australian International Aerospace and Defence Expo in Avalon last week?

The Hon. K.O. FOLEY (Port Adelaide—Minister for Defence Industries, Minister for Police, Minister for Emergency Services, Minister for Motor Sport, Minister Assisting the Premier with the Olympic Dam Expansion Project) (14:45): I thank the member for Little Para and his interest—

The Hon. I.F. Evans: You get your questions out of *The Advertiser*.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Do you want to hear the response to the question, or not? The minister.

Members interjecting:

The SPEAKER: If you don't, leave the chamber—or you will be told to leave.

Members interjecting:

The SPEAKER: Order! This is ridiculous. Behave!

The Hon. K.O. FOLEY: I can't be bothered giving an answer.

The SPEAKER: You have finished your answer. The member for Waite.

GILLMAN MOTORPLEX

Mr HAMILTON-SMITH (Waite) (14:46): My question is to the Premier. Why will the government not sell land held by LMC at Gillman to the proponents of a motorplex at Port Adelaide? The proponents of the motorplex want to invest $100 million of their own money

over five years. Their proposal requires no spending by the state government, and they are willing to pay commercial rates to buy or lease the land. Over 500 local businesses and thousands of others have indicated their support for the project.

The SPEAKER: I am sorry. Before you start, minister, can the member for Waite just repeat the question? I did not hear the question properly.

Mr HAMILTON-SMITH: Why will the government not sell land held by LMC at Gillman to the proponents of a motorplex at Port Adelaide?

The SPEAKER: Thank you. The Minister for Defence Industries.

The Hon. K.O. FOLEY (Port Adelaide—Minister for Defence Industries, Minister for Police, Minister for Emergency Services, Minister for Motor Sport, Minister Assisting the Premier with the Olympic Dam Expansion Project) (14:47): The Minister for Motor Sport, Madam Speaker. I met with this group today. I am also the local member—

Mr Williams interjecting:

The Hon. K.O. FOLEY: Do you want an answer? Thank you.

Mr Williams interjecting:

The Hon. K.O. FOLEY: Sorry?

Mr Williams: Get on with it!

The SPEAKER: Order! The minister will answer the question.

The Hon. K.O. FOLEY: Madam Speaker, I am also the local member for Port Adelaide, and I declare a clear conflict of interest for the final decision. I would say up-front that, if and when this matter goes before cabinet, I would absent myself given my clear position as a local member, because, as a local member, there are serious issues of impact on surrounding households very close to residents within inner Port Adelaide, within Rosewater, Ottoway, the Newport—

Members interjecting:

The Hon. K.O. FOLEY: Sorry? It is a conflict of interest. You clearly do not understand ministerial responsibility.

Ms Chapman: Oh, you do?

The Hon. K.O. FOLEY: Yes, I do.

The SPEAKER: Order, member for Bragg!

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: I'm not going to bother.

Members interjecting:

The SPEAKER: Order!

Mr Pisoni: Go on, go home. If you don't want to do your job, go home.

The Hon. K.O. FOLEY: Madam Speaker, I have no intention of giving an answer and trying to compete with a howling gale of abuse opposite. Now, members asked a question; we are trying to give an answer. But if members do not want to hear, I am not going to waste my time or the time of the house.

Ms Chapman interjecting:

The SPEAKER: Order! Member for Bragg, you are warned.

The Hon. K.O. FOLEY: All I am asking is that you allow me to answer the question which was asked. It was a fair question; I will give a fair answer, I hope. Thank you. It is a conflict of interest, as we see it. As a local member, my pecuniary interest is substantially enhanced, or not, by significant decisions given that this affects all of my electorate. I believe that to be a conflict of interest, and that is in keeping with the ministerial code of conduct. I would therefore allow another minister to carry that matter to cabinet.

You may disagree, member for Bragg, but I am happy with that decision. However, it does impact significantly on local residents. Equally, it is a substantial piece of industrial land currently put aside for industrial development. Now, we have a shortage of good quality industrial land close to the city in Adelaide; so, we need to be mindful of the best use of available land.

That said, what the Premier undertook—and the Premier and I visited the site shortly after the election and, I have to say, were attacked by a swam of mosquitoes.

The Hon. M.D. Rann: We were. Very aggressive.

The Hon. K.O. FOLEY: Exactly.

Members interjecting:

The SPEAKER: Order! The member for Waite will behave.

The Hon. K.O. FOLEY: The Premier—and I said this to the group today—has offered to pay half for an acoustic survey to be undertaken as to the noise impact on the community. I said to the group today that if that piece of work is done and shows that there is no detrimental impact then I will certainly accept that. I will manage the logistics of the exercise up until the matter goes before cabinet. We have a project officer who has been given the job of managing this project and we have two officers from the LMC working with the group.

The problem we have is that the group was asked nearly a year ago, I think, at least eight or nine months ago, to provide a detailed concept design of what they are proposing so that we can then assess and call in the consultants to undertake the noise study, and they have not come back to us. They have not delivered plans or a concept design for the facility to government. So, in the absence of a design we have nothing for which we can prepare work to model the noise impact.

What I have said to the group today is, 'Let's get together.' There seems to be a large number of people speaking to this group. I have said, 'You really have to get your act together in terms of who it is that is negotiating with government.' We have agreed to have a meeting in the next week or so with my officers to get this stuff sorted out.

That said, the group has said that they will be protesting on Friday, they will be parading a number of their cars promoting a Port Adelaide motorsport park on the roads around the Clipsal on Friday. I have asked them not to do that because that I think that: (a) I am acting in good faith, they do not need to protest, the ball is in their court; and (b) it is an incredibly important day for the state. The Clipsal 500 is a flagship project and event and I think it would be unwise for that to occur. I am very disappointed that the member for Waite has endorsed that particular protest action. It seems unusual that an opposition would endorse a potential civil disobedience.

Members interjecting:

The SPEAKER: Order!

The Hon. K.O. FOLEY: It has been suggested that they will disrupt traffic.

An honourable member interjecting:

The Hon. K.O. FOLEY: That is what has been said. All I am saying is that I hope they do not.

Members interjecting:

The SPEAKER: Order! Leader of the Opposition, be quiet. Minister, could you finish your answer?

The Hon. K.O. FOLEY: I think I have.

LOCUST PLAGUE

Mr BIGNELL (Mawson) (14:53): My question is to the Minister for Agriculture and Fisheries. Can he inform the house of the effectiveness of the government's locust control program and the plans for autumn 2011?

The Hon. M.F. O'BRIEN (Napier—Minister for Agriculture and Fisheries, Minister for Forests, Minister for Energy, Minister for the Northern Suburbs) (14:53): I thank the member for Mawson for his question. I think it would be of particular interest to members of the opposition. The spring 2010 locust outbreak in South Australia was the largest and the most complex in the past 40 years—I think that is generally acknowledged. We undertook a 10-week spraying program,

targeting locusts at their most vulnerable stage, which is when they are banding. At the completion of operations, a total of 549 aerial targets were sprayed, covering an area of 460,000 hectares. That is an enormous area of land and I think that, nationally, South Australia did 80 per cent of the aerial spraying, so we were in this program in a very big way. The NRM boards and contractors treated 667 targets with ground spraying. The role of the NRM boards in doing the smaller targets was invaluable.

Now, this is the interesting bit of the proposition. A report was completed in February of this year by the Australian Bureau of Agriculture and Resource Economics and Sciences—ABARES, as we know it—regarding the cost benefit analysis for locust control operations carried out by the Australian Plague Locust Commission, the national body that does most of New South Wales, Victoria and Queensland and compared their work with state jurisdictions.

ABARES found that South Australia's result was exceptional and outperformed all other states in terms of a cost benefit analysis. It found that South Australia had invested $10.4 million at this stage with a benefit of $465 million.' Now that was $465 million in crops saved—this is very, very tangible—giving a benefit to cost ratio of 44.6:1.

To put this in context, ABARES undertook an analysis of operations of locust control activities in eastern Australia in the years 1999, 2000, 2004 and 2005, and took into consideration the impact of a second generation of locusts emerging, assuming initial outbreaks were not controlled. The discounted benefit to cost ratio was only 20.2:1. This means that South Australia's effort, its activity program, outperformed the rest of Australia by 2:1.

So, it was a great effort, and an effort that I think has been recognised by the South Australian farming community. It has saved literally hundreds of millions of dollars in lost crop and we did it extremely well. As well—

Members interjecting:

The SPEAKER: Order!

Mr Pengilly interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: As well, satisfaction was expressed by Riverland farmer, and chairman of the Riverland and Mallee community reference group, Mr Ken Kaye, one of nature's gentlemen. He said on ABC radio, on 6 December:

> Overall very successful...without the effort that's been put in, by especially the plane side of it, we would never have been able to spray in some of those places where the planes have sprayed.

While second-generation hoppers have developed in certain areas—the offspring of fly-ins and survivors from the spring offensive—their distribution and numbers were not as extensive as initially feared. We thought we would have a success rate of 80 per cent and that there would be 20 per cent left to deal with.

Ms Chapman interjecting:

The Hon. M.F. O'BRIEN: Yes. We have dealt with that. In essence, we believe that we have well and truly got the issue under control. The advice that I have received from the national body is that it is highly unlikely that we are going to need an autumn program but I will certainly be liaising with the shadow minister. He raised it with me in the lead-up to autumn and we are not going to get caught on the hop, so to speak, so we will be looking—

Members interjecting:

The Hon. M.F. O'BRIEN: Pretty lame! So, we have got our eye on the issue and we will fund it if required and that is the advice.

The SPEAKER: Your jokes are getting as bad as the Minister for Transport's. What are we going to do about our cricket problem? The Leader of the Opposition.

YUENDUMU FAMILIES

Mrs REDMOND (Heysen—Leader of the Opposition) (14:58): Can I say what a pleasure it is to follow the world's greatest agriculture minister.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: My question is for the Attorney-General. If it is the case that he is not going to comment on what he referred to earlier as 'unsourced scuttlebutt', does that mean that he did not say it and will he deny having said that the Warlpiri Aboriginals camping in the Parklands should be taken to beaches at Ceduna or Streaky Bay?

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (14:59): Same question, same answer.

Members interjecting:

The SPEAKER: Order!

DISABILITY EQUIPMENT

Mr SIBBONS (Mitchell) (14:59): My question is to the Minister for Disability. Can the minister outline what initiatives the government has made in delivering specialist equipment services for South Australians with disability?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (14:59): I thank the member for Mitchell for his question. In 2008, a six-month project was undertaken to reform policy and clinical operational procedures involved in the supply of equipment and home modifications to clients of Disability Services and Domiciliary Care SA. A subsequent six-month project was undertaken in 2010 to fully integrate the provision of children's equipment into the DFC equipment program.

Our combined increased investment and reforms in the provision of disability equipment has allowed us to supply 6,097 items of equipment and 451 home modifications to South Australians with a disability in the last financial year. Interestingly, on 24 September 2008, the then opposition spokesperson for disabilities moved a motion in the Legislative Council labelling the reorganisation of disability services as a failure. In reference to reforming the supply of disability equipment—

The SPEAKER: Point of order, the member for MacKillop.

Mr WILLIAMS: I think it is unruly and out of order to reflect on a debate in the other place.

The SPEAKER: I'm not sure about unruly, but it is not normal practice. Minister, continue with your answer.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. He said 'the service under the new equipment scheme is getting worse'. Before this process began in 2006-07, 1,941 items of equipment were supplied to adults and children with disabilities, with 131 being refurbished items. In that year, 231 home modifications were also completed. It is worth noting that in 2001-02—the final year of the previous Liberal government—only 1,393 new items of equipment and home modifications were provided.

In short, the quantity of equipment supplied to this group of South Australians has approximately tripled with a doubling of home modifications undertaken since this reform was put in place. The dollars invested in disability are precious and we are making every effort to—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: The member for Bragg is much louder than she was yesterday. She was dumbstruck yesterday. We didn't hear any personal explanations.

The SPEAKER: Order! The minister will get back to the question.

Members interjecting:

The SPEAKER: Order! Have you finished your answer?

The Hon. J.M. RANKINE: No, I haven't, Madam Speaker. We didn't hear any personal explanations about—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —responsible for us being over this side.

Ms Chapman interjecting:

The SPEAKER: Member for Bragg, you are warned for the second time!

The Hon. J.M. RANKINE: Out in sub-branch land, you're not very popular.

Mr PENGILLY: Point of order.

The SPEAKER: Point of order, the member for Finniss.

Mr PENGILLY: I know that you have just warned the member for Bragg a second time, but clearly she is being intimidated by this ferocious minister on the other side.

The SPEAKER: Order! I cannot imagine the member for Bragg being intimidated by anyone.

The Hon. J.M. RANKINE: If we can intimidate her into silence, that can only be a good thing. We are making every effort to ensure that we maximise the benefit to those seeking our assistance as well as getting value for money. Thirty-three per cent of the equipment provided last year was new and, importantly, 77 per cent of the equipment supplied had been refurbished.

The ongoing improvements have meant that, in 2010, supply times for items from the DFC equipment program averaged just three to four days from the time a client received a prescription. More complex items, including hoists, hospital beds and mobile shower chairs are supplied now in nine days, eight days and three days respectively. This compares with supply times for the same items in 2006-07 of more than 40 business days for beds and mobile shower chairs and 17 days for hoists.

There are exceptional circumstances where a client's needs are complex and supply may take longer. However, supply times have been significantly improved by refurbishing equipment that has not yet reached the end of its life cycle. The final phase of integration occurred late last year—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —and involved our ongoing partnership with Novita Children's Services. Prior to these reforms, separate equipment services for adults and children and older people with disabilities operated, creating inconsistent quality, inequities and inefficiencies. Since coming to office, this government has invested $44.5 million on disability equipment, and we recently committed $7.7 million to clear equipment waiting lists and increase the annual funding by $2.36 million. This will take recurrent funding to over $6 million by 2012-13; a stark contrast between Labor and Liberal. Not one extra piece of equipment was promised by the—

Members interjecting:

The SPEAKER: Order! Point of order. Minister, sit down.

Mr WILLIAMS: The minister is now debating the answer.

The SPEAKER: I uphold that, it is getting close to it. Minister, have you finished your response?

Members interjecting:

The SPEAKER: Order!

An honourable member: No, but wait, there is more!

The Hon. J.M. RANKINE: We acknowledge that there is still more work to do, but let me say we are streets ahead of whatever they promised at the last election.

GRIEVANCE DEBATE

GILLMAN MOTORPLEX

Mr HAMILTON-SMITH (Waite) (15:05): I rise to speak on the Gillman motorplex proposal, an excellent proposal to spend $100 million of private money at Gillman to establish a motorplex for the enjoyment of thousands of fans. This proposal began over four years ago. The proponents of the motorplex have money in the bank to build the complex. They are not asking for any money from the government, but simply for the government to get out of the road so that they can proceed with this terrific investment.

There are two main private developers involved—Mr David Georgiou from the property investment industry and Mr Bill Russo from City Dismantlers—as well as other investors. The business case stacks up and income would be generated from ticket sales, corporate boxes, signage, etc. The proponents of the motorplex have looked at a variety of sites and the Gillman site at Port Adelaide is the best. The site is owned by the state government and it is held by the Land Management Corporation, which is part of the Department for Transport, Energy and Infrastructure. The proponents would be happy to buy or lease the land at a competitive market rate. They are happy to pay on a full commercial basis, so why on earth would the government not agree?

Tailem Bend and other locations out of the City of Adelaide are not suitable in the view of the motorplex proponents. They are too far away. The site must be close to the city and the airport, where fans and competitors can easily access it, and where the appropriate infrastructure should be built. The site is also close to the water and linkages have been formed between the proponents of the motorplex and the boat racing and jet boat racing communities which are adjacent to the site. There are considerable synergies for circuit racing and for boat racing, so the two can feed off each other.

I am advised that the Land Management Corporation and the government have been less than fully supportive. I heard the minister say, in answer to a question today, 'Why don't they put a proposal together and we will consider it?' The reason is simple: that will require spending a quarter of a million dollars putting the work together without any guarantee that the land will ever be made available. You need something you can take to the bank.

So, I say to the government, give them a surety before you ask them to spend a significant amount of money doing detailed planning. This is a no-brainer. There will be people employed at such a motorplex doing everything from selling pies and pasties to working on cars and vehicles worth many, many thousands of dollars in complex motor trades. This is a terrific investment proposition. It involves private sector money. It is good fun; it is good sport; it is good business: why on earth would you not do it?

I bring to the house's attention that there are some very senior Labor people, not from Mr Foley's faction, who think it is a very good idea. For example, the federal member for Port Adelaide, Mark Butler, and the federal member for Makin, Tony Zappia.

The SPEAKER: Order! There is someone in the gallery displaying material. I would ask them to not display that or they will be removed from the gallery.

Mr HAMILTON-SMITH: So, Labor, again, is divided on this issue. We have Labor members from the left saying, 'Do it,' and Mr Foley from the right saying, 'Let's not do it.' The common sense of the investment stacks up. The motorplex proponents have indicated that they will be running a series of protests. I hope to table one of the biggest petitions ever submitted to the state parliament after the Clipsal weekend. They have asked fans to sign the petition during the Clipsal. They will also be running a law-abiding and peaceful protest as part of the Clipsal celebrations. Motorsport fans want their industry to prosper. Like horse racing, it is good business and it is good for the state. It is good fun and, in a city that is vibrant and goes forward, these are the sorts of investments you need to have.

Young people love them, young families love them, it is great for enthusiasts, it is great for business, it creates jobs—why wouldn't you do it? The Liberal opposition calls on the government to agree so that it can proceed.

Members interjecting:

The SPEAKER: Order!

INDUSTRY CAPABILITY NETWORK

Mr SIBBONS (Mitchell) (15:10): When governments team up with local industry, great things happen and community benefits. An important player in this scenario is the Industry Capability Network or ICN. Established in 1985, and funded by the South Australian government through the Department of Trade and Economic Development, the ICN promotes and supports local businesses, especially by facilitating their participation in major projects.

Overall, the ICN's role is well summed up, according to its website, as 'matching buyers with suppliers, helping local businesses access opportunities while saving purchasers and project managers time and money'.

Earlier this month, I attended and spoke at the ICN's first Breakfast Series event of 2011 and experienced first-hand the power of such potential partnerships. On this occasion, it was a gathering of businesses who could potentially supply products, services and know-how for the Southern Expressway duplication. More than 140 companies and organisations were represented among the crowd of 200 who attended. The event was so successful that registrations had to be closed off and a waiting list started two weeks before the event.

As I said that morning, for me, the Southern Expressway project is about one thing, and that is opportunity: opportunity for local jobs, opportunity for local business, and opportunity for outstanding community engagement—overall, a much-needed opportunity for people who live and work in the south. The southern region of Adelaide has been identified as an area for residential and employment growth in the 30-Year Plan For Greater Adelaide 2010. During the next 30 years, the southern region is expected to grow, with an additional 54,500 homes, 104,000 more residents and 55,000 more local jobs.

Most of this growth will occur in the City of Marion and the City of Onkaparinga. The Southern Expressway duplication project will improve the road network capacity in the southern region so that it can handle expected traffic volume increases as a result of this anticipated growth. The duplication will be critical in ensuring that this growth is sustainable and that people in the south have good access to employment, education, shopping and community facilities.

There will be an estimated 1,500 workers employed on the duplication project and the state government aims for at least half of these jobs to be given to people living in the south. Following the duplication announcement, a task force was established, led by Leon Bignell, MP for Mawson, to ensure that these local employment targets are reached.

In addition, this task force aims to ensure that at least 200 jobs are filled by young or disadvantaged people living in the south, and that the young people working on the project are trained in new skills and trades that they can use for the rest of their lives. The task force includes representatives from the Department for Transport, Energy and Infrastructure, local government, elected members of parliament, the Office for the Southern Suburbs, Flinders University and the Civil Contractors Federation.

The south has faced exceptionally tough times in terms of employment over the past decade including the closure of Port Stanvac and Mitsubishi's two plants. I have personally seen the impact that this has had on the broader community, as well as the many families directly impacted by these redundancies. It is not surprising then, given the recent history, that industry, service and employment providers are ready and willing to get involved with the duplication project. DTEI has also set up an online registration form so that individuals interested in employment through the project can easily register their details.

The majority of the jobs will begin when the project enters the construction phase at the end of this year. Again, this is about bringing the people of the South with us, embracing the many opportunities that this project will present, and working together with all levels of government, industry and the community to maximise the benefits this project can bring.

KING STREET BRIDGE

Dr McFETRIDGE (Morphett) (15:15): I raise a very important issue in this house this afternoon and that is the issue of the replacement of King Street Bridge at Glenelg North. The bridge was built in the early 1960s. The then three-span bridge was expanded to five spans in the early to mid-70s and I must say, that whilst it was being expanded to five spans, the army came in and put a temporary bridge there to allow access to Glenelg North Peninsula and for the locals to use for access to that area without having to go right around the Patawalonga and on to Tapleys Hill Road.

That issue has raised its head again with the redevelopment of that bridge. The bridge has concrete cancer now. Over 7,000 cars, trucks and buses a day go over that bridge. It is part of the western suburbs safety plan, the emergency access plan. The bridge needs to be fixed; it needs to be replaced. The problem is, the bridge is closed now and the 7,000 cars a day that used to go over that bridge are going via Africaine Road on to Tapleys Hill Road.

That intersection is a very dangerous intersection. The Africaine Road has an S-shape to it; you cannot see very far ahead of you; you come to the intersection with Tapleys Hill Road; it is a four-lane very busy road. There is an S-bend in Tapleys Hill Road to the south, a straight section to the north. To try and enter Tapleys Hill Road from Africaine Road is an accident waiting to happen.

It is a very, very busy intersection, and what we are asking the Minister for Transport to do is to put in traffic lights at that intersection. The bridge will be out of action for at least 12 months, but that intersection will still be a very busy intersection. There are cars with boats on from Adelaide Shores, there are cars with caravans from Adelaide Shores, plus the increase in local traffic coming out of Africaine Road—even when the bridge is finished it will still be an issue. So, putting lights in there now at $300,000 is a small cost, because if there is a serious injury as a result of an accident at that intersection, it will cost about $600,000. If there is a death, it will be over $1 million to the economy, never mind the terrible social impact.

I wrote to the Minister of Transport first in 2008, and since then we have contacted his office a number of times. I understand the police have contacted the Minister for Transport, asking for traffic lights at that intersection, and I know just recently his Morphett ALP sub-branch contacted the minister asking for traffic lights at that intersection. The minister is refusing to listen. There was a meeting with the council yesterday from DTEI. I understand that traffic lights were not on the table there. I hope I am wrong in that case, because traffic lights are the only real answer to that very dangerous intersection.

You can synchronise those traffic lights at that Africaine/Tapleys Hill roads intersection with those just south of that at the Warren Avenue/Tapleys Hill Road intersection. If you want an example of how that works, just go out the front where we have 17 sets of traffic lights on North Terrace to allow for the trams and the other traffic and then the hospital and the universities. It can be done, so you cannot tell me we cannot do it at Tapleys Hill Road.

It has been slowed down from a 80 km/h zone to a 60 km/h zone because it is a dangerous area; it is a dangerous intersection. That has already been acknowledged by that change in the road speed. The volumes are getting worse because the southern suburbs are developing, people are using that as a corridor to the north, and you have increased populations on the coast. When there is the first footy match with the Crows on 26 March, you watch, that will be just absolutely jam-packed down there.

I do not want to see an accident there; I do not want to see an injury; and for heaven's sake I do not want to see any deaths at that intersection. The minister might think I am being melodramatic, but this is a fact. Everybody—the people there, the police, his own Morphett ALP sub-branch—believes that the minister needs to do something about that. It is not just about banning right-hand turns. It is not just about trying to slow the traffic down by diverting traffic up to West Beach Road or Sir Donald Bradman Drive or down through the Bay some other way. That is not the answer. The answer is traffic lights at that intersection. An amount of $300,000 for a permanent set of traffic lights is a very small cost when you consider the cost of injuries and deaths at that intersection and a developing area, developing to the south. We need to do something; it needs to be done now. You cannot delay with this. The minister has been aware of this for a number of years. I am telling him, the people down at Glenelg are telling him, the police are telling him, and his own Morphett ALP sub-branch is telling him; so the minister needs to start listening and spend that money to fix the problem, fix the intersection, and make sure that nobody is killed there and that traffic continues to flow.

INTERNATIONAL WOMEN'S DAY

The Hon. S.W. KEY (Ashford) (15:20): Today, for three-quarters of an hour, at least, I had the privilege of attending the International Women's Day luncheon. I am very sad that the government and the opposition did not decide to start parliament at two o'clock so that those of us who wanted to go to the International Women's Day Centenary lunch could attend. Anyway, some of us managed to get there for a short period of time.

I think the important thing about the International Women's Day lunch is that it has been a celebration that has been happening for 73 years. As members of this house would be aware,

International Women's Day was first mooted at the Second International Conference of Socialist Women in Denmark in 1910 and the first International Women's Day event was celebrated in 1919. In Australia, the first International Women's Day rally was held on 5 March 1928 in Sydney.

The first official meeting of our South Australian International Women's Day committee was held in 1938 and was attended by the Women's Council of Trade Unions, the Women's Peace Pledge Union, the Friends, the League of Women Voters and the Women's Welfare League, as well as many other women's groups that were around at the time.

I did note in the booklet that was handed out today to celebrate the 100 years, that your place, Madam Speaker, as our first woman speaker, will need to go down in that very booklet. Anne Levy is recognised as becoming the first female President in the Legislative Council in 1985, but you will be added to that honour roll, and I am really pleased that that has happened.

In 1913, International Women's Day was transferred to 8 March. I note that in this place yesterday there were contributions through the grievance process acknowledging International Women's Day. That is the date on which International Women's Day has been acknowledged in particular.

In looking at the history of International Women's Day (IWD) in South Australia, there are quite a few interesting times to note. I note that in the 1983 South Australian Married Women's Property Act, married women were given the right to own their own property. For example, in the 1896 South Australians Married Women's Protection Act, women were given legal protection against their husbands, which seems to me to be a very important thing, too.

In 1966 at the International Women's Day function, Mrs Molly Byrne MP talked on women in parliament. That would have been an interesting contribution. I was not at that particular lunch—I would have been quite young. The first lunch I attended was in 1971, where Justice Roma Mitchell; Mrs Elizabeth Yeatman from the Family Planning Association; Miss Anne Summers (writer); Mrs Freda Brown, the President of the Union of Australian Women; and the United Nations representative on the status of women were speakers at that particular function.

I also note that at the luncheon in 1973, Miss Anne Levy from the Genetics Department of Adelaide University was the speaker. In 1984—there were a number of speakers, obviously, in between—the now Professor Eleanor Ramsay spoke on women's education and employment. I was very fortunate in 1986 to be the speaker, with Sue Vardon, who was then the Director-General of the Department of Community Welfare. In those days, I was the first woman industrial officer at the Trades and Labor Council of South Australia.

I have watched this committee work through the different functions and celebrations that have been put forward. I remember in the very early days, certainly in the 70s, the cordial and sandwiches—

Ms Thompson: I miss them.

The Hon. S.W. KEY: —that were served at these luncheons. Some of the members in here, the member for Reynell, for example, can remember those days as well. I would just like to take this opportunity to also acknowledge the work that is done by the International Women's Day Committee. It is headed up by the president, Toni Jupe, who does a fantastic job and has a number of members who do fantastic work, from Miriam Silva, the Vice President, right through to Rosa Colanero.

GOVERNMENT SPENDING

Mr VENNING (Schubert) (15:26): Madam, just when we thought we had heard it all with this government and their ridiculous financial decisions, just last week the government advertised for tenders for 1,500 brand-new plasma TVs for our prisoners at a time when cuts to services are being made across the state. It is just absolutely ridiculous. What a way to spend taxpayers' money, and what messages are we sending to the people of South Australia?

A recent report by the Centre for Independent Studies found that South Australia has the worst financial ranking of any state in Australia because of high taxes and poor controls on government spending—what a condemnation. The report shows the government is spending $9,329 per head of population to provide services, $668 per annum more than any other state. Expenditure on government expenses is even worse. South Australia is well above the average of all the other states, averaging $8,861.

Perhaps people would not react so badly if the money was being spent in areas of need, such as assisting the Keith Hospital, or if it meant cuts to other health services, schools, the public sector, such as jobs in PIRSA were prevented, but this is not the case.

It was recently revealed that whilst the planning for all the cuts announced on the 2010-11 budget were under way, the Labor cabinet, under the leadership of premier Rann, embarked on a spending spree, a spree which cost $792 million. What was the money spent on, you might ask. You would not believe: 12 plush ministerial office developments—not on doctors, not on nurses, not on police, but on offices. No wonder South Australians have had enough.

This cannot be true. I would just love somebody to say we have got that information wrong. I have heard nothing about it yet. The Sustainable Budget Commission recommended a 30 per cent cut to the cabinet office, but in the end only a very minuscule cut was implemented. The commission also recommended a cut in the Premier's own personal office, but again we have seen no cuts or minuscule cuts and a splurge of $792 million before any cuts were made.

How long would that keep the Keith, Moonta and Ardrossan hospitals open? It could build a new Barossa hospital and run it for decades on that money, well after the minister has well and truly gone. Let's compare that to PIRSA's position.

The government announced that 179 positions will have to go in the 2010-11 budget. Where is the equity in that? The Rann Labor government has one rule for themselves and another for everyone else. What value do we get from the millions spent in the Premier's department, especially the Premier's notorious spin team; but that is not all. The financial mismanagement continues.

The Rann government has given up the rent-free property they utilised in Walkerville used by the Department for Transport, Energy and Infrastructure in favour of renting a property in the CBD at a cost of $137,000 per week, signing a 12-year lease. That amounts to $86 million that the government will pay in rent—extra rent—over the life of the lease. On top of that, the minister is now seeking cabinet approval for a $13 million refit of those premises. Where is the restraint in these tough times? What sort of financial decision is that, who made it and who is and should be accountable?

Instead of stopping their reckless spending they have taken the axe to jobs, small school grants and have absorbed the pension increase by cancelling public housing rent assistance for pensioners, rises to all fees and charges—driver's licences, motor registration, water bills—I could go on and on. Madam Speaker, this is a government that is mired in self-indulgence at the expense of the taxpayers of this state. We have all these cuts, yet the total estimated revenue of 2010-11 actually increased by $52 million in the three months since the delayed budget was handed down in September. However, spending has also increased by $156 million during this time—so, we were down by $104 million. In October the then treasurer said during estimates:

> There is no question that the blowout in expenses is our problem...There is no question that expenditure overruns are the biggest threat to public finances.

He has admitted defeat by resigning. I could not agree more with the previous treasurer's sentiments. Why should South Australians have to fork out and go without just so the Rann government and co can pad out their own nest? As my leader reminded the house yesterday, the Rann Labor government after nine years in office is still having trouble with the Public Service, and it is doing yet another report—report No. 6—in nine years.

Time expired.

WASLEYS

Mr PICCOLO (Light) (15:30): I would like to talk today about a town within my electorate: Wasleys. The town of Wasleys was established in an area known as the Mudla Wirra Forest. It was previously within the Mudla Wirra Council and it is now part of Light Regional Council. The name Mudla Wirra is Aboriginal—'Mudla' meaning 'implement' and 'Wirra' meaning 'forest'. Members can see where the name came from.

The town of Wasleys is now situated on an area first known as Ridleyton, which was named after John Ridley, who laid out the village of Ridley in 1873. The township was advertised to attract people seeking good agricultural land. It was advertised as Ridly Township-Wasleys Station. In time two townships were announced and they were called Ridleyton and Wasley. As the towns grew, the name 'Ridleyton' was discarded and the town became known as Wasleys.

Early settlers to the area soon made their mark on the history of the region. In 1843, John Ridley revolutionised the agricultural industry with the first stripper machine. In the 1860s, a local farmer named Charles Mullen created a method of ploughing, which was known as 'mullenising'. Mullen invented an implement used throughout Australia, which was the precursor of the stump-jump plough, which I remember learning about in geography during high school.

During 1866-1877, pioneer farmer Richard Marshall succeeded in solving the red dust problem in wheat by crossbreeding various wheat varieties and improved soil conditions using bonemeal on the land. After good crop returns, a student at Roseworthy College named Charles Deland led a campaign in favour of fertilizer.

Rail arrived in the town in 1869. The rail line was extended through the region, and a railway station was erected on the land purchased by Josiah Wasley, one of the first settlers to the area. The post office was opened in 1869 by Mr George Thompson. The local school was to open in 1878. Wasleys became a thriving centre and once operated three chaff mills. Although the chaff mills have ceased operating, the town is still a focal point for agriculture and farming lifestyle. An article in The Bunyip of 27 September 1873 states, 'There can be no questions that this is an excellent locality for a township.'

Today the township is home to about 300 people, with around 850 people living in the post code area 5400. Madam Speaker, Wasleys has been a very vibrant community. By reading the book written by Nancy Wood OAM, *Wasleys As It Was,* you can get a feel of how vibrant the town was, as well as the families and what they did over the century.

The community still has a CFS (the Wasleys' Woolshed CFS). It has a very active bowling club, an institute committee and an oval committee. The question would arise: why am I raising this history lesson of Wasleys today? It is no secret that the general store is now struggling, and of recent days there have been rumours that the post office will close. This is obviously a concern to me, because often post offices and general stores are the heart of country townships.

It is not only a case of getting your products but it is also a place where people meet and talk. I have had a number of meetings with residents outside the general store over the years. It was also the place where I held my first public meeting when I was an elected member in response to some council action. I rocked up one day to meet some residents. I then called a public meeting, and, to my surprise, over 120 people turned up to this public meeting—a third of the town turned up. Again, it is no secret that the town had a lot of issues with the previous administration of the Light Regional Council—I say 'previous' because things have improved a lot.

The reason I raise this today is because I indicate that I wish to work with the council and other relevant agencies to ensure that this community does not lose its important institutions, such as the general store and the post office. While I am advised that the post office is safe, we need to find some way of attracting investment into this town to make sure that it experiences a renaissance of its grandeur days.

More recently, the town has experienced some growth. There have been some developments which have been approved, and there is some growth there, but my concern is that the growth may not be fast enough to sustain the very services which are required. Hopefully, we can work with the community to save it.

STATE SOVEREIGNTY

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:36): I move:

That the Legislative Review Committee—

(a) inquire into and report on an agreed process for all parties and Independent members in the South Australian parliament to follow that will enable issues of sovereignty to be considered by the parties and independent members where the parliament is considering a bill that seeks to apply the law of another state, territory or the Australian government to South Australia; and

(b) consider a process that enables the parties and Independent members to consider the issue of sovereignty separate to any other debate on a bill, thereby avoiding unnecessary debate on this issue in parliament and instead enabling the debate to focus on the purposes and content of a bill.

I move this motion under section 16(1)(a) of the Parliamentary Committees Act 1991 to refer an issue to the Legislative Review Committee. The issue that I ask to be referred to the committee is that it inquire into a process for parliament that can be used to determine any sovereignty issue as

a result of a bill that seeks to apply a law of another jurisdiction to South Australia prior to any debate on the bill.

The government, obviously, does not make the decision to adopt a law of another jurisdiction lightly and there is a worthwhile policy debate whether or not we should do that in every particular case, but if we decide that we ought to do that then it would be helpful if the parliament had a process by which it could be accelerated. In the past year there have been several pieces of legislation that, for sound policy or practice reasons, have resulted in laws of other states, territories or the commonwealth applying to a bill before the parliament.

On many an occasion when a bill has sought to apply a law scheme from another jurisdiction—the most recent example I am aware of is the Controlled Substances (Therapeutic Goods and Other Matters) Amendment Bill—the issue of sovereignty is raised and an unnecessary amount of time is spent debating constitutional law issues instead of debating the purposes and content of the bill. During the debate on that piece of legislation, and one other, I said to the member for Morphett—because I understand the issues being raised by the opposition in terms of sovereignty—'How about we refer the matter to the Legislative Review Committee to see if it can come up with an appropriate way of dealing with these types of measures so that we can reach some consensus about how to do it?' So, that is what I seek to do. The I advice I have is that, given the nature of what I am asking the Legislative Review Committee to do, it has to go through both houses of parliament, so I commend this motion to the house.

Debate adjourned on motion of Hon. I.F. Evans.

SAFE DRINKING WATER BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:39): Obtained leave and introduced a bill for an act to make provision for the supply of safe drinking water; to amend the Food Act 2001; and for other purposes. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:40): 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.

In 2002 the United Nations declared that safe drinking water is a basic human right that is indispensable for leading a healthy life and a pre-requisite for realising other human rights. This Bill is about protecting the safety of drinking water supplies.

In South Australia the essential requirement of access to sufficient water for critical human needs has been highlighted by the recent drought and reinforced by the Commonwealth *Water Act 2007* which recognises that water for critical human needs has the highest priority and must be taken into account. But access to sufficient water is not enough, it needs to be safe for drinking and basic hygiene to support sustainable communities.

The development of South Australian drinking water supplies has followed a similar path to those in other developed countries and regions. In the 19th century infectious diseases such as typhoid and cholera from contaminated water were common causes of illness and death. The response was to establish safe and reliable supplies, which was seen as a common good to be provided where possible and where practical by government. This led to the construction of large pipelines from the River Murray, a network of reservoirs in the Adelaide Hills and the mid-north, the installation of water treatment plants and an extensive distribution system.

There have been a number of challenges and emerging issues but these have been addressed by the development of an increasingly sophisticated system. Filtration of Adelaide water supplies was completed in the early 1990's and of all River Murray supplies in 2009. Chloramination was introduced in the 1980s to combat the causative agent of amoebic meningitis, *Naegleria fowleri*, operation of filtration processes was upgraded in the late 1990's to respond to the emergence of *Cryptosporidium* and more recently dual disinfection processes have been installed to provide added protection at a number of treatment plants. Most importantly comprehensive risk management systems have been established for all drinking water supplies operated by SA Water. The current system incorporates a multitude of controls that ensure supplies are monitored 24 hours a day, seven days a week. Throughout this development a strong and enduring collaboration has been maintained between SA Water and the Department of Health to meet the shared goal of ensuring safe drinking water supplies.

The outcome has been the establishment of safe and reliable drinking water supplies. As a result, in South Australia as in other developed States and countries, infectious disease is no longer the most common form of illness and death. In contrast, infectious disease including diarrhoeal disease remains the largest cause of death in

developing countries. The World Health Organization estimates that about 2 million people, mostly children, die every year from diarrhoeal disease with a high proportion attributed to unsafe drinking water and poor sanitation.

However, while there have been great advances, safe drinking water cannot be taken for granted. The cost of complacency can be extremely high as demonstrated by significant outbreaks in North America and Europe. The most widely reported were two outbreaks in Milwaukee in the United States and Walkerton, Canada. The first occurred in 1993 where an estimated 403,000 people contracted cryptosporidiosis from contaminated water supplied in Milwaukee. The outbreak was associated with a filtered disinfected water supply not dissimilar in nature to Adelaide drinking water supplies. The estimated cost of illnesses alone was $96 million. The second occurred in 2000 in Walkerton, where contaminated water led to seven deaths and 2,300 illnesses. The overall cost was estimated to be $155 million together with loss of confidence in the town's water supply and substantial impacts on tourism.

In Australia the most notable incident occurred in Sydney in 1998 when three boil water notices were issued over a period of several weeks following the detection of suspected contamination of the drinking water supply with *Cryptosporidium* and *Giardia*. The incident received widespread national and international coverage and even though there was no evidence of illness in the community the overall cost of the incident to Sydney Water was estimated at $75M with a much larger public cost due to the impact of the boil water alerts.

The Sydney incident highlighted that communities expect their drinking water supplies to be safe and evidence to the contrary leads to strong responses as reflected in widespread media coverage. This was to be expected and such responses have been repeated whenever drinking water safety has been threatened. Even perceptions of failure can lead to high levels of community concern.

At the time of the Sydney incident there was little regulation of drinking water quality in Australia. Most urban water supplies were operated and owned by State and Territory Governments or Local Government and the introduction of regulations was not seen as a high priority. The primary responses to the Sydney incident were strengthening of the *Australian Drinking Water Guidelines* through inclusion of a preventive risk management system and operational reviews of urban water supplies to minimise the likelihood of recurrence. To a large extent these responses were led by the drinking water industry and State health departments. They were not directed by legislation. However, in the last 10-12 years operation and oversight of drinking water supplies have changed and there has been a gradual move toward regulation.

These changes have included increased corporatisation of the drinking water industry, outsourcing of functions, greater private involvement, increasing recognition of a disparity in the operation of large urban supplies and smaller community supplies and an increasing diversity of drinking water providers which is likely to increase in response to climate change. The shift toward commercialisation and corporatisation was identified by the Productivity Commission in 1998 which also noted in 2000 that regulation of drinking water safety was light-handed and while this increased flexibility it provided less certainty of compliance, transparency and accountability.

The first step toward increased regulation was inclusion of drinking water in the Model Food Bill in 2000 developed as part of the Intergovernmental Agreement on Food Regulation in Australia. This approach was adopted in the South Australian *Food Act 2001* and Food Regulations 2002 which include general requirements to produce safe drinking water. However, the Model Food Bill and the South Australian legislation do not provide guidance on how this should be achieved or how it can be measured. Other States have developed specific drinking water legislation starting with Victoria in 2003 and followed by NSW in 2006 and Queensland in 2008. The Victorian legislation was designed to provide a consistent framework across the State as well as addressing the disparity between metropolitan and non-metropolitan supplies; the NSW legislation applies to private sector suppliers while the Queensland legislation was developed as part of a package responding to severe drought conditions.

In South Australia the long standing provision of drinking water by SA Water and collaboration with the Department of Health has served the State well with no recorded outbreaks and limited and well managed incidents. However, the changes occurring in the rest of Australia are also relevant to South Australia. Although SA Water supplies about 94% of the population of the State it is estimated that there over 500 independent drinking water providers that supply independent town supplies such as those at Coober Pedy, Leigh Creek and Roxby Downs, remote indigenous communities, schools, accommodation premises, hospitals and residential care facilities and water carters. It is expected that the number of suppliers will increase in response to challenges associated with climate variations and growing populations. Many of the independent providers are very small, but internationally it is recognised that management of small supplies can be a challenge and as a result they cause a disproportionate number of drinking water outbreaks.

Water for Good notes that with increasingly diversified supplies and potential new providers it is timely to develop and implement more prescriptive drinking water legislation to provide a more clearly defined framework for identifying roles, responsibilities and reporting requirements. The Bill fulfils these requirements and provides clear direction to drinking water providers on how to achieve safe drinking water in a manner that is consistent with the level of risk presented by different types of water supply.

The Bill was developed through a process that included extensive consultation with the broad range of individuals, organizations and agencies that could be affected by the provisions. These included operators of bed and breakfasts, water carters, Local Government, the SA Tourism Industry Council, SA Water, United Water, United Utilities and Government Agencies. The consultation commenced in 2008 prior to release of a Discussion Paper in 2009 and continued through the development and release of the draft Bill for formal consultation in 2010. A total of 22 written submissions were received during the two periods of consultation with more than half being provided by Local Government.

The core provisions described in the 2009 Discussion Paper and the draft Bill were largely derived from other Australian legislation and alternative mechanisms such as memorandums of understanding and codes of practice. Many of these provisions are also similar to requirements described in International legislation. During formal and informal consultation, responses to these provisions and the purpose of the proposed legislation were consistently positive and supportive. The only substantive changes were inclusion of provisions for exemptions for rainwater tank supplies in low risk settings and discretionary supplies in parks and other recreational areas. Other changes were generally limited to matters of detail, administrative clarity and implementation.

Comments received have been addressed and the resultant revisions have strengthened and improved the Bill. The outcome is a Bill that is both effective and practical. During consultation many stakeholders including water carters and operators of small supplies commented on the advantages of improved direction and clarity provided by the Bill. It was considered that regulation of drinking water supplies was a positive measure that would provide a level playing field for all drinking water providers and discourage poor practices.

I would like to take this opportunity to formally thank the individuals, organisations and agencies that participated in the consultation process and assisted in the development of the Bill. In particular I would like to acknowledge the contribution of Local Government and Environmental Health Australia, the professional body representing environmental health officers. Local Government plays a pivotal role in the protection of public health at a local and State level and together with the Department of Health administers the *Food Act 2001*. This experience underpinned the valuable contributions provided on the design of the Bill and practical aspects associated with implementation.

I now wish to discuss and highlight key features of the Bill.

The objective of the *Safe Drinking Water Bill 2010* is to ensure the delivery of safe drinking water as described and defined by the *Australian Drinking Water Guidelines* published by the National Health and Medical Research Council and the Natural Resource Management Ministerial Council. The Bill describes actions that if implemented should protect drinking water safety. The Bill also describes reporting requirements when it is suspected that a water supply could be unsafe. This will enable action to be taken where necessary to protect public health.

The Bill applies to drinking water providers that are currently subject to the *Food Act 2001* including SA Water and their contractors, operators of independent town water supplies, providers of drinking water in rural and outback communities, providers of drinking water in commercial settings such as schools, accommodation premises, hospitals and residential care facilities and water carters. All drinking water providers will need to register with the Department of Health. There will be no registration fee.

The Bill does not apply to businesses or others that supply water delivered by another drinking water provider such as SA Water or to domestic use of rainwater tanks and other private supplies. It also does not apply to packaged water including bottled water which by international convention is administered through food codes and legislation.

The Bill provides for exemptions for small supplies derived from rainwater tanks at premises such as bed and breakfasts, community halls and caravan parks, subject to advice being provided to guests about the source of the water. This could be achieved through simple measures such as standard tap signs and information on accommodation forms. This approach is consistent with current Department of Health advice that rainwater from well maintained tanks and roofs is generally safe but the decision to drink rainwater is a matter of personal choice. The Bill also provides for exemptions for discretionary sources of rainwater or bore water provided in recreational areas such as National Parks where drinking water supply is not guaranteed as a condition of use of the area.

The key requirement of the Bill is that all drinking water providers will need to implement risk management plans. Risk management plans are recognised as essential components for assuring drinking water quality and investigations of international outbreaks and incidents have shown that most if not all could have been prevented by better management. Following the Sydney Water incident fundamental changes were introduced into the *Australian Drinking Water Guidelines* to greatly strengthen the focus on sustained good management of drinking water supplies. A risk management framework that can be applied to all supplies irrespective of size was included in the guidelines. A similar framework was also incorporated in the World Health Organization *Guidelines for Drinking-water Quality*. South Australia had a strong involvement in developing the risk management frameworks in the guidelines and has since worked with drinking water providers throughout the state to facilitate the development of risk management plans. This has included plans for supplies at small accommodation premises, schools and rural and remote supplies as well as those operated by SA Water. This process began before development of the Bill and organizations such as the Bed and Breakfast and Farmstay Association recommend that their members implement risk management plans. Software and paper based tools have been developed to assist operators of small supplies to prepare plans. Experience has shown that these plans can be successfully developed by all types of drinking water providers.

The plans will include monitoring programs and incident protocols which will be used to verify water safety. Monitoring plans will describe testing requirements while incident protocols will include criteria for test parameters. Non-compliance with these criteria will have to be reported to the Department allowing immediate assessment of water safety and identification of responses. While water quality criteria will be based on guidance provided in the *Australian Drinking Water Guidelines*, the Bill will not include numerical standards. A significant advantage of this approach is that it retains flexibility in dealing with system specific issues. This is an extension of the existing arrangement between the Department and SA Water. In 1999 the then Government recognised the need for an interagency water incident protocol. The drivers for establishing the protocol were the Sydney Water Incident together with contamination events in untreated sources of Adelaide's water supplies. This protocol which is coordinated by the Department of Health has operated successfully for more than 10 years.

As monitoring programs and incident protocols are used as the mechanism to verify drinking water safety the Bill requires that they will need to be submitted to the Department of Health for approval. The Department will develop guidance on the preparation of monitoring plans and incident protocols. This will include generic monitoring plans and incident protocols for common examples of small water supplies.

The issue of monitoring costs was raised by a number of stakeholders but impacts will be minimised by tailoring requirements to match the size and risk of water supplies. For example, monitoring of very small water supplies will be based on current recommendations provided by the Department of Health and costs could be as low as between $55 and $130 per year. Monitoring requirements will increase in proportion to risk and those for larger supplies operated by SA Water will generally be in line with recommendations in the *Australian Drinking Water Guidelines*. SA Water already has an extensive monitoring program and a proportion of independent drinking water providers also undertake routine monitoring.

The Bill will increase transparency by requiring that all drinking water providers submit water quality results to the Department of Health and provide results to consumers. SA Water currently provides water quality results on a monthly basis which will satisfy the requirements of the Bill. Other providers submit results on an intermittent basis or not at all. Reporting requirements will be based on size and complexity of water supplies. For example, operators of small supplies could be required to submit results every 2 years.

Drinking water providers will also be required to provide results to consumers. Large and medium size providers could achieve this by publishing results on web-sites while small providers could provide information on request to consumers. This is a standard requirement in interstate and international jurisdictions.

The Bill provides for audits and inspections of drinking water supplies. This is a standard requirement in food legislation and interstate drinking water legislation. Audits and inspections are considered to be an important tool to confirm that risk management plans are effective in producing safe drinking water. Inspection and audit frequencies will be specified according to the size and complexity of drinking water supplies. For example, SA Water will be required to undergo an audit on an annual basis while medium providers such as independent town supplies and remote supplies will be subject to an audit once every two years and small providers including accommodation and food premises will be inspected once every two years.

To reduce duplication and impacts, inspections and audits will be combined with existing requirements wherever possible. For example, drinking water audits will be combined with existing mandatory food audits undertaken at hospitals, aged care facilities and child care centres while Bed and Breakfasts could have drinking water inspections incorporated into the existing accreditation program undertaken by the South Australian Tourism Industry Council. The Tourism Industry Council has indicated support for this approach.

Inspectors and auditors will be approved for the purposes of the Bill by the Department of Health. Expertise and training is currently available for inspectors and auditors. Environmental health officers employed by Councils have the required skills to undertake inspections of small water supplies while additional training provided in South Australia for food safety auditors is considered suitable for auditors of moderate size water supplies. Many environmental health officers have undertaken this training. A formal training course has been established for auditors required under the Victorian Safe Drinking Water Act and this training is suitable for auditing large drinking water supplies.

Under the Bill, the Minister will be charged with the overall responsibility for administering the legislation. Currently, the *Food Act 2001* is jointly administered by the Department of Health and Local Government however the Department of Health will have greater responsibility in administering the Safe Drinking Water Bill. The primary reasons for this are that the largest supplier SA Water provides a statewide service that crosses Local Government boundaries while many independent water supplies are within unincorporated parts of the State. However, Local Government will retain inspection and enforcement powers for small drinking water providers in their area, such as water carters and businesses that provide drinking water in conjunction with other services, such as provision of food. Local Government currently has responsibility for ensuring compliance of these businesses with the *Food Act 2001*.

To ensure consistency, enforcement provisions including penalties for non-compliance specified in the Bill are similar to those provided in the *Food Act 2001.* These include penalties for supplying drinking water that is unsafe. In addition a penalty has been included for failure to report reasonable suspicions that a drinking water supply is unsafe.

In a similar fashion to the *Food Act 2001* and the draft *Public Health Bill 2010*, the Bill allows the Minister, local Councils or bodies established by Council to appoint authorised officers for the purposes of administration and enforcement. Authorised officers will have similar powers to those specified in existing legislation and will allow officers to undertake inspections, require provision of information, issue notices for remediation and where necessary take emergency action. This could include issuing of boil water notices in the case of microbial contamination or restrictions on use in the case of chemical contamination.

Similar to the *Food Act 2001*, the Bill establishes a framework for consultation with Local Government in relation to the administration and enforcement of the legislation. The Bill provides for a memorandum of understanding to be developed to facilitate this consultation and to ensure a shared understanding of the processes and resources required to implement and administer the Bill. Local Government has indicated that it supports the administrative structure in the Bill.

The Bill refers to a number of matters that will be prescribed by regulations such as conditions of registration, provision of exemptions for rainwater tank based supplies, the content of risk management plans, furnishing of reports, functions of inspectors and auditors and testing requirements. The regulations will refer to the *Australian Drinking Water Guidelines*. The development of regulations will be subject to further consultation.

Other than concerns about the costs of monitoring there were few comments during consultation about the cost of compliance with the Bill. To a large extent this is because many of the requirements described in the Bill should already be undertaken to meet the broad intent of the *Food Act 2001* and are recognised as good practice by responsible operators. A number of drinking water providers ranging from water carters to operators of independent town supplies indicated that they had implemented required actions. Additional costs will be incurred by providers who are not applying good management practices considered necessary to ensure and confirm supply of safe drinking water and public health protection. These costs are far below those associated with an outbreak or a substantial incident. In addition the Bill has been designed to ensure that requirements and hence costs are commensurate with the level of risk presented by different types of drinking water supply. In the case of rainwater tank based supplies in some premises and discretionary water supplies in parks and recreation areas the risk is considered to be so low that provisions for exemptions have been included.

In conclusion, the Bill provides increased protection of drinking water safety in a practical and clear manner without imposing undue costs. The Bill supports existing actions of responsible operators while discouraging poor practice. It applies equally to all drinking water supplies while recognising that requirements need to be commensurate with the level of potential of risk. The Bill provides for a level playing field for individual operators within specific commercial settings.

The Bill replaces the current general requirements in the *Food Act 2001* with clear direction to providers on how to deliver safe drinking water and how this can be measured. The Bill provides greater certainty to drinking water providers and will improve consistency across the State for both urban and rural supplies. It will support the diversification of drinking water supplies and the entry of new drinking water providers by clearly identifying requirements, responsibilities and accountabilities. By delivering improved clarity and greater transparency the Bill will improve community confidence in drinking water supplies.

I acknowledge again, the assistance from all sectors involved in the provision of drinking water supplies as well as the invaluable contribution from Local Government in the development of this Bill.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause is formal.

3—Interpretation

This section inserts definitions of key terms used in the Bill including *approved auditor*, *approved auditor/inspector*, *approved inspector*, *approved laboratory*, *authorised officer*, *Chief Executive*, *council*, *Department*, *District Court*, *domestic partner*, *drinking water*, *drinking water provider*, *enforcement agency*, *reticulated water system*, *risk management plan*, *spouse*, *vehicle* and *water resource*.

Subsections (2), (3) and (4) further clarify when a person will or will not be taken to be a drinking water provider.

Subsection (5) explains when water will be taken to be 'supplied in bulk'—a term used in paragraph (a)(iv) of the definition of *drinking water provider*.

Subsection (6) clarifies that the term 'collection of water' includes the recovery or harvesting of water.

Subsection (7) explains the circumstances in which drinking water will be taken to be unsafe. The Bill contains several provisions where consequences flow from supplying unsafe drinking water.

Subsection (8) sets out when a person will be considered to be an *associate* of another.

Subsection (9) clarifies that a beneficiary of a trust includes an object of a discretionary trust.

4—Application of Act

This section clarifies the scope of the Act, namely that the Act does not apply in relation to—

- any water collected or recovered at domestic premises of a prescribed class for use at those premises; or
- rainwater collected at any place of a prescribed kind for use at that place if a notice relating to the use of the water is provided in accordance with the regulations; or
- rainwater supplied as an optional alternative to water obtained from a registered drinking water provider if the person, in supplying the water, complies with the requirements (if any) prescribed by the regulations for the purposes of this paragraph; or
- rainwater, or water recovered from a bore, well or a source prescribed by the regulations, supplied at a park, reserve or other place constituting open space that is available for public recreational purposes where it is reasonable to expect that members of the public would not usually expect to rely on the provision of water for human consumption at that place; or

- water supplied, collected or recovered in any other circumstance prescribed by the regulations.

The Act will also not apply if the Minister exempts certain persons or classes of persons from the application of the Act or provisions of the Act. Such exemptions may be conditional, but if the person in whose favour the exemption exists fails to comply with such a condition, the person is guilty of an offence and liable to a maximum penalty of $25,000 or an expiation fee of $750.

Part 2—Registration of drinking water providers

5—Drinking water providers to be registered

Persons who supply drinking water as drinking water providers must be registered. Failure to be registered is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750. The section further sets out the process for applying for registration.

6—Duration of registration

A person, once registered as a drinking water provider, is registered until the registration is cancelled or suspended or the drinking water provider dies or, in the case of a body corporate, is dissolved.

7—Person ceasing to supply drinking water

Registered persons must notify the Minister within a prescribed period after ceasing to be engaged in the supply of drinking water. Registration may be cancelled if the Minister receives such notification or if the Minister is satisfied that the person has ceased to be engaged in the supply of drinking water.

8—Conditions of registration

Registration of a person as a drinking water provider will be subject to conditions as may be imposed by the Minister or prescribed by the regulations. Failure by the person to comply with a condition is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

9—Suspension of registration

This section sets out the circumstances under which a person's registration may be suspended. They are:

- contravention or failure to comply with a condition of registration; or
- failure to comply with a requirement relating to a risk management plan under Part 3 (including as to the implementation of, or compliance with, the requirements set out in a risk management plan); or
- failure to ensure that an audit or inspection is conducted in accordance with a requirement under Part 4 Division 2; or
- breach of, or failure to comply with, a requirement under Part 5 Division 1; or
- failure to comply with a notice under Part 7 Division 3; or
- failure to furnish a report or other form of information of a class prescribed by the regulations.

The remainder of the section includes procedural provisions including the rights of a drinking water provider to object to a proposal by the Minister to suspend the person's registration.

10—Appeals

A person may appeal to the District Court against—

- a condition of registration imposed by the Minister; or
- a variation by the Minister of a condition of registration; or
- refusal of the Minister to grant an application to vary a condition of registration; or
- a decision of the Minister to suspend a registration.

An appeal must be instituted within 28 days or such later time as may be approved by the District Court.

11—List of registered drinking water providers and provision of information

There will be a register of drinking water providers. This register is to be publicly available and each registration of a drinking water provider will be notified to the relevant council.

Part 3—Risk management plans

12—Drinking water providers to prepare, implement and review risk management plans

A drinking water provider must prepare a risk management plan, keep the plan under continuous review and revise any aspect of the plan requiring revision. A drinking water provider of a specified class may adopt a standard risk management plan published by the Chief Executive, rather than preparing a separate plan.

13—Risk management plan

This section sets out what a risk management plan is, namely, a document—

- that contains a detailed description of the system of supply of water; and

- that—

  (i) identifies the risks to the quality of the water and the risks that may be posed by the quality of the water; and

  (ii) assesses those risks; and

  (iii) sets out the steps to be taken to manage those risks (including the development and implementation of preventative strategies); and

- that sets out—

  (i) monitoring and testing requirements associated with the quality of the water (a *monitoring program*); and

  (ii) incident identification, notification and response procedures (an *incident identification and notification protocol*); and

- that sets out maintenance schedules; and

- that contains any other matter required by the regulations.

In addition, a risk management plan must comply with the regulations, including any standards, guidelines or codes specified by the regulations. Failure to so comply is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

14—Related matters

This section sets out two key offences of this Bill.

The first offence (at subsection (1)) is that of supplying drinking water to the public without a risk management plan in respect of which the components comprised of the monitoring program and the incident identification and notification protocol have been approved by the Minister. Various procedural provisions are set out relating to approval by the Minister of the program and protocol. A person who commits this offence is liable to a maximum penalty of $25,000 or an expiation fee of $750.

The other offence (at subsection (7)) is that of failing to implement a risk management plan or to comply with the requirements of the plan. Again, the maximum penalty is $25,000 or an expiation fee of $750.

Part 4—Auditing and inspections

Division 1—Auditors and inspectors

15—Approval of auditors and inspectors

This section enables a natural person (ie not a body corporate) to apply for approval as an auditor or inspector. Once approved as an auditor, a person is also taken to be an approved inspector for the purposes of the Act. Approvals are managed by the Chief Executive. The remainder of this section deals with procedural matters relating to such approvals.

16—Term of approval

Approval of a person as an auditor or inspector remains in force for the period specified in the approval unless cancelled.

17—Conditions

This section sets out the offence of failing to comply with a condition of an approval as an auditor or inspector. The maximum penalty for committing this offence is $25,000 and the expiation fee is $750. The section also contains procedural provisions dealing with imposing, varying or deleting conditions of an approval, and rights of persons to object to a proposed suspension of an approval for an alleged contravention of or failure to comply with, such a condition.

18—Conflict of interest to be avoided

A person commits an offence attracting a maximum penalty of $25,000 or an expiation fee of $750 if he or she acts as an auditor or inspector in relation to a risk management plan—

(a) that the person has written or assisted in preparing; or

(b) that has been prepared by a drinking water provider who is an associate of the person; or

(c) that concerns the supply of drinking water in respect of which the person has a direct or indirect pecuniary or personal interest.

19—List of approved auditors and inspectors to be maintained

A list of approved auditors and a list of approved inspectors is to be prepared and maintained by the Chief Executive, made publicly available and revised from time to time.

Division 2—Audits and inspections

20—Scheme for audits and inspections

This section establishes the system whereby drinking water providers will be audited or inspected. The Chief Executive will, by notice in the Gazette, determine whether drinking water providers will be subject to audit or inspection and the frequency of such audits or inspections. Whether an audit or inspection will apply, and the frequency of audits or inspections, will depend on the size and complexity of operations carried out by the drinking water providers and any other matters the Chief Executive thinks fit.

The section requires an audit or inspection to be carried out of a drinking water provider both before the drinking water provider begins to supply drinking water to the public (under subsection (5)) and once operational (subsection (4)), in accordance with the relevant determination relating to the provider. Failure to comply with the relevant audit or inspection requirements is, in each case, an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

21—Audits and inspections

This section sets out the duties of auditors and inspectors. They are:

- to determine whether the drinking water provider has complied with the requirements of Part 3 relating to risk management plans during the audit or inspection period;
- to carry out any follow up audits or inspections, if necessary, to check to see if action has been taken to remedy any deficiencies of any risk management plan identified by the auditor or inspector;
- to report in accordance with the requirements of Part 4 Division 2;
- to undertake any other functions prescribed by the regulations in relation to audits or inspections.

In conducting an audit or inspection, the auditor or inspector must inspect documents of a kind prescribed by the regulations and comply with any prescribed requirements.

22—Reporting requirements

This section requires auditors and inspectors to provide written reports of their audits or inspections to the Chief Executive. It also requires auditors and inspectors who, as a result of an audit or inspection, believe that drinking water may be unsafe to report that belief to the Chief Inspector. Such reports must be passed on to the relevant drinking water provider. The maximum penalty for each of these offences is $5,000.

23—Assistance to facilitate an audit or inspection

A drinking water provider commits an offence if he or she fails to comply with any reasonable request or requirement of an auditor or inspector, with a maximum penalty of $5,000. A person who, without reasonable excuse, resists, obstructs or attempts to obstruct, an auditor or inspector in the exercise of a function under this Division is guilty of an offence attracting a maximum penalty of $5,000. A person also commits an offence attracting a maximum penalty of $25,000 for providing information that the person knows to be false or misleading information in a material particular in connection with the conduct of an audit or inspection.

Part 5—Quality of water and provision of reports

Division 1—Quality of water

24—Drinking water must be safe

This section makes it an offence for a drinking water provider to supply drinking water to the public that is unsafe. There are different penalties ranging from highest ($500,000) to lowest ($50,000) according to whether the provider knew, was reckless to the fact, or had no knowledge of the fact, that the water was unsafe and also according to whether the offender is a body corporate or a natural person.

25—Testing requirements

This section requires compliance by a drinking water provider with water testing requirements specified by the regulations or set out in a notice served on the provider by the Chief Executive. Failure to so comply is an offence for which the maximum penalty is $25,000 or an expiation fee of $750. The section specifies conditions precedent to the issuing of a notice by the Chief Executive, and provides that the testing may be required to be carried out at an approved laboratory (i.e. a laboratory approved under Part 6), or in accordance with the regulations or a notice furnished by the Chief Executive. These requirements are in addition to any testing requirements under a risk management plan.

Division 2—Provision of reports

26—Officer to report known or suspected contamination

This section places an obligation on officers of a drinking water provider (ie persons concerned in the management of the affairs of the drinking water provider, eg an executive officer) to report to the Chief Executive, any belief or reasonable suspicion that unsafe drinking water has been or is to be supplied for drinking water purposes. Failure by such an officer to report such a belief or suspicion is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

27—Water quality monitoring information to be made publicly available

This section requires a drinking water provider to make publicly available the results of any monitoring program conducted on drinking water under the provider's risk management plan, with failure to do so an offence attracting a maximum penalty of $10,000 or an expiation fee of $210. The section also makes it an offence attracting

a maximum penalty of $10,000 to publish results that the provider knows are false or misleading without including with the information details of the defect in the information.

Part 6—Approval of laboratories

28—Approval of laboratories

This section enables a person providing or intending to provide services under the Act at a laboratory to apply for an approval of the laboratory. Approvals of laboratories are managed by the Chief Executive. Further provisions of this section deal with procedural matters relating to the granting or refusal of approvals.

29—Recognised laboratories

Certain laboratories prescribed by regulation will be taken to be approved laboratories subject to any conditions prescribed by regulation.

30—Term of approval

An approval granted by the Chief Executive remains in force for a specified period unless suspended or cancelled.

31—Conditions

This section sets out the offence of an approved laboratory failing to comply with a condition of an approval. The maximum penalty for committing this offence is $10,000 and the expiation fee is $210. The section also contains procedural provisions dealing with imposing, varying or deleting conditions of an approval, and rights of persons in charge of a laboratory to object to a proposed suspension of an approval for an alleged contravention of, or failure to comply with, such a condition.

32—List of approved laboratories to be maintained

A list of approved laboratories is to be prepared and maintained by the Chief Executive, made publicly available and revised from time to time.

Part 7—Administration and enforcement

Division 1—Interpretation

33—Interpretation

This section defines the term *enforcement agency* as meaning—

- the Minister; or
- a council under the *Local Government Act 1999*; or
- a body established by a council or councils under the *Local Government Act 1999* and brought within the ambit of this definition by the regulations.

Division 2—Authorised officers

34—Appointment of authorised officers

A person may be appointed as an authorised officer by an enforcement agency if the person has appropriate qualifications or experience. An enforcement agency must prepare and maintain a list of authorised officers appointed by it.

35—Certificates of authority

An enforcement agency must provide each authorised officer appointed by it with a certificate of authority. A certificate of authority—

(a) may specify limitations on the powers of the officer;

(b) must be produced by the officer for inspection on request by a person in relation to whom the officer intends to exercise powers;

(c) must be surrendered if the officer ceases to be an authorised officer (failure to so surrender is an offence attracting a maximum penalty of $5,000).

36—Powers of authorised officers

The following powers may be exercised by an authorised officer in connection with the administration or operation of the Act or with the performance, exercise or discharge of a function, power or duty under the Act:

- at any reasonable time, to enter or inspect any premises or vehicle;
- during the course of the inspection of any premises or vehicle—
  - (i) to ask questions of any person found in the premises or vehicle; and
  - (ii) to inspect any article or substance found in the premises or vehicle; and
  - (iii) to take and remove samples of any substance or other thing found in the premises or vehicle; and

(iv) to require any person to produce any plans, specifications, books, papers or documents; and

(v) to examine, copy and take extracts from any plans, specifications, books, papers or documents; and

(vi) to take photographs, films or video recordings; and

(vii) to take measurements, make notes and carry out tests; and

(viii) to seize and retain, or issue a seizure order in respect of, anything that may constitute evidence of the commission of an offence against this Act;

- to require any person to answer any question that may be relevant to the administration or enforcement of this Act.

An authorised officer may be accompanied by assistants in the exercise of powers under the Act, but may only use force to enter premises or a vehicle on the authority of a warrant issued by a magistrate or if the authorised officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.

Persons in relation to whom an authorised officer is exercising powers must co-operate with the authorised officer including with requests for assistance to facilitate inspections, not hinder or obstruct the officer or a person assisting the officer and answer questions honestly. Failure to so co-operate is an offence attracting a maximum penalty of $25,000.

A person must not refuse or fail to furnish information on the ground that it might tend to incriminate the person or make the person liable to a penalty. There are restrictions on the use that may be made of potentially incriminating information provided in response to a request by an authorised officer.

37—Seizure orders

An object or thing may be seized under a seizure order issued by an authorised officer and served on the owner or person in control of the object or thing. It is an offence, without authority, to remove or interfere with an object or thing that is the subject of such an order attracting a maximum penalty of $25,000.

Subsection (3) sets out the circumstances in which an object or thing that is the subject of a seizure order may be released or forfeited, and circumstances in which compensation for such seizure may be required.

Division 3—Notices and emergencies

38—Notices

An enforcement agency may issue a notice for the purpose of—

- securing compliance with a requirement imposed by or under the Act; or
- averting, eliminating or minimising a risk, or a perceived risk, to the public in relation to drinking water.

Such a notice may impose a requirement that the person to whom the notice is issued—

- discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from an enforcement agency; or
- not carry on a specified activity except subject to specified conditions; or
- take specified action in a specified way, and within a specified period or at specified times or in specified circumstances; or
- take action to prevent, eliminate, minimise or control any specified risk to the public, or to control any specified activity; or
- comply with any specified standard, guideline or code prepared or published by a body or authority referred to in the notice; or
- undertake specified tests or monitoring; or
- furnish to a body or authority referred to in the notice specified results or reports; or
- prepare, in accordance with specified requirements and to the satisfaction of the enforcement agency, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to the public.

A person may, within 14 days, appeal to the District Court against the notice.

An authorised officer may, if of the opinion that urgent action is required, issue such a notice, termed an 'emergency notice'. An emergency notice may be issued to a person orally provided that the person is immediately advised of his or her right to appeal to the District Court against the notice. An emergency notice ceases to have effect after 72 hours unless confirmed before then by a notice issued by an enforcement agency and served on the person.

Failure to comply with a notice (whether or not an emergency notice) is an offence attracting a maximum penalty of $25,000. It is also an offence to hinder or obstruct a person who is complying with such a notice and the same penalty applies.

39—Action or non-compliance with a notice

This section enables an enforcement agency (including an authorised officer or other person authorised to act on behalf of the enforcement agency) to take action required by a notice that a person has not complied with. The reasonable costs and expenses of taking such action may be recovered by the enforcement agency from that person as a debt in a court of competent jurisdiction. Failure to pay the debt within a fixed time makes the person liable to interest in addition to the debt.

40—Action in emergency situations

This section enables an authorised officer to take emergency action to avert, control or eliminate a risk to the public in relation to drinking water. If such action is warranted, the officer has the following additional powers (which may include the use of force to enter premises or a vehicle without a warrant):

(a) to enter and take possession of any premises or vehicle (taking such action as is reasonably necessary for the purpose); and

(b) to seize, retain, move or destroy or otherwise dispose of any substance or thing.

The reasonable costs and expenses of taking emergency action under this section may be recovered by an enforcement agency as a debt in a court of competent jurisdiction.

41—Specific power to require information

This section enables an enforcement agency to issue a notice requiring a person to furnish information relating to the quality or supply of drinking water, or any matter associated with the administration of the Act. Failure to comply with such a requirement is an offence attracting a maximum penalty of $25,000 or an expiation fee of $750.

A person must not refuse or fail to furnish such information on the ground that it might tend to incriminate the person or make the person liable to a penalty. There are restrictions on the use that may be made of potentially incriminating information provided as required.

42—Appeals

An appeal lies against a notice issued under Part 7 Division 3 provided it is instituted within 14 days or such longer period as may be approved by the District Court. An enforcement agency is entitled to be a party to appeal proceedings.

Part 8—Miscellaneous

43—Delegations

This section enables the Minister, the Chief Executive or an enforcement agency to delegate a power or function vested or conferred under the Act to a particular person or body or to the person for the time being occupying a particular office or position.

44—Service of notices or other documents

This section allows for various methods of service of notices or documents, namely by—

- being served on, or given to, the person or an agent of the person; or
- being left for the person at his or her place of residence or business with someone apparently over the age of 16 years; or
- being sent by post to the person or an agent of the person at his or her last known address; or
- being sent to the person by fax; or
- being served or given in some other manner prescribed by the regulations.

In addition, if the notice or document is to be served on or given to a company or registered body within the meaning of the *Corporations Act 2001* of the Commonwealth, it may also be served or given in accordance with that Act.

45—Disclosure of certain confidential information

This section makes it an offence attracting a maximum penalty of $50,000 for a person to disclose information relating to manufacturing or commercial secrets or working processes obtained in connection with the administration or execution of the Act unless the disclosure is made—

- with the consent of the person from whom the information was obtained; or
- in connection with the administration or operation of this Act; or
- for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- in accordance with a requirement imposed by or under this Act or any other law; or
- to a person administering or enforcing a law of another jurisdiction that corresponds to this Act or any other law prescribed by the regulations; or

- to a person administering or enforcing the *Food Act 2001* or an Act of another jurisdiction that corresponds to that Act; or
- to a law enforcement authority; or
- with other lawful excuse.

A person does not commit the offence if the information was publicly available at the time the disclosure was made.

46—Protection from liability

No liability attaches to the Crown, the Minister, the Chief Executive, an enforcement agency, an authorised officer or any other authority or person engaged in the administration of this Act for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under this Act.

47—False information

A person commits an offence attracting a maximum penalty of $25,000 for providing information or producing a document (in connection with a requirement or direction under the Act) that the person knows to be false or misleading in a material particular.

48—Offences by bodies corporate

This section provides an avenue of pursuing individuals involved in the management of a body corporate where the body corporate has committed an offence under the Act or regulations.

49—Offences

This section restricts the persons who may commence proceedings for an offence against the Act to—

- the Minister; or
- the Director of Public Prosecutions; or
- an authorised officer; or
- a member of the staff of the Department; or
- the chief executive officer of a council; or
- a police officer; or
- a person acting on the written authority of the Minister.

50—Agreement and consultation with local government sector

This section provides for the involvement of the LGA in the administration and enforcement of the Act. It also provides for Parliamentary scrutiny of reports about agreements entered into between the Minister and the LGA in relation to the exercise of functions under the Act by councils. The Minister must consult with the LGA before a regulation that confers a function on a council is made under the Act. Details of consultation, and of the operation of any agreement, referred to under the section must be included in the Minister's annual report.

51—Annual report by Minister

The Minister must, before 30 September in each year, prepare an annual report on the operation of the Act for the previous financial year, and cause copies to be laid before both Houses of Parliament.

52—Annual reports by enforcement agencies

This section requires enforcement agencies, before 30 September in each year, to report to the Minister on their activities during the previous financial year. The Minister must cause copies of the report to be laid before both Houses of Parliament.

53—Regulations

This section sets out the regulation making powers. They include powers to—

- require the furnishing of reports, returns, documents or other forms of information relevant to the registration scheme under this Act to the Minister;
- require the furnishing of reports, returns, documents or other forms of information relevant to quality or supply of drinking water, or to any other process or other matter associated with the supply of drinking water, to the Chief Executive or other prescribed person or body;
- require the keeping of records, statistics and other forms of information—

  (i) by any person or body that supplies drinking water; or

  (ii) by any person or body that performs a function under or pursuant to this Act,

  (and the provision of reports based on that information);

- require that prescribed classes of systems or processes associated with the supply of drinking water must be managed, maintained or undertaken by persons with prescribed qualifications or experience, or who satisfy other competency requirements;
- prescribe standards and other requirements that must be observed or applied in relation to the quality or supply of drinking water;
- make provision with respect to the monitoring of drinking water quality, or any component or characteristic of drinking water, including with respect to the method, collection and analysis of samples;
- provide for the making of announcements or the provision of advice to the public in prescribed circumstances;
- prescribe guidelines to assist in the administration of this Act;
- make provision with respect to any auditing, inspections or testing under this Act;
- prescribe fees and charges in connection with any matter arising under this Act, including fees or charges for or in connection with the exercise, performance or discharge of any power, function or duty of an enforcement agency or an authorised officer under this Act, which may be of varying amounts according to factors prescribed in the regulations or determined by the Minister from time to time and published in the Gazette;
- provide for the payment and recovery of prescribed fees and charges;
- prescribe penalties, not exceeding $25,000, for a breach of any regulation;
- fix expiation fees, not exceeding $750, for an alleged breach of any regulation.

This section also provides for the inclusion in the regulations of further matters relating to the adoption of standards, guidelines or codes.

Schedule 1—Consequential amendments and transitional provisions

Part 1—Consequential amendments

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Food Act 2001*

2—Substitution of section 11

This clause substitutes section 11 of the *Food Act 2001*, updating that Act with terminology used in this Bill, and clarifies the fact that the Food Act only governs drinking water that is not governed by this Bill.

Part 3—Transitional provisions

3—Transitional provisions—initial period of operation of Act

This clause provides for a transitional phase for registration of drinking water providers under the Act.

For a person supplying drinking water as a drinking water provider (either as an existing provider or a new provider) before the expiry of three months after the commencement of clause 3 (this clause), the person will not be required—

- to be registered until three months after the commencement of this clause; or
- to comply with section 20(5); or
- to have a risk management plan under Part 3 until the day of expiry of 12 months after the commencement of this clause.

For a person commencing to supply drinking water as a drinking water provider on or after the day of expiry of three months, but before the day of expiry of 12 months, after the commencement of this clause, the person will not be required to have a risk management plan under Part 3 until the day of expiry of 12 months after the commencement of this clause.

4—Other provisions

This clause enables the making of regulations of a saving or transitional nature consequent on the enactment of the Act. Such a regulation may, if the regulation so provides, take effect from the commencement of the Act or a later day, but if it takes effect earlier than the date of the publication of the regulation in the Gazette, it does not operate to the disadvantage of a person by—

- decreasing the person's rights; or
- imposing liabilities on the person.

Debate adjourned on motion of Hon. I.F. Evans.

NATIONAL ENERGY RETAIL LAW (SOUTH AUSTRALIA) BILL

The Legislative Council agreed to the bill without any amendment.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW) BILL

The Legislative Council agreed to the bill without any amendment.

HEALTH AND COMMUNITY SERVICES COMPLAINTS (MISCELLANEOUS) AMENDMENT BILL

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

No. 1. New clause, page 3, after line 9—

After clause 5 insert:

5A—Amendment of section 16—Annual report

Section 16—after subsection (1) insert:

(1a) Without limiting matters that may be included in a report of the Commissioner under subsection (1), each report—

(a) must include the following information relating to the relevant financial year:

(i) the number, type and sources of complaints made;

(ii) a summary of all assessments and determinations made under section 29 in relation to a complaint;

(iii) a summary of all determinations under section 33 to take no further action in relation to a complaint;

(iv) if a complaint was referred for conciliation—the outcome of the conciliation;

(v) if a complaint was dealt with under Part 7—the outcome of any action taken by a registration authority;

(vi) a summary of all investigations conducted by the Commissioner under Part 6, including the outcomes of those investigations;

(vii) a summary of the time taken for complaints to be dealt with under the Act;

(viii) a summary of all complaints not finally dealt with by the Commissioner; and

(b) may include the following information relating to the relevant financial year:

(i) such information relating to complaints (other than that required to be included under paragraph (a)) as the Commissioner thinks fit;

(ii) any report made to the Minister under section 54;

(iii) if a complaint was dealt with under Part 7—a summary of any advice, notification or information provided to the Commissioner in relation to the complaint by a registration authority.

(1b) Matters included in a report under subsection (1)—

(a) are to be reported, as far as practicable, according to professional groupings (as determined by the Commissioner); and

(b) must not identify a person who has made a complaint, a person in relation to whom a complaint has been made or a person who has been subject to an investigation under this Act, unless the identity of the person has already been lawfully made public.

Consideration in committee.

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

That the Legislative Council's amendment be agreed to.

I indicate to the house that the government will accept the amendment moved in the other place. I will speak generally to the provision and then particularly about those measures.

This piece of legislation follows a review of the Health and Community Services Complaints Act, particularly by Ernst & Young in 2008. It makes some administrative changes to make the operations work in a better way. The other amendments arise from the Social Development Committee's inquiry into bogus, unregistered and deregistered health practitioners. We, as a parliament, have agreed on those changes. That is a good thing and it will be a significant reform that comes through this legislation.

The third part of the legislation, which is the amendment before us now, is the result of amendments which were accepted in the other place which require a more burdensome reporting duty being placed on the commissioner. The government asked the commissioner for her advice on this amendment. She expressed concerns, primarily that there would be a resource implication of having to do the extra data collection that is required.

The government has not had an opportunity to fully assess whether or not this is overly burdensome. We opposed it in the upper house; however, we do not oppose it to the extent that we would see the legislation fail. So, we will accept this amendment with reluctance, I guess, and look forward to the passage of the legislation today.

The Hon. I.F. EVANS: Madam Acting Chair, I draw your attention to the state of the committee.

A quorum having been formed:

Dr McFETRIDGE: I thank the government for agreeing to the amendments from the other place and I look forward to the improvement in the delivery of services from the Health and Community Services Complaints Commission.

Motion carried.

MOTOR VEHICLES (THIRD PARTY INSURANCE) AMENDMENT BILL

In committee (resumed on motion).

Clause 12.

The ACTING CHAIR (Ms Thompson): My understanding is that the committee is considering clause 12. There was an indication of an amendment but that has not yet been moved; is that correct, member for Davenport?

The Hon. I.F. EVANS: That is correct. We have already dealt with this principle a couple of weeks ago in the earlier stages of the debate and I do not need to proceed with my amendment because I have already moved it once and lost, so I will not take up the committee's time. However, I do wish to make some comments on clause 12.

Clause 12 inserts a new section 127AB into the Motor Vehicles Act, after section 127A. It deals with certain requirements in respect of claims, and the industry groups are quite strongly opposed to this provision. Earlier in today's debate I raised the issue of the words 'must cooperate fully in respect of his or her claim with the insurer' and it is this clause that contains that provision.

I want to talk to this clause of the bill, which the government has moved. It requires a person claiming damages or other compensation in respect of a death or bodily injury caused by or arising out of the use of a motor vehicle 'must cooperate fully in respect of his or her claim with the insurer for the purposes of giving the insurer sufficient information'.

All the legal bodies that have been consulted on this particular issue say it is totally unclear as to what is sufficient information. They are concerned that it will be abused and it will go across legal privilege. It means that MAC can ask for any information that MAC deems 'sufficient'. So, this is the provision that the legal groups—both the Law Society and the Australian Lawyers Alliance—oppose totally.

The Law Society was consulted when I received the bill and then after the government tabled its amendments, so we have consulted with the Law Society twice. By the former treasurer's own admission in his second reading explanation when he introduced this bill, the government had been consulting on this bill for 10 years. Having gone through that process, the Law Society says that it is opposed to this particular provision. So, having considered the proposed amendments, it is the society's position that it is opposed to the proposed amendments, and it lists them all, including this one dealing with section 127, the provision of evidence.

The Law Society is opposed for these reasons. The provision of evidence: the proposed amendments in their current form, which is as we are debating them today, are strongly opposed as distinct from just being opposed. They are strongly opposed by the Law Society subcommittee. It is understood the intention is to have early access to information which allows better decision-making in relation to liability and quantum. The strong concern of the subcommittee is that it has the potential to create, firstly, an uneven playing field in that a claimant is required to give information regarding, in particular, liability without an equal requirement on the part of Allianz to share relevant, non-privileged information concerning the same issue.

The view of the subcommittee is that wording such as 'to cooperate fully with the insurer' is too wide and requires refinement as to what information can and cannot be relevantly and reasonably sought by the insurer when such information is to be sought.

The CHAIR: Member for Davenport, I do apologise. This is not a situation of your making. There are members who are having heated discussions, which is completely fine. Perhaps, member for Schubert and member for MacKillop, you may like to take the discussion outside. No, you would like to leave it in here? Alright. You are all good.

The Hon. I.F. EVANS: That is alright, Madam Chair, it is not the first time people have left the hall when I have been speaking! The Law Society's issue is to what information can be reasonably and relevantly sought. There is no fence around this provision. It simply says that the person claiming damages must—so there is an obligation—cooperate fully in respect of his or her claim with the insurer for the purpose of giving the insurer sufficient information, so that the insurer can be satisfied as to the validity of the claim, and particularly to assess whether the claim or any part of the claim may be fraudulent; to be able to make an early and informed assessment of the liability—so it goes to the liability question; and to be able to make an informed offer of settlement if appropriate.

In particular, the claimant must comply with any reasonable request by the insurer to furnish information or produce specified documents or records. The insurer may require a claimant to verify by statutory declaration any information, document or record furnished or produced to the insurer. Now, that is interesting, and I will come back to that in a second. And, if a claimant fails to comply, then there is a $50,000 penalty or a one-year imprisonment for not providing the information and cooperating fully.

I am not a lawyer. I have not gone through the process—as luck would have it, I have not had any serious motor vehicle accidents in my time so I have not personally experienced this process. But, it is crystal clear to those who deal with this on a living and breathing daily basis: they say that these provisions go too far, and there is no even playing field.

They do offer a solution to this, and the solution was offered to MAC and MAC refused it, and that is to adopt a set of guidelines as they have in Queensland, a set of parameters which controls what can and cannot be requested in a reasonable manner.

So, why MAC refused to do that is beyond the opposition, because it may well have had the Law Society and others' support to get this particular clause across the line. So, solutions were actually offered by the various legal groups as a way to resolve this particular issue. The Australian Lawyers Alliance is as strong as the Law Society, and it says it is completely opposed to the proposition contained in this particular clause. 'The material requested in that section is already provided upon notice being given of a claim.'

When discussions were occurring in respect to this provision, the ALA said it would not have such a concern with information being sought and provided, so long as the form that they required to be completed had a warning across the top that they should consult their lawyer before filling out the form. The MAC was not agreeable to such a warning being placed on the form. It is not clear why. The minister might want to explain why there would not be a warning on the form.

It would create some fairness [if the warning was on the form] as the matters referred to can really cut across legal professional privilege and a person claiming damages is not required to cooperate fully in respect of his claim for the insurer on any matter. The simple answer to this issue is that the claim will not progress until the plaintiff provides appropriate information. The status quo as currently exists should remain. That is, the Motor Accident Commission through its claim agent requests information. If this provision continues, then it should be mutual.

I want to hear from the minister why the obligation should not be mutual and an obligation on MAC as well, that is:

The claims agent, or the Motor Accident Commission or its solicitors should have the obligation to provide information. In particular, a copy of the police reports. ALA has been agitating for some time, as has the Law Society

of South Australia, for the issue of police reports to be made readily available The current practice is that the Motor Accident Commission claims agent receives a report upon request and the report obtained is in nearly every case more comprehensive with more details than anything the plaintiff receives until such time as it issues proceedings or occasionally via the claims agent pursuant to an agreed resolution plan.

Clause 12, in the view of the ALA:

> …is inherently unnecessary and is blatantly unfair unless it incorporates amendments to make the obligation to disclose information mutual and the obligation that any claimant should at first contact a lawyer before giving any of that information.

The minister might want to explain why he would not put that warning on the form. MAC has refused to. The report continues:

> It should also be made clear that S127AB does not impinge upon legal professional privilege.

That is not clear in the bill. It continues:

> Essentially, ALA is concerned that this will be seen as liberty for the insurer to interrogate on whatever it likes with the defendant. Plaintiff lawyers exist for a reason and they are to protect and watch over the interests of the injured plaintiff. The agenda, quite properly from the insurer's point of view, is by its very nature different.
>
> S127AB is a gross invasion of the plaintiff's rights and represents an intrusion into the rights of the plaintiff to run the case as it sees fit. If the plaintiff runs the case in a tardy fashion then he can be subject to sanctions in the legislation and at law that already deal with such matters. Giving the claims agent and/or the nominal defendant further power is not necessary and the obligation to verify by statutory declaration is also, in our view, completely inappropriate.

The other issue the Law Society raised is about the Queensland regulations. In relation to the damages, which is under new section 127AB(2) (which is proposed to be inserted), the Law Society says that the scope of this particular section is uncertain, in that it is limited to the concept of a 'reasonable request' by Allianz. In accordance with the usual principles of litigation, the subcommittee strongly believes the section should reflect access only to reasonable and relevant information.

There is also concern as to what is intended by the concept of 'reasonable', in particular the limits of information that may be requested in the context of being 'reasonable'. There is significant concern that, while the stated purpose is to assist with the early resolution of disputes, the wording is so broad as to invite legal disputation, costs, uncertainty and a general level of distrust which will not be conducive to the stated goal of the resolution.

The subcommittee strongly believes that a more targeted approach to the information that is being sought is appropriate. As I said, they are not opposed to reform, but they are suggesting reform in a different way. They understand the problem; they are just suggesting reform in a different way. They are saying that, in Queensland, the Personal Injuries Proceedings Act 2002, by its regulations, stipulates the information that an intending claimant must submit to the insurer before commencing a claim. It identifies the classes of documents, such as income tax records and other such information. So, in my language, it puts a barrier around the information sought.

In South Australia, a like concept is already expressed in things like the Supreme and District Court Rules 2006, where specific information is required to be given in a statement of loss and in the Magistrates Court by Form 22 particulars, with which I am sure the minister is familiar. The subcommittee would support an amendment—so the Law Society would support an amendment—that would enumerate the information it has sought in relation to both the liability and the quantification of the claim. For ease of reference, the subcommittee attaches by way of example an extract of the Queensland regulations.

There would need to be further consultation, obviously, as to what information should be required to be provided in this state to achieve the intended goal of timely information and potential for ready resolution. It must be noted that, while a claimant is required to provide such information in Queensland, there is also a reciprocal right, a reciprocal requirement, that respondents (which would include Allianz) should also provide access to relevant information. It is a two-way street, minister; unlike your bill, which is a one-way street.

Again, by way of example, section 27 of the Personal Injuries Proceedings Act 2002, Queensland, provides that a respondent must provide information directly relevant to a claim. It provides:

> (i) reports and other documented material about the incident alleged to have given rise to the personal injury to which the claim relates;

(ii) reports about the claimant's medical condition or prospects of rehabilitation;

(iii) reports about the claimant's cognitive, functional or vocational capacity;

(b) if asked by the claimant—

(i) information that is in the respondents position about the circumstances of, or the reasons for, the incident; or

(ii) if the respondent is an insurer of a person for the claim, information that can be found out from the insured person for the claim, about the circumstances of, or the reasons for, the incident.

So, the issue there is that the government bill is a one-way street. It is too broad. It is going to be confusing and costly and there will be lots of legal disputes. The Law Society suggested another method of doing it. It also suggests that a statutory declaration is not required. In relation to new section 127AB(4), it also says that, should there be failure to comply with the previous new subsection (3), this bill could bar and preclude a claimant from issuing proceedings. This does not accord with section 36 of the Civil Liability Act. There are a number of issues with this, so maybe the minister might like to answer some of those points and then I will ask two questions.

The Hon. J.J. SNELLING: The member for Davenport has made a wide-ranging speech on this particular clause. I will do my best to answer the issues he has raised. The purpose of this amendment is to enable MAC to settle matters as early as possible. It is in no-one's interest—people who pay compulsory third-party insurance—for cases to drag on. It is not in the interests of claimants for these cases to drag on. It is in everyone's interest that, as far as possible, matters are able to be settled early. To enable matters to be settled early, MAC requires cooperation from claimants.

Regarding the issue of Queensland, and having a mutual obligation on both parties, I am prepared to a look at that between the houses. I understand that different jurisdictions have different policies, or different legislation, with regard to this. New South Wales, for example, does not have a mutual obligation to provide information—

The Hon. I.F. Evans interjecting:

The Hon. J.J. SNELLING: —perhaps—Queensland does. It is something I am more than happy to reconsider between the houses. With regard to the matter that the member for Davenport raised about police reports, we have already had that debate. It is not appropriate for MAC to pass on the police reports that have been provided to it on a strictly confidential and limited basis.

If claimants want access to the police reports, it is most appropriate that they access them directly from the police, not through MAC. If you had a requirement for MAC to provide the police reports, I expect that SAPOL would cease to provide those reports to MAC, which would significantly frustrate the ability of MAC to do its job.

The member for Davenport suggested that MAC should be obliged to warn people that they should have legal advice. The overwhelming majority of people who make a claim—75 to 80 per cent—are legally represented during the course of the claim. It may be superfluous, but again, it is something I am prepared to have a look at if it assists in the passage of the bill.

The member for Davenport raised the issue of this clause not being specific enough in terms of the sort of information that would have to be provided. In one of the earlier drafts of the bill that is, in fact, what was in there. The sort of information that would be expected to be provided was prescribed. In the course of consultation, the ALA and the Law Society did not like the fact that the information that needs to be provided was prescribed. They preferred the more general provisions that we have in the bill before us; so, it was specific.

To clarify that, the prescribed information was put up in an earlier discussion paper about this bill. The ALA and the Law Society did not like this provision at all, and I think making it more general was an attempt to ameliorate those concerns, although I accept that both the Law Society and the ALA are still not happy with this provision being in the bill. In short, I am happy to give consideration to this provision between the houses.

Ms SANDERSON: I rise to speak about particular clauses of concerns that have been raised with me by my constituency regarding the proposed legislation. New section 127AB refers to 'MAC via the alliance', which requires the claimant to comply with providing to the insurer information, specified documents or records. New section 127(4)(a) asserts that if the claimant fails

to do so they are not entitled to commence proceedings or continue proceedings, nor be entitled to damages, compensation or interest.

I believe that this creates an unfair playing field, and the same disclosure should be required of the insurers to the claimant. I understand that, at present, such documents are provided by way of discovery during the court process. To provide demand of one party such disclosure and not the other appears to be completely biased or prejudicial.

The Hon. I.F. EVANS: I thank the member for Adelaide for her contribution on behalf of her constituents. I have a question to the Treasurer. Under new section 127AB(3) the claimant is required to verify information by statutory declaration. Why is there not a requirement on MAC or Allianz from sending information the other way. Why are they not obligated to sign a statutory declaration? Just as someone can send misleading information one way, it can certainly come back the other way. If you are going to put an obligation on one party, why not in good faith put it on the other?

The Hon. J.J. SNELLING: It is because of the nature of the information. When information flows from the claimant to the insurer, it is the claimant who is providing the sort of personal information for which you would expect them to make a statutory declaration, which includes information such as income tax returns and wage records—those sorts of things; whereas the flow of information from the insurer to the claimant is not of a personal nature which would be appropriate or possible for there to be a statutory declaration.

The Hon. I.F. EVANS: Under new section 127AB(4), the Law Society argues that, should there be a failure to comply with new section 127AB(3), this will statute bar and preclude the claimant from issuing proceedings. This does not accord with section 36 of the Civil Liability Act, and if new section 127AB were to be put into practice would cause frustration and cost in the court system in relation to the application for the extension of any expired limitation period.

Pursuant to case-flow management principles, the insured's ability to request information and documents should be limited to the pre-action stage as the court has processes and procedures with respect to matters once actions are issued. Is it the government's intention to make this particular provision accord with the Civil Liability Act, and is it the government's intention that the insured's ability to request information and documents will be limited to the pre-action stage?

The Hon. J.J. SNELLING: I will answer the member for Davenport as best I can. You cannot prevent someone from issuing proceedings—anyone can issue proceedings. Once the proceedings have started then the court is in a position where it has to make a decision as to whether there has been a breach of the section, and that would be subject to argument. If the court decides that there has been a breach of the section then it will make the appropriate decision with regard to compensation, costs, penalties and interest.

The Hon. I.F. EVANS: The Treasurer can take this on notice. I think this is the right clause to raise it in. I do not expect an answer today. One person has raised with me that the current South Australian compulsory third party injury claim form is in the form of a statutory declaration and they are wondering under what provision MAC has the power to demand a stat dec and use the claim form as a stat dec. I do not need the answer now, but in between houses, or whatever.

The Hon. J.J. SNELLING: I think the form has to be witnessed but it is not a statutory declaration. When you fill it out you have to have someone witness your signature, but it is not a statutory declaration. I will double-check that.

Clause passed.

Clause 13 passed.

Schedule 1.

The Hon. I.F. EVANS: I move:

Part 2, clause 2, page 11, lines 19 to 24 [Schedule 1 part 2 clause 2(3) and (4)]—

Delete subclauses (3) and (4)

For the sake of the house, the amendment I am moving has to do with when the bill takes effect. I give credit to the member for Adelaide, who represented this position to me on behalf of her constituents, and, when I checked with the Law Society, the Australian Lawyers Alliance, the Motor

Trade Association and the RAA, they had similar concerns, so it was good of the member for Adelaide to pick it up so quickly. It relates to the transitional provisions.

The easy way to explain this is that, in the bill the government is moving, there is concern from the legal fraternity that the transitional provisions do not mean that the accidents to which this new set of conditions outlined in the bill relate to are those accidents that have occurred from the time that the bill is proclaimed as an act. My amendment makes it crystal clear that any provision in this particular bill that goes into the act should only commence for accidents that occur after a future date.

Now, the reason this was raised is that some lawyers have already given advice to their clients about levels of possible payout and levels of liability. The lawyers' advice to me is that had they known at the time of giving that advice that the rules were going to change, their advice may well have been different. So, some people have actually taken legal advice based on the current law but those cases are still going.

The legal advice to me is that these transitional provisions leave that open and have a retrospective element to them. Our amendment makes it crystal clear that any change to the law only applies to accidents from a future date (from when the act is proclaimed), so then everyone has a starting date from when the new rules will apply. I think that is sensible. So, that is the amendment on the transitional provisions.

The other issue, which is outlined in schedule 1 (the last clause of this bill), relates to amending the Civil Liability Act. Now, the Civil Liability Act sets out the non-economic loss, that is, the damages, and how that is assessed. In essence, there is a 60-point system. MAC is concerned that those independent judges have been making decisions that MAC thinks do not accord with the understanding of how the 60-point system is used. MAC gave us a couple of rough examples about that. It is terrible that the courts have independence to interpret the legislation as we write it.

The reality is that the government is changing the Civil Liability Act not just to do with motor vehicle accidents. They are amending the Civil Liability Act to do with any claim for damage. So, if you are injured in other ways outside of the motor accident scheme, the 60-point system could be applied to you. The intention of the government's amendments is to tighten the 60-point system because the courts have not quite been doing what the government or MAC wanted.

So, it is not just motor accidents we are talking about, it is all the other injuries. The government has not consulted the medical associations or the doctors, or all of those groups that are potentially out there and subject to claims, about what their view is of this particular provision and what their view is of the 60-point system and the changes to the Civil Liability Act. So, no-one is supporting the changes to the Civil Liability Act on that particular basis.

It is not just to do with motor vehicle accidents. The government is changing the Civil Liability Act so that it narrows the judgement so that the court finds that, instead of being a higher number of points, you might be a lower number of points, and that dictates how much money you get. The government is trying to tighten that up and all the groups talk about that. The Law Society perhaps put it best. They say:

> Assessment for non-economic loss...The Sub-Committee does not support the related amendment to Section 52 of the Civil Liability Act...It is the view of the Sub-Committee that the existing provision is clear as to the manner in which it should be applied. In South Australia a person is only eligible for some award of damages in the first place (including for [non-economic loss]) if fault on the part of another can be established.
>
> Whilst it may be stated that the amendment is there to provide emphasis, the concern of the Sub-Committee is that in changing the wording, this will not provide clarity, but will instead introduce doubt.
>
> In particular, the wording 'strict proportionality' in particular will lead to legal disputation, cost and uncertainty. The following are examples of contentions that may be raised:
>
> 1. The interpretation of the word 'strictly'. There is a clear difficulty in applying these words when each point on the 1 to 60 scale does not have the same dollar value.
>
> 2. Given that there has been change to the wording, does this then mean that Parliament is indicating a different method of assessment.

If we are not indicating a different form of assessment, then on what basis are we changing it? The Law Society continues:

> The Sub-Committee considered the effect on damages for NEL [noneconomic loss] even for the genuinely injured and the difficulty in getting more than 3-5 points (1/20th to 1/12th the gravest loss conceivable) on the wording proposed. For example, a person with a genuine injury to the neck with an [assessment] at 20 per cent of the neck

receive on the proposed wording (maybe 1-2 points)? Or an arm amputee, but [with] full motor skill of all other body parts and no residual cognitive effects (maybe 5-10 points)?

So the Law Society, the Australian Lawyers Alliance and others simply do not support the change to the Civil Liability Act. It is far broader than just motor vehicle accidents and in relation to our amendments we think that gives more certainty to the commencement of the provisions and we hope the government can support those.

Ms SANDERSON: I refer to two different sections, as did the member for Davenport. Firstly, I support the Liberal Party amendments and that there needs to be a clause inserted from a particular point in time that the amendments become effective. This amendment was based on feedback that I had in my office from a senior partner at a law firm who specialises in plaintiff personal injury with whom I met to discuss the bill.

Solicitors provide advice to clients based upon the legislation and case law. A good solicitor is able to provide a prospective client with an estimate of legal costs versus expected payout so the client is able to assess whether they should make a claim, having consideration for the emotional cost of pursuing the claim.

The nature of personal injury cases means that the cases take years to come to conclusion. If legislation such as this passed without an 'incidence from a certain date' clause, claims that are currently going through negotiations will be prejudiced. That is, there will be some claims in which clients nearing the end of the process will now be forced to negotiate a lower claim amount which may result in some clients receiving a claim payout less than the legal fees already negotiated.

There are also issues that have been raised with me regarding the Civil Liability Act as well. These amendments seek to reduce the noneconomic loss component of claims. Such amendments would have a negative effect on those who are elderly and disadvantaged such as recipients of a disability pension.

At present, generally those who are not working either because they are elderly or receiving a disability pension cannot include an economic component for loss of future income in their formulated claim. Such claimants rely on the noneconomic loss component to receive financial compensation. If this component is taken away, there will be no meaningful way to seek compensation if the claimants are injured in the future. I cannot support clauses that seek to benefit by taking away the rights of those who are most disadvantaged.

The Hon. J.J. SNELLING: The member for Davenport has convinced me of the justness of his cause, and we accept the amendment.

Amendment carried.

The Hon. J.J. SNELLING: The example in clause 1 of the schedule is similar to the examples that have been provided for earlier in the bill. As I said previously, they in no way restrict or affect the discretion of the court. There has been an observable creep in the points that are awarded. Relatively minor injuries are finding themselves creeping up the point scale towards 60. This is simply to try and clarify that, to provide some guidance to the courts on where these things should lie.

For clarification, we need to establish that the amendment which we just agreed to was amendment No. 6 standing in the name of the member for Davenport, rather than amendment No. 5, and that amendment No. 5 in the name of the member for Davenport actually stood withdrawn; is that right?

The Hon. I.F. EVANS: The chair clarified it was amendment No. 6, which dealt with the transitional provisions. Amendment No. 5 I am going to consider between the houses and look at moving it upstairs, Treasurer.

The Hon. J.J. SNELLING: So, that is my answer with regard to the amendment on the Civil Liability Act.

The CHAIR: Just for the record, I would like to clarify that we were dealing with No. 6, which was in the name of the member for Davenport. I hope that clarifies things for everyone.

The Hon. I.F. EVANS: Because No. 5 was not moved, I do not need to move No. 7, as I understand it.

The CHAIR: As I understand it, the member for Davenport has indicated that he is not proceeding with amendment No. 7 of schedule 1.

Schedule as amended passed.

Title passed.

Bill reported with amendment.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education) (16:43): I move:

That this bill be now read a third time.

The bill, with its amendments, is designed to improve the CTP scheme, social responsiveness, protect the fund, and also provide an important deterrent effect to certain unsociable road behaviour. Issues such as drink-driving and hit-run are unacceptable. If the threat of a compulsory third-party recovery can deter just one person from getting behind the wheel while drunk or leaving the scene of a crash, then I think we have achieved our goal. The CTP scheme pays out around $400 million each year to victims of crashes. These amendments are about protecting the scheme and ensuring that its boundaries are clearly defined. The amendment relating to arising out of the use of a motor vehicle is one such example where the government feels it is important to clarify the coverage of the scheme through the insertion of examples.

If we can play our part as a community and drive safely on the roads and respect our fellow road users, then we will hopefully reduce our reliance on the fund; and indeed we will all be much better off. Throughout the debate I have listened to the concerns of the various interest groups that have made comment on the bill. I would like to thank all parties who have been involved in the extensive consultation conducted by MAC.

While the government is committed to the principles of the bill, I have heard the points raised by the opposition and others and inform the house that before the bill is debated in another place I will carefully look at the concerns raised, particularly in relation to the chain of responsibility amendments and, if necessary, the government will either move or accept the amendments proposed.

The Hon. I.F. EVANS (Davenport) (16:46): I just want to thank the Treasurer for the way he handled the committee stage. I think it is actually the way that the committee stage is meant to work, to go through it thoroughly like that, so I certainly appreciate the Treasurer giving the opposition that chance. I think it is important for the industry groups to hear the answers and be able to consider in detail the Treasurer's response. So, thank you to the Treasurer and also to the Treasurer's adviser from MAC, the MAC staff and the parliamentary counsel for their assistance.

While the bill is in between houses, I just want to get one piece of advice from the Treasurer, and that is in relation to the different treatment, if it is different treatment at all, between the interpretation of the law in relation to when you are drink-driving, that is in a vehicle, and when, under this bill, the vehicle is in use. I think the example MAC gave the minister to use was the 'ugly dog' circumstance, where a worker was injured when the vehicle was turned on and accidentally went forward instead of backwards.

The Hon. J.J. Snelling interjecting:

The Hon. I.F. EVANS: So the issue I want clarified is: if a person who was drunk started the vehicle in the car park of a hotel, I think the vehicle would be deemed to be 'in use'. Is the interpretation different under the drinking laws from under this law? That is the interpretation of 'in use' of a vehicle. Under the bill we have just dealt with, there are restrictions on when the vehicle is in use. The way I understand the law with drink-driving is once the key goes in, then the vehicle is in use for the purposes of drink-driving legislation. I am not clear how the parliament is going to distinguish between a vehicle in use for drink-driving purposes and a vehicle in use for other purposes under this bill. So, between the houses I would like to get that advice and we can deal with it then. Again, I thank the minister for his handling of the bill.

The Hon. J.J. SNELLING: They are two different pieces of legislation. They do not have any bearing on each other, is essentially the answer. One is part of the criminal law, one is part of the civil law. One does not have a bearing on the other, but if I get any other advice to the contrary, I will be more than happy to come back to the house. I commend the bill to the house.

Bill read a third time and passed.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 14 September 2010.)

Ms CHAPMAN (Bragg) (16:49): The opposition will be supporting this bill and I indicate that there are foreshadowed amendments in another place. I will come to those in a moment. This is a bill that was introduced on 14 September 2010 by the Attorney-General to make amendments to the Summary Offences Act of 1953, and in particular to create offences relating to monkey bikes.

I am sure members of parliament have a much better understanding than I do as to what a monkey bike is. I understand that it is a two-wheeled apparatus and, unlike a bicycle, has some sort of motorised component that makes it travel unaided by feet. The best I can describe it is as it has been described to me: a low-powered motorcycle. I understand that they have little wheels and that they are really built for children or small people. Probably the members for Mount Gambier and Hammond would not be rushing around on one; I think that would be a challenge for the monkey bike. In any event, I think members are aware of what we are talking about.

My further understanding from what the Attorney-General has informed me—and I am sure that it is reliable—is that largely in urban areas in metropolitan Adelaide, these bikes have caused problems in some of the streets and public parks, and the like, where people's general quiet and enjoyment of that public space has been interrupted by one or more monkey bikes speeding through their tranquillity.

As a result, this matter has come to the attention of the Attorney-General and I think other members of his government. How can we deal with this, bearing in mind that we do not have rules or registration procedures for people on gophers or, indeed, bicycles, which have some accessory to make them go faster—gear transfers and so on? So, what do we do with these vehicles that appear to have sort of slipped through the net? They can be highly disruptive and have demonstrably been so.

I also understand that these are vehicles that have been built and imported from overseas, and they are popular in some other places in the world. They are actually no longer able to be brought into Australia. I am not sure under which laws this restriction exists. Essentially, I think it is fair to say that, where we have a motorised vehicle, we have very strict rules as to where they might go in public places and who might drive them.

To protect and provide for those who might be injured as a result of the mishandling of those vehicles, we have a registration and insurance scheme to make provision for those circumstances. In fact, we have just been debating in this house the Motor Vehicles (Third Party Insurance) Amendment Bill to deal with the changes of rules that apply in respect of compensation for people who sustain injuries arising out of motor vehicle accidents.

We take this very seriously in Australia. We understand the significance and potential danger to life and limb for those who might misuse them. In addition to that, we have a very strict criminal law system which applies to circumstances where people might recklessly or wilfully act in a manner which could cause someone else harm, injury or death or, indeed, property damage. All of these things, I think, translate to our jurisdiction and our legislators before us taking a very dim view of poor conduct, or misconduct, when it involves a motor vehicle.

In recent years, we have also seen a plethora of criminal sanctions in respect of misbehaviour using a motor vehicle to the extent that that vehicle is able to be clamped, towed away, crushed, disposed of or sold as an extra form of punishment for the person who has misbehaved.

The opposition in principle supports the need to deal with the residual monkey bikes in existence and the government's decision to provide this by having a prescription process. So, we do not need to register these vehicles, but once they are prescribed, under the bill, they attract many of the obligations and consequences of their misuse, and, of course, appropriate penalties are there. That is the gist of that. We have had a public nuisance problem; it has been identified. We treat these issues quite seriously. At present, these vehicles are not caught in the system and this bill seeks to remedy it.

There are a couple of aspects, though, that we think need to be tidied up. Some will be remedied in foreshadowed amendments. In one instance, there is an attempt to do so, but we think they do not have it right and we foreshadow moving some amendments in another place. Firstly, I

will deal with vehicles that are given conditional registration under section 25 of the Motor Vehicles Act. These are predominantly for use on private properties, such as agricultural motorcycles. They can be driven on public roads in accordance with the conditions specified in the regulations or as imposed by the registrar.

They might be conditional to the extent that they can only be used on public roads within a certain vicinity or at a certain time of day, for example. Concern was raised, and opposition members representing country districts see the direct consequence that that could have. I have been enlightened during my comprehensive contribution. Apparently, conditional registration is already incorporated in the provisions of the second amendment foreshadowed by the Attorney-General.

So, on that basis, I will not dwell on it further. It seems as though that has been listened to and already remedied. I think it was also foreshadowed as a potential problem by the Motor Traders Association. I will place on the record, though, my appreciation to the Mr Ivan Venning, the member for Schubert, who raised this matter and foreshadowed his own amendment regarding the needs of country people.

The second issue is the provision for forfeiture of a prescribed motor vehicle (which is under clause 5) if a person is convicted or found guilty of an offence under the proposed act, or expiates or admits the commission of the offence where action is taken under the Young Offenders Act 1993. We understood that the Hon. Ann Bressington had foreshadowed an amendment and, as a result, the government is proposing an amendment today. She raised it and, as I understand it, the government has picked up on the fact that the forfeiture of a prescribed motor vehicle should be restricted to where the owner is the person responsible for the offence.

Her concern was that the provisions of the bill, as it currently stands, allow for another person's prescribed motor vehicle to be forfeited, even if they did not consent to the use of the vehicle or were unaware of the offence taking place. She said that essentially they must have either been the owner or consented to or had reasonably known that the prescribed motor vehicle would be used in the commission of an offence, and for them to then be liable to have their vehicle forfeited.

This matter was considered by the opposition. We think that it is important to make the bill consistent with the forfeiture provision of the hoon act, which is the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act. Unfortunately, neither the Bressington proposal nor what has been picked up here, we think, actually reflects that, in that there is no discretion in the application of the forfeiture provisions or appeal. That is the matter which we will look at further amending.

We accept that the government may have acceded to the intent of what was proposed by the Hon. Ann Bressington and tried to address it, but we think that there are some aspects that need to be finetuned, and we look forward to the government's support on that. In the meantime, I have located what seems to be a draft of that. I am not sure that it was the one that was approved by our party room; but, if I find the one that is amended and approved, I will try to ensure that the Attorney-General has that fairly quickly and that, between houses, he can consider that as a means of resolving that issue.

The other matter was the prescription of motor vehicles. The prescribed motor vehicle under the bill is a motor vehicle that is not able to be registered under the Motor Vehicles Act 1959 and a class declared by the minister by notice in the *Gazette*. Under the bill, the minister could prescribe any motor vehicle, including one currently subject to exemptions, for example, farm bikes (that were not under the conditional registration that we talked about before) with dimpled tyres, golf buggies and mopeds. All vehicles not able to be registered could be declared to be prescribed motor vehicles.

We are consistent as an opposition in not being in favour of procedures which allow for change without scrutiny of parliament, and so gazettal change is something that we are not normally attracted to or supportive of, and there is no exception in this case. Really, for the public scrutiny, this is something that we seek to have. We understand that the Hon. Ann Bressington is of a similar view. The Motor Trade Association has that view, and, wisely, the Attorney-General has listened and I think that there is a foreshadowed amendment to cover that issue.

I think that covers all matters of concern that were raised by the opposition. I did think that one of our other members would like briefly to speak on the matter. The interest is overwhelming. I conclude my comments.

Mr PICCOLO (Light) (17:04): I rise to speak in support of this bill. It is one which, I think, can only assist with two issues. One of the issues has been mentioned by the member for Bragg, that is, the issue of noise. That is a major issue. One of the things I get constant feedback about from some parts of my electorate is the issue of monkey bikes, or pocket rockets as they are nicknamed. As I said, it is a constant feedback issue.

More importantly than just a noise issue, though, is the safety issue. Often these bikes are ridden not on the roadway but on the footpath. I receive a lot of complaints from residents who say that they have nearly been knocked over by the, generally, young people who ride these bikes on the footpaths, etc.

An honourable member interjecting:

Mr PICCOLO: Yes. Not only that, in one suburb in my electorate they use the parks to race these vehicles, which is a public way. Parks are designed for family events, for passive recreation, kicking a football, etc., not for these things which are zooming by. Hopefully, the way this bill is structured, it will make sure that parents exercise a bit more responsibility for their children, who may be using these things illegally. I will not go into the technical details of the bill, I am sure that will be dealt with elsewhere, but I will suggest that giving the police the discretion to act immediately is very important. It often requires a rapid response. The bill will only lead to, perhaps, quieter, safer communities, which is what we all want.

The Hon. R.B. SUCH (Fisher) (17:05): I have had, not experience riding them, but experience of constituents complaining about the behaviour of some people on what are called monkey bikes. I hesitate to use the term 'pocket rocket' because that was the name given to the former member for Chaffey whilst she was in this place. There are two issues here, and I think members have touched on one. There is the nuisance factor, noise and other aspects affecting amenity, but the greater concern for me is safety. I have seen the monkey bikes come through the areas adjacent to the shopping centre and if someone was hit by one of these it would cause quite serious injury.

I notice that this bill is focused particularly on those types of miniature motorcycles, but quite frequently I see people with the, I think, less than 50cc motor attached to their pushbike, and they can do 60 or 70 kilometres an hour on any of our roads. Whilst I am not advocating banning them, in my view they represent a danger, and not only to the people who ride them, because I do not believe there is much protection if you come off of one of those doing 60 kilometres an hour on a bitumen road. They do not have any identification on them, they are not required to. They do not have to be registered, and, presumably, they do not have any insurance. As I say, I am not advocating banning them, but I think it is time that the government had a look at whether or not they were somehow brought under a control.

I have also seen people near my office on motorised skateboards. Once again, I am not advocating banning them, if they use them properly and at a proper location. My concern with those would be that if people do get them and use them on a roadway then, I guess, that would be illegal. They are becoming more common and more popular. In looking at these issues of safety and nuisance, I think the government might want to look at the whole question of motorised skateboards, bicycles that are fitted with a 50cc, or less, engine, and whether there needs to be some sort of control or management arrangement regime that relates to the use of those particular types of vehicle.

I commend the government for this proposal. I think it is necessary and long overdue. We still have the problem of people riding unregistered and uninsured trail bikes on road verges. If you go anywhere through the Murray Mallee, on the old highway from Kanmantoo through to Murray Bridge and from Murray Bridge through to Loxton, you will see tracks there. Not only are they a risk because of the safety, they are also spreading weeds and riding over sandhills causing erosion and other problems for the farmers.

There is a big issue with inappropriate and often illegal use of motor vehicles including, as I say, trail bikes. They are good fun if you use them wisely and properly. Vehicles like quad bikes are a useful tool, but, if they are used inappropriately, and often illegally, that is just not acceptable. I conclude by commending the government for this measure and I am sure it will get speedy passage.

Mr MARSHALL (Norwood) (17:10): I also rise to speak on the Summary Offences (Prescribed Motor Vehicles) Amendment Bill. My comments will be brief. I will begin by commending the member for Bragg, a great fan of all things motorsport, for her comments. I note

that we will, of course, be supporting this bill. I also support the comments of the member for Fisher, who said that this bill is long overdue and necessary. I suppose, in a way, that is the guts of what I would like to talk about; that is, it is long overdue.

In fact, the government has had a war on monkey bikes for some time. This war began back in early 2006 when the then minister for consumer affairs, who coined the phrase 'pocket rockets' in this house, declared that it was an offence. In fact, she made a dangerous goods declaration in respect of these bikes, which was gazetted. That effectively made it illegal to sell these bikes in South Australia, with a penalty up to $10,000.

We then fast-forward to a couple of years ago, 2009, when the then attorney-general continued his war on monkey bikes. In fact, he put out a press release which was called 'Monkey Bikes to be Crushed'. He was, of course, really against monkey bikes and gave a really impassioned—

An honourable member: Plea.

Mr MARSHALL: —plea to people that this was a really grievous situation in South Australia. He said that he was going to put a stop to it as quickly as possible. That was in 2009, and as we know, the government has rushed this legislation through, so here we are in 2011. That is exactly how important this issue actually is to this government.

It is an issue for monkey bikes but it is a much greater issue for this government in general. This government is one which loses focus and loses interest in an issue as soon as the press release is out of the way. So, in 2009, the then attorney-general said, 'We are going to rush legislation through the house to ban these monkey bikes, to make them illegal.' In fact, we are going to talk about crushing these monkey bikes. He uses that emotive term because they are such a problem here in South Australia, but, of course, the bill does not come back until 2011. This is, of course, not the only instance. There are many, many instances where this government has lost interest in a topic as soon as the press release has cooled off the photocopying machine.

A classic example of this, of course, is the significant tree legislation which passed both houses of parliament. It was, in fact, assented to by the Governor in 2009. We still have not seen those regulations introduced into this parliament. It is a very significant issue and, in the member for Bragg's electorate earlier this week, two people were taken to hospital as a result of a falling branch from a dangerous tree. So, people really are being put in a dangerous situation because of this government's lack of alacrity, or indeed interest, in putting legislation forward.

Today, we saw another classic example of that in the house when we talked about transition accommodation. Again, this is an issue which this government announced as a real issue for South Australia back in 2007. The funding was available in 2009 and here we are in 2011 and this government still has not been able to—

The Hon. J.R. RAU: I have been slow to rise on this because I have really been enjoying it but—

The DEPUTY SPEAKER: Riveted.

The Hon. J.R. RAU: —it does appear to be more in the nature of a grievance, which is fine. Everything in its place and a place for everything, but we have moved a fair way away now from the topic of monkey bikes.

The DEPUTY SPEAKER: We have.

Members interjecting:

The Hon. J.R. RAU: I don't know what we are into, but whatever we are into it is certainly not monkey bikes. So whilst I am picking up the thread of the honourable member's contribution, I think he is probably out of the zone a little.

Mr MARSHALL: I am happy to accept that, and I will wrap up by saying that we will be supporting this legislation.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (17:15): First of all, can I thank all the members who have contributed, including the member for Norwood. I was actually enjoying that—

The DEPUTY SPEAKER: So was I.

The Hon. J.R. RAU: —but it was taking us, I think—

The DEPUTY SPEAKER: No, the relevance of an argument may not always be perceptible.

The Hon. J.R. RAU: I thank also the member for Bragg who was very helpful in her comments, and, of course, the members for Light and Fisher. Can I say in particular to the member for Bragg, I am sympathetic with the member for Bragg often being placed in the position where she is in this chamber and has been, I guess—

Mr Pengilly: Picked on by Jennifer.

The Hon. J.R. RAU: No—is placed in the unenviable position of knowing that an amendment is coming but not quite knowing what it is. That is not her fault, but can I just say this—

Mr Pegler: That's Donald Rumsfeld, isn't it?

The Hon. J.R. RAU: Yes—the known knowns, the known unknowns and the unknown unknowns. She does have a difficulty that often she is only able to tell us in general terms what the amendments might be. That is certainly not her fault, but it does mean, unfortunately, that the debate in this chamber is not perhaps as useful as it might otherwise be. It also means that those people in another place, were they minded to have any interest in what happened down here, do not gain much information about it from reading the *Hansard*. I know that they do not often burden themselves with what we do here, perhaps, but if they were minded to do that, they might actually get a little more information if members opposite were kind enough to give the member for Bragg enough detail before the debate here to be able to help us, and that is not her fault, I know.

Mr Marshall interjecting:

The DEPUTY SPEAKER: The member for Norwood does raise a little point there, Attorney.

The Hon. J.R. RAU: Can I just say these couple of things in wrapping it up. First of all—

Mr Pengilly: The bill.

The Hon. J.R. RAU: The bill. These pieces of equipment are illegal to import and they are illegal to sell. We are dealing with a group of so-called monkey bikes which is a finite collection of monkey bikes. If one owns one of these things, the only legal thing a person can do with it is, for example, to ride it on their own property. So, as I mentioned before to the honourable member for Bragg, if she owned one of these and were minded to ride around Kangaroo Island, as long as she stayed within the confines of her own property—or indeed if the honourable member for Finniss had one and wished to ride around his property on one of these—nobody would care. It would be fine and it would be perfectly legal. It only becomes a problem if you actually leave private property.

So we have things that you cannot import into the country, you cannot sell to anybody and you cannot take off your property. That is what we are dealing with here. We are saying that those qualities about these bikes are materially different to, for example, an ordinary motorbike or an ordinary motor vehicle. I will explain a little bit later why that is significant.

The other point I wanted to briefly touch on was that the member for Norwood said, 'Here we are, many years down the track.' Can I just point out, to the extent that it is relevant that towards the end of March last year, this particular project landed in front of me and by September last year it was in the parliament. The fact that it has taken from September until now to get to this point is not something for which I can—

Mr Marshall: So you're not the slack one? It wasn't you. You're not the slack one.

The Hon. J.R. RAU: I am just saying, I don't know why but I can assure you I have been pushing this with some enthusiasm, but there you are. The other thing I want to mention is that there has been extensive consultation in relation to this bill and, as the member for Bragg mentioned, the Hon. Ann Bressington has had some views about this which we have tried to take into account. I met with Mr Chapman from the MTA last month. We had a discussion about matters and, in the end, the amendments we put forward are reflective of a position with which the MTA was comfortable.

I want to speak briefly about the amendments foreshadowed by both the government and the opposition so that we perhaps do not have to go into that in more detail later on. The first foreshadowed amendment by the government is to insert new subsection (6a) after section 55(6).

This amendment would address a concern which was brought to our attention by both Ms Bressington and the MTA about innocent third parties being prejudiced by the seizure of one of these devices.

The amendment addresses the potentially inequitable result where an owner of a vehicle whose vehicle is driven or left to stand on a road as a result of an unlawful act—for example, being stolen by a person—could have that vehicle, nevertheless, seized and forfeited by the Crown by virtue of the fact that the driver would be committing an offence under section 55. It is not the government's intention that the owner should lose the vehicle due to the unlawful act of another person, and so this amendment is being moved to ensure that such a result would not occur.

I understand from what the member for Bragg has said and from the quick look I had at the foreshadowed amendment that the Hon. Mr Wade might be moving elsewhere, that there is a view that that does not go far enough and that what we should do is to replicate here the provisions in the hoon legislation which deal with forfeiture. I want to make, very quickly, a couple of points.

Bear in mind that when you are talking about a person's motor car, number one, it is legal to buy them, it is legal to drive them on the road and it is quite likely that you have an insurance company to whom you owe money in relation to that vehicle—all relevant interests to be taken into account when considering whether it can be crushed. Also, all very relevant in considering whether a court might want to sit down and consider your position. The point I am trying to make to members opposite is that that is fundamentally different from a vehicle that you cannot import, cannot buy and cannot drive anywhere on a public road.

The second point is that if you bring a court into the forfeiture provision, what you will be doing is introducing an element which is completely inconsistent with it being an expiable offence, because you cannot have the courts involved if you expect it to be an expiable offence. What you will do is make all of the offences then offences which must be dealt with in the court as well.

I am putting those matters on the record here. I am happy to talk to anybody between the houses if they are matters of concern, but I would urge people to reflect on that and consider the differences between these things and a motor vehicle, because they are fundamentally different in terms of their legality and, for example, whether you would be likely to have hire-purchase arrangements in respect of a monkey bike: I just cannot imagine that, but anyway. So, that is the first amendment.

The second amendment is in relation to what is meant by a 'prescribed motor vehicle'. Originally, the government was talking about having a ministerial direction which would give that classification. The MTA and others were concerned that that might be a bit too remote from the parliamentary process and that an irresponsible minister might decide to prohibit everything. As much as I think that is unlikely, I do understand the constitutional and legal proposition that that is advancing. Indeed, that was a matter that Mr Chapman from the MTA raised with me.

The other polar position is to say that we have to put in the act every single thing which is going to be prescribed. That would mean every time a new product came out which people do not want, the act would have to be amended. That is, again, a little bit unreasonable. So what we have done in our amendment to clause 5 is to say that a 'prescribed motor vehicle' means a motor vehicle of a class prescribed by regulation for the purposes of this section.

In other words, the parliament will still control what is or is not a prescribed vehicle, but it will be doing so through the regulation-making process which is a swifter, more efficient process, rather than requiring the parliament to go through this process of opening up the act and going through a formal amendment.

So, I would encourage members opposite, again, through the member for Bragg, to consider that that is a reasonable compromise between what, on the one hand, would be obviously a lot of discretion placed on a minister, although I do not think anything to be feared, but nonetheless I can understand the potential objection to that, and, on the other hand, locking this thing up in a legislative straitjacket which would require the parliament to sit to undo.

So, with those few words, which I think cover everything that I would be likely to say at any time unless I have left something out, I would like to close the debate on the second reading.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.R. RAU: Now that we are in committee, can I just say, I understand, and I think it is clear if we look at the wording of our second amendment, in the second to last line it says 'are not able to be registered or conditionally registered'. That being the case, I assume that the member for Schubert's amendment will not be necessary to be proceed with. So, in that case, at the moment, I believe the only amendments that are before the committee are the two that I have just foreshadowed, and I would ask if we could perhaps deal with everything up to the first of the foreshadowed additional amendments and see whether everyone is happy with that, then we can deal with that amendment.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

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

Page 3, after line 31 [clause 5, inserted section 55]—After section 55(6) insert:

(6a) Subsections (5) and (6) do not apply in relation to an offence against subsection (1) where, in consequence of some unlawful act, the motor vehicle was not in the possession or control of the owner of the vehicle at the time of the offence.

Page 4, lines 3 to 6 [clause 5, inserted section 55(8), definition of prescribed motor vehicle]—Delete the definition of 'prescribed motor vehicle' and substitute:

'prescribed motor vehicle' means a motor vehicle of a class prescribed by regulation for the purposes of this section, being a class of motor vehicles that are not able to be registered, or conditionally registered, under the Motor Vehicles Act 1959;

Ms CHAPMAN: I indicate that, for the reasons that I have outlined in the second reading contribution, we will be not objecting to the first, and consenting to the second, on the basis that we are foreshadowing some extra amendments to cover the difficulty that amendment No.1 attempts to override.

The CHAIR: So, you will not be proceeding with amendment No. 1 on schedule 1 which stands in Mr Venning's name?

Ms CHAPMAN: Sorry, I thought you were referring to your two amendments.

The Hon. J.R. RAU: I was.

Ms CHAPMAN: Madam Chair, the Attorney-General was just referring to his two amendments, having indicated to you that Mr Venning's amendment would not be progressing.

The CHAIR: Are you happy, member for Schubert?

Mr VENNING: Yes. I apologise for not being here during the actual debate on the bill. I had a fairly pressing matter to deal with. I assume that you are talking about the amendment on section 25? That has already been done. That is all I had to worry about.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development and Planning, Minister for Tourism, Minister for Food Marketing) (17:31): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 17:31 the house adjourned until Thursday 10 March 2011 at 10:30.