LEGISLATIVE COUNCIL

Thursday 8 May 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

LEGAL PROFESSION BILL

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:03): I seek leave to move a motion without notice concerning the conference on the bill.

Leave granted.

The Hon. P. HOLLOWAY: I move:

That standing orders be so far suspended as to enable the sitting of the council to be continued during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 14:15.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 May 2008. Page 2813.)

The Hon. M. PARNELL (11:05): The past two weeks of sitting and the past three days in particular have left me absolutely gobsmacked about how the parliament goes about its business. We have seen remarkable attacks on the crossbench members, on the Liberals and, in fact, on the very institution of the Legislative Council from the Treasurer, the Attorney-General and others. The message they have sought to portray to the community is that we are not serious about dealing with government business. In this place we all know the *Notice Paper* and the order in which matters are listed, and we know what the government tells us are its priorities.

In the past sitting period of two weeks we knew, from letters from the Leader of the Government and from the daily *Notice Paper*, that the government's No. 1 priority was the so-called bikies bill. I and I know a lot of other members gave some honour to the request that we prioritise that legislation. I abandoned a great deal of other things that I thought were more important so that we could give proper attention to that bill, yet we had the circus in this place, having been told it was a priority, that day after day we would come into this place—

The Hon. P. Holloway: I will circulate to the media letters telling them exactly what the priorities were.

The Hon. M. PARNELL: The minister says he will circulate his letter. Tell me who you will circulate your letter to, minister, and I will circulate two letters that have the bikies bill as the No. 1 priority for two sitting weeks. Every day we came into this parliament ready to debate the bikies bill, and we have moved heaven and earth over the past couple of weeks to make sure that that legislation was given the scrutiny it deserves. I make no apology for the fact that I moved amendments to this legislation and no apology for the fact that I tried to fix it up. I did not get the agreement of members, but we did discover some loopholes and some errors of drafting, and they were dealt with in committee.

The PRESIDENT: Order! I remind the honourable member that the council finished dealing with that bill last night. This is the workers compensation bill.

The Hon. M. PARNELL: Thank you, Mr President; and that is where I need to go now. We have now been accused of delaying the workers compensation bill because of the time we spent doing what the government had said was its priority, namely, the bikies bill. I think we have also

shown greater tolerance in the suspension of our normal program, our standing orders, in order to get to this debate.

But still we find, on the issue of WorkCover, that we are under attack from the government. As we were sitting here yesterday, just about to start question time, the *Adelaide Now* website loaded up an article, some of which was included in this morning's *Advertiser*. At 20 minutes past two yesterday, he *Adelaide Now* website posted an article under the heading 'Furious Foley unloads on upper house over WorkCover bill delay.'

What a nerve for the Treasurer to accuse us of delaying the WorkCover bill because we were giving scrutiny to that piece of legislation the government had told us for two sitting weeks was its No. 1 priority, yet it adjourned it time and again. We got on to it yesterday, and now we are getting on to the WorkCover bill. WorkCover is still in the news this morning, as media commentators are questioning the behaviour and the ethics of government ministers, including the Treasurer, especially in relation to his unwelcome interruption to our work yesterday. The *Adelaide Now* article states:

> Treasurer Kevin Foley has launched a stunning broadside at the state's upper house, labelling it irrelevant, reckless and destructive over the WorkCover impasse. In a powerful attack this morning, Mr Foley indicated the government would move to suspend private members time to bring forward the debate on WorkCover, saying the legislation had to be passed by Monday, even if it meant sitting 24/7.

I would like to know why the government regards it as appropriate for me to find out in an online news service that the standing orders of this council are proposed to be suspended so that we can get on to the WorkCover debate. No courtesy of talking to me as a member of this place. No-one from the government came to me and said, 'We don't want you to debate your private members business; we want to get on to WorkCover.'

I would have appreciated the courtesy of the government coming to me and saying that that is what its intention was. Instead, we read about it in online newspapers, and we find out about it when it actually happens and we are forced to make a decision about whether a longstanding tradition of this council that private members business take priority on a Wednesday is going to be thrown out.

This morning, again, with commentators on WorkCover in the media, we find the Attorney-General talking about this move to try to suspend private members business, and he conveniently forgot that we did, in fact, suspend it to prioritise some government business yesterday, and we got on to private members business later.

But that was not good enough. The Attorney-General then criticised and complained about some of the issues we were discussing. He mentioned individual members and items they had put on the *Notice Paper*. One that he mentioned as being on our *Notice Paper* were moves to give ourselves more perks, to give ourselves more pay. I do not know where that is on the *Notice Paper*, unless he was talking about my intention to provide members of parliament and public servants with an option to invest their superannuation ethically. Maybe that is what the Attorney-General thinks is a perk.

Mr Foley is also reported as urging all businesses to boycott the Liberal's tax summit on Monday, saying that the party had let them down by not focusing on the legislation. So, that has us questioning whether this WorkCover legislation is so desperately urgent in its own right—that is, the desire to cut injured workers' entitlements as quickly possible—or whether this is really about political point scoring so that the business leaders the Leader of the Opposition has invited to talk about tax—a very important topic—are discouraged from attending. The Treasurer is quoted as saying:

> There is a quaint old tradition in the upper house of this state that they spend a few hours on a Wednesday pontificating and rabbiting on about private members issues that have little relevance to the good of the state, and we want that process scrapped this afternoon.

What a remarkable statement for the Treasurer to make.

An honourable member interjecting:

The Hon. M. PARNELL: As my honourable colleague says, he wants the upper house scrapped, not just our quaint tradition of discussing things in the afternoon. What we have to remember is that two-thirds of South Australians did not vote for the Labor Party in this chamber. People exercised their democratic right to determine how they wanted their legislature constructed, and they decided, wisely, that they wanted a mix of major parties, minor parties, and Independents in this chamber—and that is what we have.

When people elect us to parliament, they expect that we will bring to the parliament issues of importance to them—and that is what we do on a Wednesday. Yes, we will discuss WorkCover; we will discuss government legislation; we will make sure that it does not fall off the agenda and that it is treated seriously. It will either be supported or it will be opposed on its merits—that is where WorkCover fits into this—but to suggest that elected members of the state parliament have no right to bring to this place issues of importance to our communities is an outrageous slight on democracy in this state. In relation to WorkCover, the Treasurer goes on to say:

I say this to business, a very deliberate message to business, there should be a mass boycott...of the Liberal's Tax Summit on Monday in this parliament if the Liberals have not passed [the bill] to fix WorkCover.

That raises the question of the urgency of dealing with this bill, given that the unfunded liability has taken some six or eight years to eventuate and will take equally long to go down. However, all of a sudden, because the Liberals are having a tax summit on Monday, the priority is for the Legislative Council to suspend all its other business and to get on with debating it. Well, I am debating it now, and I am keen to get on to resolve these WorkCover issues. The *Adelaide Now* article on WorkCover stated:

The opposition and minor parties yesterday blocked moves by the government to bring forward the WorkCover debate, instead choosing to debate the controversial anti-biking legislation.

We have had this outrageous, almost comical situation where the Leader of the Government in this place is saying that the priority for the state of South Australia is to cut the rights of injured workers, and we have had the Attorney-General—

The Hon. P. Holloway: I don't think I said that, actually.

The Hon. M. PARNELL: No; the minister did not say it in those terms, but that is the effect of this legislation: cutting the rights of injured workers. We have had the Attorney-General—especially in light of the terrible incident in Gouger Street on the weekend—saying, 'No; passing the bikies bill is the No. 1 priority.' When journalists have questioned, 'Which is it?' the response came back, 'Well, it's both.' I think the Legislative Council has behaved admirably in moving our normal practices, shuffling and changing them to accommodate both pieces of legislation. The *Adelaide Now* article on WorkCover goes on to state:

The move came after senior government MPs, including Attorney-General Michael Atkinson, blamed the opposition and minor parties for deliberately holding up the bikies bill.

That is an outrageous untruth, which everyone in this place knows to be so. We did not hold it up.

Mr Foley said that the behaviour of the members in the upper house recently had proven why the council was not needed. As tempting as it is to go into a debate now on why the upper house is important, I will not do that, because the focus is on WorkCover. The only thing I want to say is that, if we did not have an upper house, if we were like Queensland with a unicameral parliament, these changes to the WorkCover laws, these changes that cut the entitlements of vulnerable people in the community who need our support and help, would already be law. That is the value of the upper house. We will find errors and mistakes in this legislation on top of the general unfairness of the legislation, just as we found mistakes when we went through the bikies bill yesterday.

Mr Foley said that the behaviour of the members of the upper house recently had proven why the council was not needed and that Premier Mike Rann is proposing a referendum at the next state election aimed at getting reforms. The direct quote from Mr Foley is as follows:

This is the most politically reckless and destructive period that I have witnessed in parliament in some 16 years.

I accept that Mr Foley has been longer in this place, but I find it remarkable that he can point to the quality of debate that we have in this place and say that it is reckless or destructive. When we get into the committee stage on WorkCover I am going to move amendments (which I am hoping will be with members this afternoon) that will test this legislation clause by clause and section by section. The Treasurer goes on to state about the WorkCover Legislation:

This is a piece of law that passed the lower house in a little over a week and is now log-jammed in one of the most irrelevant legislative houses in the nation. If you ever have witnessed why we shouldn't have upper house in this state, this is it.

The message that comes from that is not just a message about the upper house: it is a message to the people of South Australia about the commitment of the Treasurer to democracy; the commitment of the Treasurer to debate. Yesterday, I flippantly suggested that perhaps we do not

need to debate WorkCover or bikies; perhaps we should just sit in our rooms in front of computer screens with a vote yes or vote no button, and we can do away with debate. The Hon. Bernard Finnigan expressed some support for that notion. I am very pleased that he is now listening to this debate on WorkCover, and I eagerly await his contribution. Perhaps when we come back in June we will hear the honourable member's views.

The opposition leader, Martin Hamilton-Smith, blamed the government for the delays in the WorkCover bill. The Leader of the Opposition said, 'What a silly, stupid remark from the Treasurer.' I echo the words of the Leader of the Opposition. I do not think the people of South Australia are fooled about WorkCover; I do not think they are fooled about bikies. What they know is that WorkCover is causing pain to Labor; that the longer the pain goes on, the worse it is for Labor; and that, therefore, Labor's agenda is to get this through in whatever way it can using whatever bullying it needs—be it the Treasurer coming into our chamber and telling us what he thinks or whether it is the Attorney-General or the Treasurer talking on the airwaves. They are the tactics they are going to use. The *Adelaide Now* article goes on to quote the Leader of the Opposition as saying:

> A year ago Mr Rann and Mr Foley knew action needs to be taken on WorkCover. It had recommendations from the board saying that legislation was urgently needed, but they delayed. My expectation is that the WorkCover legislation will be passed before the end of the financial year. If it is not done this week, it will be certainly done in the next week of sitting, which is June.

We are going to decide this afternoon what progress we have made. However, I think the Leader of the Opposition may be right. I know he is right in that we will still be discussing this in June, because this is such important legislation which needs the scrutiny of the Legislative Council and which needs us to go through the amendments that it will take that long. I could not commence my remarks without putting on record the outrageous attacks on the upper house in relation to this bill.

The legislation itself, as I have said, is complicated and, therefore, it needs a great deal of scrutiny. I make no apology about taking my time in exploring the detail of this legislation. What has amazed me over the past two months is the number of people who have contacted me in relation to WorkCover. Injured workers email me, ring my office and write to me, saying, 'Mr Parnell, doesn't the government realise that this legislation is about real people and real people's lives?' It is not about unfunded liabilities: it is about the living standards and the justice we give to injured workers as a consequence of their injury at work.

All these people who have contacted me say, 'Can you tell the parliament what the impact of these WorkCover changes will be?' Some of them have had very poor experiences with the current system, and their relevance to this debate is that, with many of these changes, we can multiply those negative experiences many times over.

WorkCover in South Australia has a very long history, and it has always been controversial when it has been debated. When the Treasurer complains that the lower house got through the bill in a week and that that therefore somehow reflects on the upper house, he conveniently ignores the fact that the government, with knowledge of the numbers and the balance of responsibilities in this place, very often leaves contentious issues to the scrutiny of the upper house. It knows that in the lower house it has the numbers on WorkCover and that it does not need to have a thorough debate there, because the real action and the real scrutiny will be in the Legislative Council.

As I proceed through this legislation, I am still finding flaws. In fact, in some ways it is like a good movie: the more often you look at it, the more new things you find. We found mistakes in the bikie bill and we have found many mistakes in the WorkCover bill. That is why it has taken much of my time recently to go through this legislation to prepare amendments. People need only look at the range of the issues that I would normally be dealing with. I have to say that I have dropped a lot of those and chosen not to engage in many of the important issues facing the state because I have made some commitment to advancing the legislative agenda, including WorkCover.

That is why I take very personally the attacks which are untrue and which are, in fact, an insult to my family who do not see me very often these days because I am working on this legislation. They do not see me because we were still sitting at a quarter to one this morning. We are working hard, and we will continue to work hard on WorkCover. I take the minister at his word when he said in this place a while ago that they need this legislation through by the end of June. Let us work within the processes of this parliament to see whether we can give this bill the scrutiny it deserves and see what the outcome will be by the end of June.

It is also important for people to realise that the way parliament works is that all of us work every day; we do not work just on the days that parliament sits. So that we can balance our responsibilities to our electorate (and in our case the whole state comprises our electorate and our

constituents) and the parliamentary agenda, as well as the government's parliamentary agenda, which includes WorkCover, they publish a sitting schedule at the start of each year, and we plan our lives around that schedule.

In the more than two years I have been here, I have never missed a day in parliament, and I have never missed a division. I have always been here. Other members have taken the government at face value with its published legislative program, and they have planned other work around it. So, we will work within the rules that were agreed collectively at the start of the year in terms of our sitting schedule—and I think that that is the way to go.

I am not interested in sitting on Mother's Day. I think that is an outrageous insult, not just to the mothers of South Australia but to the parliament and to those whose support us, including the Hansard staff, many of whom are no doubt mothers, and the people in the library. What an outrageous suggestion—that, because the government has got itself into a spot, it is embarrassed over WorkCover and therefore we should sit on Mother's Day. I just find that offensive in the extreme.

Another point I think worth making is that the opposition has decided, for its own reasons, that it will allow this legislation to become the government's legacy, and it has chosen not to engage in amendments. In fact, despite its criticisms of the legislation (and it has pointed out things that are wrong with it, as I will), it has not engaged in what would be the normal role of an opposition, namely, to scrutinise proposed amendments and—

The Hon. A. Bressington: Loyally oppose.

The Hon. M. PARNELL: As the Hon. Ann Bressington says, to loyally oppose. I do not pretend to tell my colleagues everything the word 'opposition' means, but it sometimes means opposing things that deserve to be opposed, and it also means scrutiny. That is one thing that my crossbench colleagues and I share in common with the Liberal Party: we are part of the opposition in that role of scrutinising legislation.

Of course, the problem here is that, when Her Majesty's loyal opposition chooses not to engage in that part of the role (that is, the scrutiny of legislation), it is left to the crossbench. The fact that six members of the upper house on the cross benches have said that they are not happy with this legislation and that they want to give it the scrutiny it deserves effectively puts us in the position of the opposition in relation to this legislation.

It is often pointed out that, if we dare to complain about the workload in terms of having to do the job of the opposition, we are told that we get extra staff to do it. I know from conversations with other crossbench members that our staff have dropped many other projects so that we can concentrate on doing the right thing in scrutinising this WorkCover legislation. In fact, one member of my staff at least prematurely dragged himself out of his sick bed so we could work on this legislation, so I do not accept that we are unduly delaying it.

What I will say is that this debate will be a long debate, but it need not be that long. There are some alternatives to having a lengthy debate in the Legislative Council. One of those alternatives (and it is an alternative that I have been suggesting for the past couple of months) is that we use the vehicle of parliament to best effect by having a committee look at this legislation. It could be either a select committee or we could use one of the standing committees. We already have a standing committee looking at WorkCover.

The Statutory Authorities Review Committee has been looking at WorkCover, and it seems to me that committees are an under-used tool in this parliament and that we should refer to them contentious legislation, because they have an incredible advantage over us debating as either a full Legislative Council or as a committee of the whole. The advantage is that they can call for witnesses. They can actually scrutinise and interrogate the people who are either responsible for the system or the subjects of the system (the recipients of services provided by the system).

I think that, given the history of WorkCover and given the huge variety of opinions over what the problem is and how best to fix it, proper scrutiny by a parliamentary committee would be the best way of our dealing with it. I do not sit on that committee, so there is no personal agenda in my saying that, but those honourable members who are on the committee would have the ability to ask questions of WorkCover representatives, SafeWork SA people, the claims managers, the lawyers who work in this field and, most importantly, the injured workers who are (depending how you look at it) the victims of the system or the recipients of services provided by the system. 'Clients' or 'users' is the jargon we often use. We could get those people into a parliamentary committee and ask them about their experiences, the things that worked and the things that did not

work. Yet, I do not find any support in the Legislative Council for us to go down that path, and I think that is a real shame. I will be revisiting this issue when we get to the end of the second reading.

My point is that, had I had indications from the opposition that it would support such a move, the need for us to take the time of the Legislative Council to go through every aspect of this bill would, to a certain extent, be negated. But it looks like we will not be going down that path, so I owe it to my constituents (the people of South Australia) to do that job in the Legislative Council in full session and in the committee of the whole when we get to that stage.

I will also say at the outset that I do not pretend for one minute that the current system is perfect and does not need any change. I certainly believe it does not need the changes the government is proposing, but WorkCover does need to be reformed. We need to change the way the system operates. We need changes that improve the scheme's funding position, and we need changes that ensure we deliver genuine and meaningful improvements to injured workers in the areas of rehabilitation and their ability to return to work. That is one of the reasons—in fact, one of the main reasons—why I oppose this disgraceful bill unless it is adequately amended. Premier Rann's disgraceful attack on some of the most vulnerable people in South Australia cannot go unanswered.

I think we should make no mistake about what we are talking about here. I will call it the government's legislation but the Premier has very personally attached himself to it, so we can say, I think, that this is Premier Rann's legislation. It does absolutely nothing of substance to help injured workers get back to work. So, in the absence of alternative mechanisms and in the absence of any indication that the government is listening to injured workers, I will be referring to their experiences in my contribution because it provides us with very valuable lessons as to how the system can be improved.

Two of the groups that have corresponded with me a great deal are the unions and members of the legal profession who represent injured workers in workers compensation cases. They have given me a mountain of material that they have asked me to refer to. I will not go through everything that everyone has written to me about workers compensation. I will only skim the surface, but it will still take some time. What I think we need to do at the outset is set some of the context for this legislation in terms of the tabling of the legislation on 28 February and its overall impact on injured workers, and then I want to go, area by area, through some of the different aspects of it, whether it be the proposal to cut entitlements after certain periods of time, the plan to introduce medical panels (which is a vexed and controversial area), or the many others, and we will get to those in due course.

My starting point is that the legislation is inherently flawed and needs to be reformed. The consequences of this legislation are that many injured workers will no longer be able to support their families. I think it is inevitable that, if these changes come in, many mortgages will be foreclosed. We have seen the mess they got themselves into in the United States with the so-called 'subprime mortgage crisis'. South Australia may be set to have a WorkCover driven mortgage crisis of its own, because when you cut the wages of injured workers you cut not only their ability to put food on their tables but also their ability to put a roof over their head. The intention, it seems to me, is that the Labor Party wants to force injured workers onto minimum assistance from social security in the shortest possible time.

The Hon. P. Holloway: We want them back to work; that is what we want.

The Hon. M. PARNELL: The minister says he would like them back at work, and I will have some things to say about the length of the tail, because that is one area about which all the commentators agree—whether it is the WorkCover board, the lawyers who represent them or the unions, the length of the tail is a problem. Getting people back to work is a priority. However, the question before the Legislative Council in terms of this legislation is whether this is the mechanism to do it. I say that it is not. Both the Clayton report (and other members have referred to that) and this bill follow key provisions of the Victorian workers compensation legislation, and the irony has not been lost on unions and injured workers.

The irony is that a state Labor government has adopted the provisions of legislation which was originally enacted by Jeff Kennett in Victoria and which, overall, provide a basis for the most unfair scheme for injured workers in Australia. I will have to come back to that theme that it will become the most unfair scheme for injured workers in Australia, because the rhetoric from government is that we are going to have the fairest scheme. I say that is wrong, and I will show that that is wrong by looking at some of the schemes interstate and how they operate, and comparing

them to the scheme in South Australia. It is very easy to tell people that you have the fairest scheme but, unless there is a mechanism for challenging that, people might just accept it and be misled.

Now, that is where the Legislative Council comes in. We do not accept simple throw-away lines such as, 'We've got the fairest scheme', just as we did not accept comments such as, 'You are delaying government legislation.' Once you put the facts on the table people can see that it is untrue and they can then form their view as to where the real integrity lies in politics in South Australia. A significant feature of the Victorian legislation, and therefore this proposed legislation, is the adoption of arbitrary cut-off periods—or threshold impairment levels—preventing access to entitlements.

Last week when this bill was debated a number of members pointed out the fact that we were debating the legislation on May Day. I am pleased also to be discussing this legislation close to May Day—not actually on the day but close to the day. I am very glad that I am discussing it after May Day because May Day and that May Day week was a very important opportunity for me to spend a lot of time with workers, their representatives in the unions and with injured workers in particular. The stories they have told me at the different May Day gatherings and associated events deserve to be heard in this place, and so I will go through some of those briefly.

People have said before, so I will not go into it in any detail, that the symbolism of May Day when we are talking about workers' rights and something like WorkCover is that it is a more than 100 year old institution. It is normally an opportunity for people to reflect on the achievements of the labour movement in its broadest sense, including some of its political achievements. In fact, in Australia the celebration goes back over 100 years. In Brisbane in 1890 the Brisbane *Workers' Editorial* (a journal of the day) said:

> May Day, this is our May Day, the bygone jubilation of our fathers for the reconquering of by the bright sunshine of the bitter northern winter, the newborn celebration of the passing of the workers' winter of discontent.

The workers' winter of discontent in South Australia is very much the workers' autumn of discontent in the year 2008. I was proposing to go into a little more of the history of May Day around the world, but I will not put the Legislative Council through that. Some other members mentioned the martyrs in Chicago executed on trumped-up charges in relation to some very violent episodes in that place. In South Australia, May Day has been a tradition of celebrating achievements. When one looks at May Day South Australia 2008, what does one see as the focus? Is it a celebration of the fact that the Howard government and its WorkChoices regime was thrown out?

Yes, to a very moderate extent, but very muted. The overall focus of May Day 2008 was WorkCover and the cuts to the entitlements of injured workers. In South Australia a number of prominent people, who are very connected to the labour movement and to the Labor Party, have been involved in May Day. One such person—and I will just briefly refer to some of his story—was Brian Mowbray. Brian was a worker in the Islington rail workshops for many years in South Australia, and an active member, shop steward and state organiser of the Amalgamated Metal Workers Union. He was president of the workshops committee at General Motors-Holden's, Elizabeth, and a delegate to the UTLC. His story about WorkCover, injured workers and occupational health and safety is contained in a book called *Movers and Shakers*.

Mr Acting President, I note that both you and I attended the launch of *Movers and Shakers*. I found that experience to be remarkable, because I did not know that we were going to be discussing WorkCover. I did not know the relevance of the stories and the people whom I met (many of them for the first time) at that gathering. I know, Mr Acting President, that you have had some things to say in this place on the occasion of the launch of *Movers and Shakers*—

The Hon. S.G. Wade: Not on WorkCover—

The Hon. M. PARNELL: No; it was on *Movers and Shakers*, but the important—

The ACTING PRESIDENT (Hon. I.K. Hunter): Order! The Hon. Mr Wade will come to order and not interject.

The Hon. M. PARNELL: The important thing, given my previous comments and the comments of the Treasurer, is that the only time that the Acting President or I or anyone else can discuss these issues that are important to South Australia and to working people is on private members days: we discuss it on a Wednesday. I think yesterday we tolerated some interference with that normal process, but now we are on to WorkCover.

Brian Mowbray said that most workers in Australia were aware of the May Day parades, processions and demonstrations in other states and around the world, but we did not really have that tradition so much in South Australia. In South Australia, the Labor Party and Trades Hall had focused on the Labour Day holiday in October, which was to celebrate workers' gains.

People might have seen the bumper sticker that talks about unions—the people who brought to you the weekend—which is why I think it will be an outrage to the legacy not only of Labor but also to mothers if we are forced the sit on Mothers Day. Brian Mowbray said it was decided that the May Day parade should be resurrected to celebrate workers' struggles and show international solidarity. He said that it had been 30 years since Adelaide had held a May Day march. He also said:

> I was on delegation in April 1975 for four weeks to organise the big event and set about involving the unions, the Labor and Communist parties, student unions, Aboriginal organisations and various national groups, Cypriots, Greeks, Lebanese, Irish, the Young Socialist League and the Union of Australian Women. The Adelaide May Day march in 1975 was very successful and Adelaide is back on the international May Day map.

We saw that last weekend, and the topic was WorkCover. It was not a celebration of achievements: it was a bitter recognition of the struggle that lay ahead, in terms of tackling this unfair legislation. I was very happy to be a part of it, and I look forward to being part of it in years to come.

The rally on May Day was on the weekend but prior to that, on 1 May, there was the May Day dinner, which I was very pleased to attend. I know that a number of other members attended: the Hon. John Gazzola was there, as were the Hon. Ian Hunter and the President, the Hon. Bob Sneath. Again, the topic of discussion around the table was WorkCover. Sharan Burrow, the national leader of the union movement in Australia, also attended. She talked about a range of things, but prominent in her address was WorkCover.

We also had the rally on the weekend and, again, the commentators around that rally all focused on WorkCover. If one looks at any of the media monitoring and the television news reports, one will see that they all focus on WorkCover and the attack on injured workers being perpetrated by the Labor government. I have no doubt that, whilst a few honourable members attended the WorkCover rally, the vast majority of them were too embarrassed to show their face.

I was very proud that the Greens were in attendance at the May Day rally in great numbers. In fact, alongside union banners there was a sea of green triangles and signs saying, 'Defend workers' rights' and other slogans that basically showed the Greens' commitment—a commitment that is entirely lacking in the Labor Party.

It will be interesting whether this issue of WorkCover will sour those long-term relationships between the labour movement and the Labor Party. The anger that was expressed at the rally and the people who have talked to me leave me in no doubt that these people will not be taken for mugs. They have long memories and, come March 2010, they will remember what has been done to them.

A few members of the Labor Party in the corridors (and that means I will not name them) have said to me, 'Mark, don't you fret about that. They know that we are their only hope, and this will soon blow over. These people will come back to the fold. They are just flirting with you in the Greens. They know that the real action is the Labor Party, and we will soon get them back.' That attitude, I think, has been reflected in a number of comments on the record from political leaders. I think that it is foolish in the extreme for the Labor Party to take its heartland for granted in the way it is doing.

The *Sunday Mail* reported on the May Day rally, I think, in fairly accurate terms. In his article David Nankervis stated:

> The annual May Day celebration of workers' rights yesterday turned into a condemnation of the state government's controversial proposed WorkCover changes. Thousands of workers and union members chanted 'Mr Rann, can your plan.'

Anyone who was in the city on that day could not have failed to hear that chant and be moved by both the simplicity of the message and the passion with which it was delivered. So, they chanted as they took to the streets to protest against the proposed cuts to injured workers' entitlements. The article further states:

> March organisers said the controversial WorkCover legislation now before parliament had increased the typical May Day turnout tenfold to a crowd of more than 2,000.

Normally, to increase a crowd tenfold, one would expect that the conservative forces in parliament must have done something. It is almost impossible to believe that the reason for a tenfold turnout

was a Labor government initiative aimed at cutting the rights of injured workers. The article continues:

> The placards were damning of Premier Mike Rann and the language of speakers addressing the crowd was sometimes blue as the passions ran high.

The article goes on:

> South Australian Union Secretary, Janet Giles, branded Mr Rann arrogant for reducing injury entitlements to fund a cut to the business levy—

Members interjecting:

The Hon. M. PARNELL: I thank my colleagues for helping me to get my words right. I do say that we have sat until midnight two nights in a row, and we are more articulate when we have had more sleep, but I thank my friends for their assistance. The article continues:

> The people marching today feel hurt and betrayed. They fought to get rid of the Howard government's unfair industrial relations policy only to see the state Labor government do this to workers compensation.

I was very pleased that I was given the opportunity to address the May Day rally. The first thing I said was: 'Aren't you glad you did not throw away your rights at work T-shirts? Aren't you glad you did not put them in the ragbag for mopping up spills? Aren't you glad you didn't take them down to the op shop as clothing surplus to requirements? Who would have thought that your 'Rights at Work' T-shirts would need to be brought out again to protest against a Labor government and what it is doing to workers.' The David Nankervis article goes on:

> Australian Manufacturing Workers Union Secretary, John Camillo, told the crowd at Victoria Square that the new legislation was 'bulls...—

I will not say that word in parliament, but I am sure *Hansard* know how to record that with decorum—

> and said injured workers would lose $1.2 billion in entitlements over the next six years.

I repeat: $1.2 billion in entitlements. Let us keep that figure in our minds while we consider the government's approach, which is to say, 'Get the legislation through. Don't spend too long debating it. Don't ask too many questions. Don't move any amendments.' An amount of $1.2 billion in injured workers entitlements to be cut. If nothing else, that gives us not just authority but responsibility to debate this legislation properly. David Nankervis' article concludes:

> Primary school teacher Sue Filp spoke of her concerns. 'I think WorkCover is an issue for any employee', the 55-year old said.

I think that is important to note, and it was not lost on the workers who were attending the WorkCover rally, because it is probably fair to say that most of them had not been injured at work, but they know, especially those who work in dangerous industries, that it is on the cards that one day it could happen to them and they were keen in solidarity with injured colleagues past and injured colleagues future to ensure that the system was as fair as we could get it.

This campaign is not just being driven by injured workers: it is being driven by anyone who may end up becoming injured. Whilst we have not had any meaningful contributions from the members of the Labor Party in this chamber on WorkCover, I could not let go without commenting on a remark of the Hon. Bernard Finnigan when he said in this chamber, 'When you vote for the ALP, you know what you stand for.' I think we need to explore that comment; that is, what it means to vote for the ALP and know what it stands for.

The Hon. S.G. Wade: Hypocrisy and arrogance.

The Hon. M. PARNELL: The Hon. Stephen Wade says, 'Hypocrisy and arrogance.'

The PRESIDENT: The Hon. Stephen Wade is out of order.

The Hon. M. PARNELL: I will try not to be baited by the Hon. Stephen Wade, but I do agree with him. Part of the fundamentals of our democratic system is that people vote for parties and they vote for candidates according to what they stand for. The Hon. Bernard Finnigan wants you to know what the Labor Party stands for. We know what the Labor Party is doing because we have this legislation, but what does it stand for? It is clear from this legislation that the ALP platform is being torn up into confetti by the government in its relentless pursuing of its attack on working families.

The 2005 South Australian ALP platform (the current South Australian ALP platform) has a section called 'Working with industry and unions'. This is the party's commitment to engaging with

key stakeholders. It does not take too long going through that to realise that it has been thrown out the window. At point 51 the South Australian Labor platform states:

> Labor recognises that collaboration between unions and industry is crucial in maintaining and furthering developing jobs and the economy.

I agree with that, but what is this business about collaboration between unions as well as industry? Where have the unions figured in this Labor Party attack?

The unions have not had access to key decision makers in any meaningful way. In fact, when forums are established to enable that to occur, faceless men and women in suits cancel meetings to ensure that this interaction does not properly happen. Point 52 of the South Australian ALP platform states:

> Strategic partnerships need to be built upon between industry, unions and Government agencies involved in economic development, regional affairs, and employment and skill formation.

Again unions are regarded in the policy as an integral part, yet on WorkCover what do we see? We see thousands of unionists taking to the streets calling metaphorically for the Premier's head on a platter—'Mike Rann can your plan' was the chant. Point 54 on the South Australian ALP platform states:

> Unions play a pivotal role in representing and training workers to ensure that employment conditions in South Australia are best practice, in order to facilitate high productivity and jobs growth.

'Employment conditions' do not mean just the wages and conditions of people when they are in the workplace and on the job but they also mean their rights and entitlements when they are injured in their workplaces, because that connection is there. If the workplace was the cause of the injury, the Labor Party should be insisting that our conditions are best practice, so that brings us back to the point about whether this is the fairest system.

The government says there will be partnerships and collaboration with unions. It agrees that unions play a pivotal role, but as far as the attack on working families is concerned it is not what the government is now doing. The peak body for unions in South Australia, SA Unions, was given a commitment by the Premier that, once the Clayton report was released, the government would sit down with the union movement and work through the issues and do its best to come up with a consensus position. That clearly has not happened. It is another blatantly broken promise of this government. There was no consultation whatsoever between the government and the union movement—the union movement which unquestionably is a key stakeholder in workers compensation matters—and there was no consultation on what approach should be taken in response to the Clayton report. So much for lip service to strategic partnerships and collaboration found in the ALP platform.

It is clear that the Premier could not care less what is in the ALP platform, because he simply ignores it when it suits him. The current ALP platform has more to say. Item 71 states:

> Effective industrial relations practices are important to the social well-being of the people of South Australia and the sustainable growth of the South Australian economy. The statewide industrial relations environment in South Australia should be based on cooperation and consultation between employees, employers and their voluntary associations [that means unions] supported by legislative framework that supports employment and protects the rights of all parties.

If you were looking to see who you might want to vote for and thought you would do your research and read the South Australian Labor Party platform, you would have trouble faulting those words. It is only when you pay attention to what is actually happening on the ground that you realise those words are hollow. The ALP platform at point 72 provides:

> Labor supports a cooperative and participatory approach to industrial relations that will achieve optimal outcome for workers, employers and the community, whilst also advancing the economic development of the state. In this view government plays an influential role in the establishment of an equitable industrial relations system that provides an independent adjudicator for the resolution of disputes and claims to facilitate the prompt settlement of disputes.

So much for cooperation and consultation, because apparently that does not apply when it comes to the government's attack on working families, the families of injured workers. There is no participatory approach here. The government has totally excluded the union movement from consultation on responding to the Clayton report. Again the Premier is ignoring his own party's platform. The party platform, I remind members, has the face of the Premier on its front cover. The ALP platform goes on to state, at point 77:

The Rann Labor government's new fair work legislation will protect workers rights and entitlements, while also strengthening the foundations for business to help further grow South Australia's economy. The reforms instituted by the fair work legislation include—

- a minimum wage for all South Australians...

The importance of that to this legislation and to WorkCover is that under this bill many injured workers will have their pay slashed to well below the minimum wage. The ALP platform, again with the Premier's face on the front cover, states at point 85:

Labor believes there should be genuine and real improvement in the terms and conditions of the employment of working people, and that workers should have improved control over working hours, spread of hours and roster arrangements to avoid excessive and potentially dangerous hours of work.

That is the link with the workers compensation regime: avoiding excessive and potentially dangerous hours of work. That is the policy of the government: to say that there should be real and genuine improvement, yet this bill takes an axe to the terms and conditions of South Australian workers if they are so unfortunate as to be injured at work.

So, the ALP platform says one thing and the Premier does something else. At point 86 the platform provides:

For Labor, workers should have appropriate superannuation to support their retirement year. The provision of adequate superannuation entitlements to every working person is a necessity.

I agree with that. One might wonder what that has to do with WorkCover as it is about superannuation, but we will find as we go through the detail that the first thing to go when you are injured is your superannuation. I also point out and emphasise the words in the platform that refer to 'every working person', but working people who may be struck down with an injury or illness as a result of employer negligence get no more superannuation payments. If a 20 year old is made a quadriplegic through gross employer negligence, they will not get a single cent more in superannuation contributions for the rest of their life. What sort of retirement income do they have to look forward to?

That is an aspect of this legislation that I would not have appreciated if I had not taken the time, as is our duty in this place, to sit down with those most affected by it. I did not know that that was the first thing to go. Most of us who have spent our working lives in the era of compulsory superannuation look forward to a reasonable sum on retirement. It may not be entirely sufficient to see us through to the end of our days, but most of us will have sums in the hundreds of thousands of dollars, but if you are cut down as a working person in the prime of your life then you will not have that long-term benefit.

The comparison between members of parliament and their superannuation entitlements and workers and their entitlements needs to be made, because members of parliament, in particular those who have been here longer—the ones who are on the older schemes; less so with new members—will be getting superannuation benefits that ordinary working people could not even dream about. But the Premier, in spite of the ALP's platform, does nothing to address this gross injustice, that is, where injured workers lose their rights to superannuation, and they lose that right because they were unlucky enough to be injured at work.

I mentioned previously the contribution the union movement has made in the past, and continues to make, and I understand that today at 1.30 there will be some more said about that. The media have shown great interest, especially in the way in which this debate has proceeded. The ALP platform, at point 116, goes on to state:

Labor believes that employers have a responsibility to provide comprehensive rehabilitation and compensation to workers who have suffered work-related injury or disease. This responsibility can best be met by representatives of worker and employer interests in conjunction with government.

So, getting beyond the generic in the Labor Party platform, we now get into the specific bits that relate to workplace safety and rehabilitation and compensation. Despite what the ALP platform says, this bill will deliver a completely gutted workers compensation system. There will be harsh attacks on family budgets: the first one after 13 weeks of a worker being off work; the next one after 26 weeks; and then many workers will be automatically dumped on the social security scrapheap after 130 weeks.

The bill does not provide for comprehensive rehabilitation and compensation. The holes in this bill are so big you could drive a truck through them, and with holes that big it is inevitable and sad that many workers will fall through those holes and end up on the scrapheap—and that is Premier Rann's plan for working people and working families.

It also clear that the government's approach to this bill is totally out of step with the ALP's national platform. The ALP's national platform, at point 8, states:

> Labor is committed to its future partnership with the trade union movement. The Australian Labor Party was born out of the trade union movement, and it struggles for a secure, decent and dignified life for working people. In partnership with the labour movement, Labor governments in the past have achieved great things for working Australians. Labor is committed to protecting and advancing the rights of working families, including their rights to join trade unions, to organise in the workplace, to bargain collectively, and to exercise their right to strike.
>
> Our partnership with the trade union movement remains crucial for Australia's future. The trade union movement remains one of the largest and most representative community movements in Australia, representing millions of Australians and their families. The next Labor government will restore the balance between the interests of different parts of the Australian community and build a constructive partnership with the trade union movement to foster productive and harmonious workplaces in the interests of working families.

The national platform, as with the state platform, shows that the government's deeds do not follow its words; in fact, the government has done its best to tear up any partnership with the trade union movement by completely excluding it from negotiations in determining what should be an appropriate response to the Clayton report.

So, so much for the rights of advancing the rights of working families. This bill hacks away at the rights of working families, and it does it in the same way the Howard government's WorkChoices legislation did. The ALP national platform also has a section entitled 'Fairness', which states:

> Labor believes that all people are created equal in their entitlement to dignity and respect. We cannot afford to waste the talent or potential of any Australian. For Labor, government has a critical role in ensuring—

Then there are a number of dot points, as follows:

- Respect for every person's rights at work;
- Equal opportunity and protection from unfair discrimination;
- Sufficient basic income and assets to provide quality of life for all Australians;

Let us focus on that word 'income', because that is what is going to be cut when this legislation goes through. The platform goes on:

- Special support for those with particular needs, including indigenous Australians, women, people from non-English speaking backgrounds, the long-term unemployed, homeless, disabled, frail, aged, and mentally ill;
- Universal social rights, including the opportunity for fulfilling employment, quality education, universal health care, and access to affordable housing;
- A more equitable distribution of wealth and income.

Again, that last dot point, we are told, goes to the heart of what Labor stands for in terms of the equitable distribution of wealth and income. Yet no-one who looks at this WorkCover legislation can see it as anything other than a direct transfer of wealth from injured workers to their employers: that is what the WorkCover legislation does. Is that an equitable distribution of wealth and income?

The reason it is a direct transfer is that it is not sufficient for the government just to cut the entitlements of injured workers; it has to twist that knife further by saying, 'And we will give your bosses, your employers, a cut in their levy as well.' I cannot understand why the government, even for just political reasons, would have been so stupid as to put those two things together. The first is bad enough, but to then cut the levy so that employers do not have to pay any more towards addressing the unfunded liability makes absolutely no sense to me, on blatant political grounds, let alone its inherent unfairness.

This bill does not respect rights at work, the fairness that Labor talks about in its national platform. It takes away rights at work. It takes away the right to be compensated for your full wage of the first year of your injury. That is the first cut. If you are out of work, the first thing to go is your super and the next thing to go is your wage. This is all within the first year. It also takes away the right to be compensated in the longer term for a loss of earning capacity that is due to a work injury. We can only feel for those workers who are cut down in the early stages of their working careers who see their futures taken away. They may have had brilliant careers ahead of them in a range of trades, callings and occupations, and that has now been taken from them.

This legislation takes away the right to be compensated for having part of your finger chopped off or crushed. We will get to that later when we get the detail of this concept of whole of body impairment. Ask a concert pianist or a violin player whether half a finger is surplus to requirements when doing your day-to-day job.

In the newspaper today was a story about a bloke who left his Stradivarius in a taxi. It was worth $4 million but someone gave it back to him. If he had lost half a finger it would have been as crushing to him as losing the $4 million Stradivarius in the taxi. Hopefully, he will never lose a finger—and I was very pleased to hear that he got his violin back.

The bill does not respect rights at work; in fact, it abolishes rights at work. The bill does not work towards a more equitable distribution of wealth and income. As I said, it is a direct cash transfer from injured workers and their families to business, and there is nothing equitable about that. This bill is about a less equitable distribution, not more. It is the opposite to what the platform says Labor stands for. The Labor platform also goes on to state at point 11 under the heading 'Fairness and Flexibility at Work':

> Labor believes in fairness at work as a fundamental Australian value. Work is one of the most important parts of our lives which, besides its contribution to economic output, also contributes to personal financial security, identity, and a sense of community.

I will reflect on that. I think the Labor Party platform here is right: work is more than about bringing in an income; it is integral to many people's engagement in society and in all parts of their lives. It is not just about putting food on the table. The national platform states:

> Fairness at work includes the abolition of Australian workplace agreements and an industrial relations system in which there will be no statutory individual employment agreements.

That was the campaign last year—getting rid of Howard's unfair WorkChoices legislation. Those same people, with their same T-shirts dusted off, are now arguing against a state Labor government in relation to this bill. The platform also stated that fairness at work includes a strong safety net of minimum conditions. As we explore this bill in detail, we will see that those minimum conditions disappear. Someone on the minimum wage, whose wage is cut as a result of being injured at work, is no longer benefiting from those minimum conditions.

The platform says fairness at work includes access to an independent industrial umpire which will ensure fair wages and conditions and settle disputes. The regime for settling disputes is one of the most contentious parts of this WorkCover legislation, and Labor needs to be held to account for the inadequacies and unfairness of the dispute resolution mechanism.

Fairness at work includes the right to bargain collectively for decent wages and conditions. Bargaining collectively means through unions—the unions are being ignored in relation to WorkCover. Fairness at work includes the right to join a union, be represented by a union, fair rights if employees are unfairly dismissed and adherence by the Australian government to its international obligations, particularly as ratified through the International Labour Organisation conventions. That would be another fruitful line of enquiry, but it is not one that I am going to go down. I am happy to look at the Labor state platform and its national platform but, if we wanted to explore Labor's obligations under International Labour Organisation conventions, we would find equally serious breaches of trust by the South Australian Labor government.

The Hon. R.D. Lawson interjecting:

The Hon. M. PARNELL: Yes; the Hon. Robert Lawson says that we do need to look at what they do, rather than what they say.

The PRESIDENT: The Hon. Mr Lawson is out of order.

The Hon. M. PARNELL: I ask, 'What is fair about having your pay slashed after 13 weeks when you are stuck in hospital because of a grossly negligent employer who knew that the brakes on your truck needed replacing but did not want to spend the money, and it led to a crash?' Gross negligence. What is the injured worker's result: they have their pay cut after 13 weeks. What is fair about having no appeal on the merits against a medical panel decision that is flat-out wrong and permanently stops your compensation payments?

We spent a lot of time on the bikies bill discussing this idea of being able to go to an umpire and being able to challenge administrative decisions. That is what these medical panels will be doing. They will be making binding administrative decisions, but there will not be the opportunity to properly challenge them. What is fair about being banned from taking civil action against a grossly negligent employer when workers in every other state can do that?

What is fair about good employers being forced to subsidise reckless and negligent employers? This bill is about making work injury rules unfair just to deliver savings to business. South Australia is already the lowest cost jurisdiction to do business in Australia. We need to come back to that, because we have been told that this legislation has a lot to do with South Australia's

interstate business competitiveness. It does not take too much exploration to realise that that is just plain wrong.

The Workers Rehabilitation and Compensation Act is supposed to provide protection for injured workers against being sacked and to make sure that employers provide them with suitable duties, where it is reasonably practicable to do so. Despite common breaches of those laws under the Premier's WorkCover regime, the existing regime, WorkCover has never prosecuted an employer for breaches of those laws. Nothing in this bill does anything about fixing that situation. Fair rights when workers are unfairly dismissed do not mean a whole lot when the body charged with enforcing those rights—that is, WorkCover—refuses to make employers obey the law. Under the heading of Opportunity, point 14 of the National ALP platform states:

> Labor is committed to giving all Australians the opportunity to achieve their potential and contribute to their community

in the following four ways:

- to give every Australian the best educational opportunities, from early childhood education through school to vocational and technical education, and to university and beyond—

that is fine—

- to help individuals build family life and advance their living standards and quality of life—

you have to ask how those living standards are advanced when low-paid workers have their pay cut to below minimum wage standards—

- to gain access to employment, education, housing, health care, welfare services, information technology, culture and recreation and to exercise their legal rights; and—

We know that legal rights are out the window, but most of the other things require money, that is, take-home pay needs to be sufficient to meet those needs in relation to housing, health care and information technology. A low-paid worker whose wages have been cut as a result of injury needs to tell their kids, 'No; you can't have the information technology everyone else in your class has because we can't afford it any more because dad was hurt at work and his pay has now been cut.' The Labor policy continues:

- to participate constructively in the life of the nation and the communities within it.

Injured workers are not being empowered to participate: they are being thrown onto the scrapheap. So, injured workers do not seem to have any place in this national Labor commitment. South Australian injured workers desperately need proper support and help to achieve their full potential and transition to feasible work pathways that allow them to contribute to the community.

The injured worker is absent from not just the workplace; they are absent from the footy coaching after work, from the cake stall on Saturday morning to help raise funds for the kindy and from the community. Their ability to contribute is diminished by their injury and, as a community, we are about to treat them most unfairly by cutting their wages.

I understand that a very senior official from Employers Mutual recently said, in response to a request for retraining for a particular worker, 'Why would we pay for that? We'll be able to kick you off the system as soon as the law changes anyway.' So, even though these draconian provisions have not found their way onto the statute book, they are already having an influence on the decisions that are being made by the claims managers under workers compensation. They are saying, 'Why would we help you retrain? We will be able to get rid of you off the system pretty soon.' What an indictment! We have not even passed this legislation yet, but it is already having that sort of an impact.

The government's WorkCover plan denies injured workers access to the best educational opportunities and denies them the opportunity to retrain and get on with their life. Union leader John Camillo has talked to me a number of times about the importance of retraining and how its absence in this legislation is a glaring hole that needs to be plugged, and we will look at doing that when we get to the committee stage.

The government's WorkCover plan stops injured workers from building their family life and advancing their living standards and quality of life. People will be aware of many stories about the stress of being on WorkCover, namely, getting the runaround, being denied simple and sensible help, dealing with the pain of injury and the financial pressures destroying family life and, in fact, breaking up families. You might think that the break-up of families is a non-economic consequence of the sort of misfortune that can result from an injury at work.

So, it is not just about unfunded liabilities or take-home pay, as important as they are. It is about the very structure of our society through families. Quite obviously, the living standards and quality of life of injured workers will be hard hit by this bill, particularly by the cuts to income. The element of the ALP National platform that is most relevant to this bill is item 15. Under the heading Compassion, it states:

> Labor believes in social justice. As a nation, its greatness lies in our treatment of those among us who are most marginalised. We believe in a society that protects and supports those who face difficulties and disadvantage whether because of disability, illness, old age, misfortune or other factors that make it hard for a person to cope. Labor holds to its tradition of reaching out, embracing, protecting and supporting those in need—as well as supporting those who help people in need.

If I were a voter researching the options available on election day, and if I cared about issues such as how injured workers were treated in the system, and I read that, I would think, 'Gee, that is the party for me. I will vote for them.' Compassion! However, there can be no doubt that, in relation to being marginalised as a result of being an injured worker, the Labor commitment does not apply to you.

The very first of the reasons mentioned in the platform, the first reason for people suffering difficulties and disadvantage, is the word 'disability', and that is precisely what this bill is about. The reason people are on workers compensation is that their ability to do their work has gone as a result of an injury. They are, in that sense, disabled. It might be a temporary disability or a permanent disability but, under the Labor platform, they are deserving of compassion and do not get it. Their right to compassion is lost because they went to work and suffered the misfortune of an injury. This bill does not reach out to embrace, protect or support those who are in need, as Labor would have us believe. The bill sticks the boot in, and it sticks it in hard.

The Labor national platform also includes a section that is very relevant to a particular aspect of this bill, and that is the issue of medical panels. As I said earlier, this is one of the most contentious and controversial aspects of this bill. The part of the national Labor policy that relates to medical panels is under the heading of Human Rights, a topic we have discussed until midnight in the past two days, and I find I am discussing it again, not in relation to so-called bikies laws but in relation to WorkCover. Under Human Rights the national ALP platform states:

> Labor is committed to a just and tolerant society which fully protects the rights and freedoms of all Australians. Labor supports the rights set out in the Universal Declaration of Human Rights and other international treaties to which Australia is a party. This includes:
>
> - the fundamental political and civil rights of everyone to freedom of conscience, expression of association, and to due process of law.
> - [We respect basic human rights] such as...access to tertiary education on the basis of merit, access to adequate health care, and the right to [reasonable working conditions].
>
> Labor supports the introduction into Australian domestic law of the rights recognised and protected in the international treaties, conventions and protocols to which Australia is a party. In introducing these rights, Labor will ensure that existing rights are also protected.

The relevance of that part of the Labor Party's platform is that the introduction of medical panels under this bill abolishes injured workers' rights to due process of law. It provides a system where untrained people make final and binding decisions on questions of fact and law (questions such as: does this person have the right qualifications and experience to do a particular job?) and where there is no appeal on the merits. The answer to that question is not due process of law. I expect that many doctors will be quick to agree that being a doctor does not mean that you have any special expertise in knowing exactly what training and experience is needed to operate a jumbo drill underground at Olympic Dam, but that is just what the medical panels will be deciding in this bill, and there will be no appeal on the merits if they get it wrong. That is not due process of law.

Even serious criminals get to appeal decisions which affect them and which are wrong on their merits, but the Premier's bill proposes to take away that right from injured workers. So, in the criminal justice system there is a process of appeal but, if you are an injured worker, you do not have that right. So, for all that we talk about law and order (and we have talked about nothing else for the past two days), this bill stacks the deck against hard-working South Australians who suffer from gross employer negligence in the workplace, and it stacks the deck against them far more severely than if they were serious or violent criminals.

This bill, in fact, is the reverse of the reasonable working conditions that the ALP national platform talks about. You have to ask: how is it reasonable for an injured worker to be banned from having any civil rights when there is gross employer negligence when, in every other state, the

workers have that right? That is the question of common law. The simple answer is: it is not reasonable. Once again, the bill is the reverse of what the ALP platform says.

I find it remarkable, as well, because with those words on human rights, about how we will comply with international standards, when I have brought important legislation to this place on a private member's day seeking to enshrine some connection between our administrative decision makers, ministers, bureaucrats and international treaties, I have had no support from the government for that position. In fact, this state has an act of parliament called the Administrative Decisions (Effect of International Instruments) Act, which specifically says that no bureaucrat, minister and public official in this state need have regard to any of the international treaties that South Australia has signed.

If you said to most people, 'South Australia signed a treaty. What does that mean?', the person in the street would say, 'Well, it means that we are committed to it. It means that we will follow it.' But, no, not in South Australia. We are the only state where there is that provision that says that we do not have to follow international conventions unless we have enacted them into domestic legislation, and so few of our international treaties have ever found their way into an act of parliament. I have tried in this place to give the opportunity for the government to remedy that situation, and I will do it again. I think I have introduced that bill twice.

I have six more years, so I will introduce it again and we will try to get our state officials committed to international rights. As I said, I am happy to go through what Labor says it stands for on issues such as workers' rights and WorkCover, and through its state and national platforms. I will not take the time of the chamber by going through every international treaty we have signed that tries to guarantee workers' rights, but I can tell members that the breaches there are as gross as they are in the Labor Party's domestic platforms. The government has made it very clear that the reason for this bill is so that it can cut levy rates for business.

I think that the ALP platform is quite right. We do not have to sacrifice fairness and compassion in order to be competitive, because with the existing workers compensation scheme (which is far more compassionate than this current bill) South Australia is already the most competitive jurisdiction in Australia in terms of its business costs. We are the most competitive, with an average 3 per cent levy rate.

The question is: if we are already the most competitive and we have a 3 per cent rate, what is that pressing economic need, we are told, to increase our position by cutting the levy rate? We are already the top. We are already the best place in which to do business. The ALP's international platform, under the heading 'Safe and Healthy Workplaces', states:

> The current application of the ComCare Scheme and the commonwealth's occupational health and safety jurisdiction to the private sector is bad policy because it has created a complication of federal arrangements, undermining of entitlements (such as access to journey accident and common law claims) and a safety gap where basic safety standards will not be properly enforced.

The national ALP platform clearly says that it is not on to undermine the entitlements of injured workers, such as access to journey accidents and common law claims. This current bill continues to stop injured South Australian workers making almost all journey accident claims (and that is one of these loopholes through which you can drive a truck), and it entrenches the ban on South Australian workers—unlike the workers in every other state—from being able to make common law claims where their employer's negligence or recklessness has hurt them.

People talk about common law. It is not something that is clearly understood by most people. Let us talk more about negligence and the ability to hold people to account for their negligent behaviour, because that is what common law is really all about. It is being able to say, 'The reason you are injured, the reason you are hurt, is because of the negligence of your employer. Your employer should be held to account.'

The Hon. A. Bressington: Then why won't they consider common law?

The Hon. M. PARNELL: The Hon. Ann Bressington asks: why won't they consider it? I say to the honourable member: let us explore this in some detail when we reach the committee stage. Let us make the case. Let us see whether we can convince our colleagues here in the Legislative Council to support an extension to this scheme that would bring us into line with every other state in Australia.

The ALP is out of step with its own platform. However, it is not just the platform. One can look at the National Constitution of the ALP, which seeks to sum up what it stands for. It says that it stands for 'the abolition of poverty and the achievement of greater equality in the distribution of

income, wealth and opportunity'. I touched on those points earlier, when I was talking about the state platform.

The state platform reflects the National Constitution of the ALP: abolition of poverty—but not if you are an injured worker on already low wages; if you are already on the minimum wage, you will be receiving below minimum wages.

The Hon. A. BRESSINGTON: Mr President, I rise on a point of order and draw your attention to the state of the council.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): A quorum not being present, ring the bells.

A quorum having been formed:

The Hon. M. PARNELL: Quite obviously, despite the ALP's stated position, this bill will result in less equality in the distribution of income, wealth and opportunity, not more. So, it is directly counter to what the Labor Party tells the people of Australia that it stands for. Either Premier Rann is ignoring the National Constitution of the ALP, or maybe his spin is that it is only the federal ALP that is interested in more equality and the Rann government wants to see less equality; because that is what this bill delivers.

I think that political parties should be more honest in their dealings with the community. If less equality is Labor's game, let us not just put it through in legislation; let us entrench it in your constitutional and policy documents as well. This bill takes money from the kitchen tables of disabled workers and their families and puts it into the pocket of business.

Given that much of this bill is modelled on the Victorian legislation, I think it is useful to consider the situation in Victoria and compare it with what this government is doing in South Australia. When the Victorian ALP went to the people in the 2006 election it quite rightly listed the restoration of injured workers' common law rights as an achievement. The following is part of what the Victorian ALP said about the Victorian Liberals:

> The previous Liberal government had little regard for workplace safety or for Victorians hurt at work. It cut benefits to injured workers, removed the right to sue a negligent employer and, despite all this, the WorkCover scheme had a billion dollar deficit.

From that brief description, the Victorian ALP could just as well have been talking about the Rann Labor government when it said that. This government is cutting benefits to injured workers and it will not let injured workers sue a negligent employer, which is just like the Liberal Jeff Kennett.

There is every chance that, with the current atrocious management of WorkCover, injured workers will suffer badly from these cuts, and there will still be problems with the unfunded liability. That is an issue which we will have to explore in detail; that is, whether one of the stated primary objectives of this bill—reducing the unfunded liability—will be achieved with these cuts to injured workers' entitlements. In the foreword to the South Australian ALP rules, the Premier says:

> We seek to provide the people of Australia with 'a decent, secure, dignified and constructive way of life' based on 'the political and social values of equality, democracy, liberty and social cooperation'—the essence of democratic socialism. This is the strength of Labor. And the core of our credentials.

Without labouring the point, it really is a case of looking at what they do rather than what they say because, under this bill, South Australian workers have their chance of a 'decent, secure, dignified and constructive way of life' being ripped away from them.

By tearing up South Australian injured workers' chance at a 'decent, secure, dignified and constructive way of life', I think that the Premier, to a large extent, has torn up his own credentials. Let us look at the ALP not just through its statutory documents or through the documents it has put out to the people saying what it stands for, but let us look at some of Labor's heritage, because I think that, on this WorkCover issue, the Labor greats of the past would be revolted at this state Labor plan.

Labor legends such as Jack Wright and Clyde Cameron would be horrified at Premier Rann's savage attack on workers' rights. People like Jack Wright and Clyde Cameron, Labor greats, were all about improving workers' rights, not destroying them. That is exactly what the Premier is doing. If we look at things such as the work capacity review, the Premier is banking on tearing up between $350 million and $400 million in workers' entitlements just using that mechanism alone, and that money will be paid straight to business.

I mentioned earlier that I had attended the launch of *Movers and Shakers*. The *Movers and Shakers* project was about recording Labor history through the eyes of some of its most prominent campaigners, in particular those people who were still alive and who have worked on programs and projects, and other ways to improve the lot of working people in this state. The idea for recording the stories of these older Labor activists came from a discussion in 2004 between three key union leaders; namely, Janet Giles, Mark Butler and Anne McEwen.

The three of them, with some support, successfully applied to the state Labor government for a grant under the Positive Ageing grant program to record this 100 years of Labor history. The *Movers and Shakers* record is a government-funded document, and I think the irony of that is not lost on members. The interviews that were conducted to pull this history together were described by the editor, Jim Douglas, as being inspirational and often very emotional. Jim and his colleagues recorded stories of great struggles, hard times, deep pain, courage and humour. He says:

> It was wonderful to see the looks on the faces of such proud working warriors, many of whom were so humble and grateful that their stories would be kept as part of South Australian Labor history...It is easy to forget the hardships and struggles of the past endured by these people to achieve decent living wages, superannuation, reduced working hours, safety on the job—

and that is a key here with WorkCover—

> and the broader issues of peace, social justice and equity. These stories are told at a critical time in Australian history when workers are experiencing constant attacks on their hard fought award conditions and pensioners and unemployed people are suffering great hardship under an ultra conservative Liberal government.

That was the rhetoric of late last year prior to the federal election. I wonder whether, if *Movers and Shakers* were being put together today, the words 'ultra conservative Liberal government' would be replaced with the words 'ultra conservative Labor government'. The activists' stories in *Movers and Shakers* reveal that the struggle to preserve and improve living and working conditions never ends. It does not end: we need to be eternally vigilant to make sure that hard-won freedoms are not stripped away. Jim Douglas concludes:

> These activists have shared with us their knowledge of the past and the courage of their endeavours. Their example inspires the determination to educate and empower the next generation so that we can come together to create new chapters in the history of the working-class struggle.

As tempting as it is to go through the whole of *Movers and Shakers*, I will not, as there is far too much material there, but there are a couple of stories that relate directly to the legislation we are dealing with. They relate to the struggles that working people have gone through to try to bring about improvements. One of those stories is that of Mick Gallant. Mick was an apprentice in Port Pirie. He was in the Boiler Makers and Blacksmiths Society originally. Later his union activity at Mount Gambier focused mainly on work safety, and he has a long and abiding interest in trade union training, sociology and community activism, which led to him working for the unions and for the government, the Department of Labour, as a project officer. In his story he says:

> I still recall overhearing emotional discussions around our table on workplace issues and work accidents. When a worker fell into a hopper above the crusher, dad was lowered down to him on a rope chair and managed to get him out before he was crushed.

Being lowered down on a rope chair might not be the sort of thing now, but people fall into hoppers and machinery and are injured and damaged in very physical workplaces. Mick goes on:

> When I was eight we moved to Port Pirie where dad worked at the Broken Hill Associated smelters. Dinner table discussions continued about work issues, such as the accident where a workman's foot slipped through a crust of slag into molten lead.

It just does not bear thinking about, that your foot would go through a crust into molten lead—just dreadful. I remember my own father, who worked in industry his whole life, falling into a vat of a caustic solution and, if there had not be a vat of water right next door that he could leap into, he would have been terribly injured. He lost all his clothes, which were completely destroyed, but he survived with minimal injuries. Dreadful stories! Mick says:

> I witnessed two major accidents during my apprenticeship, including a trades' assistant falling from way up inside the large smoke stack, which dominates the skyline of Port Pirie. The role the union took in giving support to the family and those involved was something that left a lasting memory.

He concludes:

> Crucial to my own development was the support and direction provided by the union movement. This gave me an understanding of the difference between the needs of workers and employers, an understanding of politics and the confidence to take on further study to try to improve the working conditions of all around me. I understand from my work experiences the significant impact that health and safety issues have on people's lives.

The message we take from that, as well as the gruesome examples of the types of injuries that can occur in the workplace, is that workers compensation has been at the heart of many union activists' engagement with the union movement. It is the reason that many people have engaged. I will read a brief extract from another story; in fact, it is about one of the Labor heroes and movers and shakers, Gwyneth Regioni, who I had the great pleasure to sit with at my table at the May Day dinner. Gwyneth, who is from the UK originally, was a shop steward for the Federated Clerks Union and also with what is now the CPSU. She was a workers' rights officer for the United Trades and Labor Council and also an industrial officer for the Vehicle Building Employees Federation. Referring to her time with the Federated Clerks Union as a shop steward, Gwyn says:

> My position in payroll gave me the opportunity to see what was happening to some other employees. Workers compensation was covered by private insurers in those days, and people would ring me, crying because they had not been paid for three months and they couldn't work because of their injuries.
>
> I would have to talk to the insurance companies and listen to horrible jokes about 'Mediterranean back'. I saw really awful things happening to some of the other workers. One boy's hand was severed, while another lad fell into a bath of caustic soda—

a similar experience to the one suffered by my metal worker father—

> This experience really had a politicising effect on me and made me realise the importance of unionism.

So, again, people who are currently active in the labour movement were politicised through their contact with real people in real situations who have suffered as a result of being injured at work. It is interesting that there is a reference in Gwyn's story to the private insurance companies, because one part of this bill that we will need to go through in some detail is the role of the exempt or so-called self-insured employers, that is, how does that fit into the scheme, and are we properly managing all workplaces?

The self-insurers who have come to see me say that they do a better job of managing their claims than the people whose claims are managed by WorkCover. I have had other people tell me that that is not the case and that there is some cross-subsidy going on. I think we need to dig down through this, because I know the self-insurers are not happy with some aspects of this bill, and I know a number of people in the union movement are not happy with the self-insurers.

In the absence of a decent discussion between the labour movement, industry and the Labor Party, we find that we have to have this discussion in the Legislative Council; this has to be our forum for raising these issues.

One story I want to refer to briefly is that of the late Jack Watkins who, I understand, may have passed away shortly before the book was published. Jack, who was English born, eventually came to Australia in 1966. He worked on construction sites in Adelaide, and he became an organiser for the Builders Labourers' Federation. He is described as 'a fearless fighter for workers' rights and a champion for raising awareness of the dangers of asbestos'. The story goes on:

> The use of asbestos in construction was becoming an issue as more was learned of its fatal effects. One of Jack's members was dying from asbestos-induced cancer and knew of the efforts of the Builders Labourers' Federation to gain publicity. The member offered to do a TV interview, which took place just two days before he died. His widow was left virtually destitute, so Jack organised union pickets against the former employer and protests to the then Labor government, and she was eventually paid compensation. This was Jack's first public foray into the public arena on this issue, but it was not his last. It was the beginning of a lifelong commitment to the cause of public education about asbestos and the elimination of its use.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 13:00 to 14:15]

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the written answers to questions on notice Nos 184 and 257 be distributed and printed in *Hansard*.

ATTORNEY-GENERAL, TRAVEL

184 The Hon. R.I. LUCAS (12 February 2008). Can the Attorney-General state:

1. What was the total cost of any overseas trip undertaken by the Attorney-General and staff since 2 December 2006 up to 1 December 2007?

2. What are the names of the officers who accompanied the Attorney-General on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the Attorney-General's office budget, or by the Attorney- General's Department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Attorney-General has provided this information for the period 2 December 2006 and up to 1 December 2007:

1. Cost of trip	2. Accompanying Officers	3. Private leave taken	4. Cost met by Minister's Office or Dept/Agency	5. (a). Cities & locations visited	5. (b). Purpose of trip
$46,416.70	Jerome Maguire Peter Louca	None	Cost shared between Minister's Office and Department	New York, New York Myrtle Beach, South Carolina Columbia, South Carolina Washington, District of Columbia	Examine justice programs and investigate appropriate policies including NYPD, US Department of Justice and Victims of Crime Attend Washington Prayer Breakfast

OPERATION SWEDE

257 The Hon. D.G.E. HOOD (2 April 2008). What are the aims and objectives of Operation Swede?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): Operation Swede was commenced in March 2008 by Adelaide Local Service Area. The aims and objectives of the operation were to ensure the safety of the public and ensure that unlawful behaviour is appropriately dealt with in the Rundle Mall environs.

The operation was in response to many complaints concerning the behaviour of a group of religious preachers in Rundle Mall, Adelaide. Their alleged behaviour had escalated over a period of 12 months.

SAPOL has worked closely with the Adelaide City Council on the issue for several months.

Members of SAPOL had previously advised the people concerned that their behaviour was unlawful in that it was likely to lead to a breach of the peace and they were moved on pursuant to provisions of the Summary Offences Act.

On 14 March 2008 three men were arrested and charged with behaving in a disorderly manner. These charges did not arise from the fact that they were preaching but from the alleged manner in which they were doing so. The people arrested were released on bail with conditions, including not returning to Rundle Mall.

PAPERS

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

South Australian Film Corporation—Report, 2006-07

By the Minister for Emergency Services (Hon. C. Zollo)—

Reports, 2007—

Department of Education and Children's Services
Senior Secondary Assessment Board of South Australia
Teachers Registration Board of South Australia
The Review of the Fire and Emergency Services Act 2005—Report

MARATHON RESOURCES

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:19): I seek leave to make a statement about the joint investigation into the breach of licence conditions in relation to Mount Gee in the Northern Flinders Ranges.

Leave granted.

The Hon. P. HOLLOWAY: Primary industries and Resources SA and the Environment Protection Authority recently finalised their joint investigation into breaches of the licence conditions pertaining to exploration licence 3258 held by Bonanza Gold Pty Ltd, and operated by Marathon Resources Pty Ltd. I table the findings of this investigation.

I refer to my original statement to this place on 12 February 2008 with regard to mineral exploration activity at Mount Gee within the Arkaroola Pastoral Station and the breach of licence conditions. I made it quite clear at the time that it is important that mineral exploration or mineral development must be compatible with existing land uses; in particular, any activity in Arkaroola must not adversely impact on the unique landscape of the Northern Flinders Ranges and on the highly awarded ecotourism operations.

In consultation with the EPA, PIRSA has now prepared detailed advice to the company on the clean-up of the unauthorised buried material. A key principle of the remediation activities will be the removal of all general waste, plastic bags, cardboard boxes, plastic and steel drums, and the appropriate disposal of these at a licensed waste storage site outside EL3258 and Arkaroola.

All mineral samples, including the mildly radioactive samples, will be safely removed from bags and drums and re-buried under two metres of clean and compacted soil within the same or similar geological and soil formations. All remediation work on these sites will be strictly supervised and directed by specialist PIRSA and EPA officers, and the company will be directed to engage an independent environmental expert to ensure that disposal is achieved to the highest standard. PIRSA and the EPA will supervise the company's final rehabilitation of the site, which will return each of the three waste sites as closely as possible to their original condition.

FIRE AND EMERGENCY SERVICES ACT REVIEW

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:21): I seek leave to make a ministerial statement.

Leave granted.

The Hon. CARMEL ZOLLO: The Fire and Emergency Services Act 2005 commenced operation on 1 October 2005. This new act brought together the three emergency services organisations—the South Australian Metropolitan Fire Service, the Country Fire Service and the State Emergency Service—under the one act. The Fire and Emergency Services Act 2005 also established the South Australian Fire and Emergency Services Commission, a central agency responsible for supporting the three emergency services organisations, as well as undertaking strategic policy, planning, governance and resource allocation for the overall fire and emergency services sector.

The act includes a provision for it to be reviewed after the second anniversary of its commencement. I advise the chamber that on 11 September 2007 Mr John Murray, a former assistant police commissioner of South Australia Police and Deputy Commissioner Australian Federal Police, was appointed to conduct the review. In addition to the requirements for the review set out in section 149 of the Fire and Emergency Services Act, supplementary terms of reference were established to assist and guide Mr Murray in the review process.

Over the six months of the review, Mr Murray conducted detailed consultations with various stakeholders and their representative organisations. He spoke to and received written submissions from interested parties. Mr Murray conducted the review with complete independence, and his report provides frank advice on the operation of the Fire and Emergency Services Act. I thank Mr Murray for his report and commend him on the way he went about coming to his conclusions.

The reviewer made 49 recommendations, which will be analysed and responded to; some require legislative change, while others relate to changes in practices and administrative policy. The review report will be publicly available from this afternoon, and the government, through the South Australian Fire and Emergency Services Commission and the Commissioner for Fire and Emergencies, will seek feedback about the report from volunteers, representative associations and the community.

The formal consultation about Mr Murray's report will include listening to the views of emergency services stakeholders and their representative associations. The government will then formulate a response and make this public before initiating any legislative changes. Any such changes introduced will also include the recommendations from the Bushfire Management Review and the recent work undertaken after the coronial inquest into the Wangary fires.

The review makes clear that our emergency services organisations—the CFS, the SES and the MFS—should remain as three distinct and separate operational entities. The government is pleased that the review found no need to change this and continues to support and promote the cultural histories and traditions of our three services and their members.

While most recommendations will be considered and accepted by the government, it will not support some of the recommendations in the report. Recommendations about removing volunteer representatives from the SAFECOM board will not be considered by the government. The volunteers in the emergency services sector and their representative organisations bring a unique perspective to decision making that is essential. Instead of removing volunteer representatives, the government intends taking further steps to enhance volunteer participation and consultation in the emergency services sector.

The review report examines ways of enhancing and protecting our many emergency services volunteers, and I intend to have face-to-face discussions with the emergency services representative associations very soon in this regard. Any legislative changes arising from this review, and those that flow from the Bushfire Management Review and the Wangary inquest about bushfire mitigation and prevention, will be brought before the parliament in a timely manner. I will endeavour to table legislation as soon as possible following the consultation process. The government will also consider Mr Murray's recommendations to prescribed bushfire management principles in regulations rather than in substantive legislation. This will allow those measures to be reviewed and altered, as is required by changing land use and environmental and climatic considerations.

Copies of the report will be available on the SAFECOM website from this afternoon and are also available in hard copy through my office. Copies will be provided to all those in this and the other place, as well as representative associations and those who made submissions to the review. In addition, I will contact all my parliamentary colleagues and arrange an opportunity for members of parliament to attend an information and feedback session to allow them to provide me with their views on the review recommendations.

Once again, I thank Mr Murray for his work in conducting this review, and I look forward to meeting with and consulting the various representative groups in the emergency services sector before providing a formal government response to the recommendations of the review.

QUESTION TIME

PRISONS

The Hon. S.G. WADE (14:28): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about government policy on prisons.

Leave granted.

The Hon. S.G. WADE: In the House of Assembly on 28 August 1994, the shadow minister for correctional services made the following statement attacking the then Liberal government:

> ...this government is stocking our prisons full of prisoners. That is an inexcusable position for our state's prisons to be in.
>
> I did a tour of Yatala...There are three prisoners to a cell...It may well be popular in the community to say, 'Damn the prisoner.' That strikes a pretty good political chord...But some are not murderers; some are not rapists. Some are juveniles and people who should be rehabilitated in our system. If we want prisoners to go into the system and come out with a life, so that they do not reoffend, we have to give them an opportunity. It is without parallel for us to rack 'em, pack 'em and stack 'em as we are currently doing in the Adelaide Remand Centre, Yatala and all our state's prisons.

> ...We should actually be trying to rehabilitate them; we should be trying to make them deliver a useful contribution to society. However, the government will never do it when it is racking, packing and stacking them in the prisons.

In 1994 the shadow minister for correctional services was the Hon. Kevin Foley, who now serves as the Treasurer of this state, yet in a joint press conference with the Minister for Correctional Services he defended the government's use of tripling up and said:

> If we have to rack 'em, pack 'em and stack 'em, we will.

He also said:

> Quite frankly, we could not care less.

It is true that when the shadow minister made that statement in 1994 our prisons were full. It was estimated that the utilisation was almost 100 per cent of design capacity. Today, however, our prisons are 22 per cent overcrowded, that is, 22 per cent more overcrowded than the level of overcrowding which prompted the former Labor shadow minister to condemn a Liberal government. In 1994 the Liberal government was allowing the doubling up of prisoners in cells. In 2008 the Labor government is allowing the tripling up of prisoners in cells. My questions to the minister are:

1. Will she confirm that the government no longer regards tripling up in prisons as an emergency measure?

2. Given that the government does not care about overcrowding, why is it building a new prison?

3. When did the government adopt a 'rack 'em, pack 'em and stack 'em' correctional policy allegedly held by the former Liberal government?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:31): I am always pleased to have such questions asked of me by the honourable member opposite, because, again, it allows me to place on record this government's commitment to building the single largest prison complex in Australia. I am sure that the honourable member was congratulating us as he was speaking. I am sure that he is also congratulating us for yesterday's announcement of an extra $35 million over four years to allow us to continue to manage as an interim strategy prior to the prison coming on line. In relation to the Hon. Kevin Foley in the other place, clearly, he is a changed man.

This government makes no apologies for being tough on crime. Unlike members opposite, we do have a plan. We are building the single biggest prison facility in Australia. In the meantime, we recognise that we need to manage the system, and that is exactly what we are doing. As I said, clearly members opposite want to congratulate us, and we are quite happy to have those questions asked of us.

PRISONS

The Hon. J.M.A. LENSINK (14:32): As a supplementary question, has the minister calculated the impact of this new policy on the injury rates for correctional services officers?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:32): We always consult and work very cooperatively with the staff and the PSA in relation to any policy that is introduced into our prisons. We do not have a policy to have three people in a cell. Some areas in our prisons can take three people in a cell. Yesterday I gave the example of E division, which used to be the old hospital, which, clearly, can take three prisoners in a cell.

PRISONS

The Hon. S.G. WADE (14:33): As a supplementary question, the minister referred to the announcement of the new prison places yesterday. How much will that cost?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:33): We said $35 million over four years as an interim strategy.

PRISONS

The Hon. S.G. WADE (14:33): As a further supplementary question, how is the minister able to estimate the cost if the government has not estimated where it is going to put the cells?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (14:34): Of course, we work across the whole justice system, and we have worked out the bed capacity space we would need in that time. We have not determined where exactly at this stage. Clearly, where the bed spaces can be allocated is an operational decision for the department. The department will be flexible with it. We will be looking at Mobilong, Port Augusta and Port Lincoln. We would have no plans for the Adelaide Remand Centre. We would be very frugal about Yatala because that is shutting down. However, we need to ensure that we can increase capacity at the Adelaide Women's Prison because we have only female prisoners at the Adelaide Women's prison and there are some at Port Augusta.

We are also looking at recommissioning the old education centre at Port Augusta, in particular, for older prisoners and those who have special needs. Last year, I opened an accommodation cottage at Cadell. Five of the prisoners involved were able to undertake vocational education training in building their own accommodation—a kit home—and some time in the future we will also be looking at that.

Yesterday I also placed on record that we will be building 10 bed spaces at Port Augusta for traditional Aboriginal men. So, there will be a mix of things there. We have been able to calculate those bed numbers depending on what is happening across the justice system and what we are doing in legislation, because we are tough on crime.

ZERO WASTE SA

The Hon. J.M.A. LENSINK (14:35): I seek leave to make an explanation before asking the Minister for Environment and Conservation a question about Zero Waste policy.

Leave granted.

The Hon. J.M.A. LENSINK: Observers of environmental issues may have recently read an article by Jeff Angel, the director of Total Environmental Centre, who, in commenting on the environmental ministers conference, stated:

> Apparently the bureaucrats are spooked by the 'net benefit to the community test' devised by the Productivity Commission.

He went on to explain that this narrowly based ideology, accredited by COAG and implemented by Productivity Commission staff, gives great weight to alleged business and convenience costs and little support to real environmental, resource and social costs from waste.

I received the long-awaited Zero Waste SA commissioned benefit cost summary through freedom of information. That document states that the report was commissioned on the grounds that it delivers a net economic benefit. My question to the minister is: is it Zero Waste's policy that all strategies must have a net economic benefit, or does it not consider the environment a greater priority?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (14:37): These are often difficult issues for us, in terms of balancing our priorities. Clearly, this government has a policy to maximise environmental benefits to preserve and protect our environmental values, and the management of our waste is a very important arm of that. Indeed, South Australia has an extremely good track record when it comes to waste management. We have one of the highest recycling rates in the nation, of which we should be very proud, and we have quite low litter streams, largely due to our container deposit legislation.

Also, Mr President, as you are aware (and as I have said in this place many times before), we have a very committed policy to improving recycling rates and reducing waste to landfill. One of the policy initiatives that we introduced not so long ago was the doubling of the waste levy to help drive up recycling rates, given how cheap it was to simply dump waste into landfill This was done in an attempt to help to reduce the amount of waste going to landfill and to improve recycling rates.

In terms of the cost benefit analysis, I have said in this place before that many of those formulas are very much based on an economic rationalist approach. I am very keen for more work to continue to ensure that we develop and refine environmental values so that they are considered more acutely in some of those cost analyses.

I have said that before in this place. The sort of policy directions we attempt to take are those that produce economic benefits or at least do not create large economic imposts for our community, but at the same time our job is to preserve, protect and conserve our environment and

ensure that we retain good environmental values and that we have a planet here for our children and our children's children, and a sustainable future for thriving industries as well as a beautiful environment for people to enjoy.

MOTORCYCLE GANGS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:41): I seek leave to make a brief explanation before asking the Minister for Police a question about the South Australian government employing friends and family members of outlaw motorcycle gangs.

Leave granted.

The Hon. D.W. RIDGWAY: We saw late last night in this place, when *The Advertiser* became available, on the front page a story in relation to family members or friends of outlaw motorcycle gangs having gained employment in the government. It was a briefing provided to some MPs in relation to the bill. I am pleased that we were able to pass the bill last night, notwithstanding the fact that the government did not wish to debate it this week, and also find a couple of mistakes in the legislation. In relation to this issue, acting deputy commissioner Harrison is quoted in the paper as saying:

> Family members or friends of outlaw motorcycle gangs have gained employment in government agencies, and we've become aware of the details of where a person lives being given to members of the gangs.

The article continues:

> 'When you talk about corruption, generally speaking there are instances of this where people have abused their position of authority and provided this information.' Mr Harrison said the information was then used to threaten violence. 'One of the things which does happen invariably is that we investigate charges against a gang member and on many occasions we have seen they have been able to engage in some sort of threat of violence or intimidation of the witness in the matter', he said. 'Often in many instances people will not participate in a matter because they fear for their safety and the trial will fall over'.

My questions to the minister are:

1. How many family members and friends of outlaw motorcycle gangs have been employed by the South Australian government, and for how long have these people been employed?

2. Is the situation described in *The Advertiser* isolated to a couple of government departments or spread quite widely throughout government agencies?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:43): The honourable member said in the introduction to his question that he was briefed by assistant commissioner Harrison, as was every member.

The Hon. D.W. Ridgway: I was not briefed.

The Hon. P. HOLLOWAY: If you did not take it up, that is your problem, but you were certainly offered it. Assistant commissioner Tony Harrison briefed every member of this place and the other place who wished to get a briefing on the Serious and Organised Crime (Control) Bill, and that is where the information that is apparently in *The Advertiser* this morning came from. So it is a pity the leader did not use that opportunity to ask those questions then, as they are essentially operational matters, from the assistant commissioner.

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The purpose of that briefing was for assistant commissioner Harrison to outline the reasons the South Australian police had requested this legislation. The government put forward the legislation because of these sorts of cases. All around the world, for as long as I can remember, organised crime and those figures involved in it have sought to infiltrate the offices of government. It happens everywhere in the world in every jurisdiction.

The honourable member would be well aware, if he had read the paper over the past few years, that a police officer was charged with something to do with supplying information to a bikie gang last year, and also somebody in the courts has been charged. Assistant commissioner Harrison knows about this because these matters have been detected through the existing anti-corruption branch and other elements, including the Serious Organised Crime Task Force, the funding to which this government has doubled, so we are putting far more resources into it. Police now have a much greater capacity than they have ever had in this state's history to detect such

offences. It needs to be pointed out that being a relative of someone is not an offence. We had a big debate yesterday during the Serious and Organised Crime (Control) Bill about the criminal—

The Hon. D.W. Ridgway: You didn't want to have it.

The Hon. P. HOLLOWAY: We did want to have it. We wanted it a month ago, but members opposite were not ready.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I am happy to spend the rest of question time if the council wants to debate that subject. The fact remains that I listed the Serious and Organised Crime (Control) Bill as a priority way back, two or three months ago, and we had amendments dropped on us at the very last moment before we were due to debate the bill, even though I had asked members to do it earlier. Then, because these amendments had just come in, members were not ready.

I am happy to argue this all day if that is what members want. If members want to keep debating across the chamber, let us go, even though time is ticking away; it does not hurt me at all. Shortly, I will be tabling the various letters I sent out to members advising what the priorities were so that the media or any independent observer can see them.

Members interjecting:

The Hon. P. HOLLOWAY: This document will stand for itself. I am happy to do that, because that will settle this issue once and for all. The reason members opposite want to divert the debate is that they do not like the information we have given them about how, under this government, police resources in relation to serious and organised crime have been virtually doubled in the past 12 months.

The Hon. A. Bressington: Have we got a raincoat?

The Hon. P. HOLLOWAY: Have we got a raincoat?

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, I am laughing at it. This is the absurdity: what members opposite are saying is that, if you are going to deal with organised crime, give the police raincoats. Honestly! What are they supposed to do; disguise themselves as they are following bikie gangs? All these diversions are because members opposite do not like the truth. They do not like it being pointed out that this government has done far more than any previous government in relation to dealing with these issues.

Members interjecting:

The Hon. P. HOLLOWAY: The reason ,about it is that assistant commissioner Harrison provided a briefing to members of parliament; he told us about what was happening. We know this because the police have observed these things while these people have been under observation. People have been charged, and people are now before the courts in relation to these issues. During the debate yesterday we discussed what would happen in relation to criminal association and how, if certain associations would not be exempt, the courts would give consideration to familial relationships.

It is not against the law for someone to get a job in the Public Service if one of their relatives is a member of an organised crime outfit, and I would have thought that was obvious to everyone. However, what we need is a system—and we will have that once this bill is assented to—where, if criminal associations are used improperly, the police will be much better placed than anywhere else in this country and probably most places in the world to deal with that because they will now have the tools at their disposal to be able to deal with those levels of criminal association. That is exactly why assistant commissioner Harrison made the points he did which, belatedly, some two or three months after he gave that briefing to MPs, have now appeared on the front page of *The Advertiser*.

It has always been a feature of organised crime that they will use friends, relatives and other people to seek to get information they can use to advance their criminal activities. We needed to pass the bill, which we passed yesterday, to—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Of course, we wanted it; we wanted it debated months ago. Why do you think we introduced it? We wanted to debate it months ago. We also want to debate the WorkCover bill, and we could have got through it if we had not had this sort of situation where members have spoken for hours and hours on this other bill. I would like to pass the PAD dogs bill so that we can get those PAD dogs out there sniffing out drugs. I would also like to pass the controlled substances bill. There are a number of very important bills in this place, and I wish we could pass them all.

However, one of the great flaws in the democracy of this state is that in this Legislative Council people like Ms Bressington, who is interjecting now, can talk forever, and there is nothing the government of the day can do about it. If she wants to talk for the next two years and delay a particular piece of legislation she has the capacity to do so, providing she has the numbers to get away with it. That is a fundamental flaw in the democracy of this state. It does not happen in the Senate, and it does not happen in the upper house of most parliaments in the world—

Members interjecting:

The PRESIDENT: Order! Honourable members will stop interjecting and the Hon. Ms Bressington will stop pointing and interjecting. You are wasting your question time.

The Hon. P. HOLLOWAY: I will conclude on that point. In places like the Senate there are time limits, double dissolution provisions, all sorts of methods that can be utilised to ensure that legislation is debated. We do not have that in this state, and it is a fundamental flaw in our constitution. It is something I have been well aware of for many years, and I will keep harping on about it at every opportunity because, until it is addressed, that fundamental flaw will remain in our constitution where we do not have an effective double dissolution provision. We have a system where an upper house could block legislation but not itself be answerable to the people. Legislation could be delayed or blocked forever, yet the chamber that does it would not itself have to face the people; only the lower house is forced to do that.

That is not a situation that operates in most Western democracies; it is an abhorrent system and should not be tolerated. However, the existence of that weakness in our system is not widely recognised in this state. I hope it will become widely recognised, because if we do nothing else with this place we have to address the fact that it has no effective double dissolution provision.

MOTORCYCLE GANGS

The Hon. T.J. STEPHENS (14:52): I have a supplementary question. By the minister's own admission there has been infiltration into public office by organised crime—

The PRESIDENT: The honourable member had better ask his question.

The Hon. T.J. STEPHENS: —and by his own admission it is endemic. Why will the minister not support an ICAC?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:53): I did not say it was endemic—

Members interjecting:

The Hon. P. HOLLOWAY: I will tell you why we do not need an ICAC; we know it now because the police have detected it. These people have been charged under the current system. Why would we need an ICAC to do it? What would an ICAC do that is not being done now? It is certainly not endemic, but we do know that associates of organised criminals seek to infiltrate every organisation. That is true everywhere in the world, and it has been for many years. It is a feature of organised crime, and we are fortunate in this state that we now have legislation that enables those criminal associations to be dealt with much more effectively than they would be in almost any other jurisdiction in the world.

MINERAL RESOURCES

The Hon. B.V. FINNIGAN (14:54): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the outlook for the mineral resources industry.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Finnigan obviously has some dramatic effect on the opposition.

Leave granted.

The Hon. B.V. FINNIGAN: The state is currently undergoing an exploration boom with several mine projects in the pipeline. Spending on mineral exploration in South Australia in 2007 surpassed $330 million, putting the state in second place behind Western Australia and ahead of Queensland.

Members interjecting:

The Hon. B.V. FINNIGAN: Members opposite cannot stand economic development; there is record jobs growth in this state and members opposite do not want to hear about it. Canada's Fraser Institute has also upgraded South Australia from 18th to fourth in terms of mineral potential in its latest global survey, and Access Economics, a Canberra-based independent forecaster used by the Liberal Party and others, says, in its latest assessment of South Australia's economy, 'blue sky beckons in a way that it hasn't for a long time.'

Taking into account these recent, upbeat indications of activity in South Australia's mineral sector and its potential benefits to the wider state economy, will the minister provide information on the outlook for this important industry sector?

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (14:55): I thank the honourable member for his question. As he points out, members opposite hate good news, because they know that, in the eight years they were in government from 1993 to early 2002, there was very little good news in that period. In the mining industry, when I became the minister in 2002, there was $30 million, or thereabouts, exploration in a year and there is now over $330 million. In just those six years there was a tenfold increase in exploration.

As the honourable member points out, South Australia has been experiencing a healthy resurgence in mineral exploration, and this strengthening in confidence has been generated by the success of the Plan for Accelerated Exploration which was adopted by this government. Beside the mineral exploration spending figures produced by the ABS and the independent assessments of the Fraser Institute and Access Economics, our own Primary Industries and Resources SA has recently updated its mineral value chain scorecard. It is an industry scorecard that provides encouraging reading. The scorecard measures provide critical information on strategic development targets as well as assisting in the development of programs designed to aid expansion of the mineral industry. All 10 indicators comprising the scorecard have been improved in 2006-07 compared with the previous financial year.

I will share with the council the highlights of the latest reading. Private exploration expenditure rose 78 per cent year on year in 2006-07 to $260.7 million, which remains well above the $100 million target for mineral exploration outlined in South Australia's Strategic Plan. As we have indicated before, if one takes the full calendar year it got up to $330 million, but these figures for the scorecard were for the financial year.

New capital expenditure to estimates rose 79.2 per cent year on year to $760 million. State mineral royalties revenue rose 29 per cent year on year to $78.7 million. Commodity export value rose 19.4 per cent year on year to $2.354 billion. Mine gate production value rose 5.3 per cent year on year in the same period to almost $2.5 billion with well over half of this attributed to the Olympic Dam mine. Net off-site refining, from world-class facilities such as OneSteel's iron ore smelter at Whyalla and Nyrstar's Port Pirie lead-zinc smelter, rose to a value of $1.18 billion. The net mineral industry value rose 8.8 per cent year on year to an impressive $3.672 billion, which is well over the target of $3 billion set in the South Australian Strategic Plan.

The strong increase in new capital expenditure in 2006-07 has primarily been driven by the development of the Prominent Hill copper-gold mine, the Mindarie heavy minerals sands mine and the Angas lead-zinc mine, and OneSteel's Project Magnet which has involved the conversion to magnetite feedstock and an increased capacity for haematite iron ore export This significant increase in capital expenditure indicates that the surge in minerals exploration driven by the PACE initiative is not just an anomaly of the global minerals boom. It signals the beginning of an elevated and sustainable level of mineral development in South Australia which will lead to substantial increases in mining activity and a greater contribution to the state's economy.

Continuing with the good news: South Australia's mineral exports increased by 19.4 per cent to reach $2.35 billion in 2006-07 to become the largest single sector contributor to South Australian exports. Mineral exports from South Australia now comprise more than a quarter (26 per cent) of total state merchandise exports.

The honourable member asked about the outlook for the sector, and I can inform him that the blue skies predicted by Access Economics are, indeed, in sight. PIRSA predicts that, provided mineral commodity prices remain stable or increase, the 2007-08 mineral scorecard will demonstrate growth in key areas. Mineral exploration expenditure is forecast to grow by more than 10 per cent through 2007-08 as exploration continues around Olympic Dam and the statewide search for copper and uranium remains intense.

New capital expenditure is forecast to grow by more than 15 per cent due to heavy spending by projects such as Prominent Hill, Project Magnet and Angas. Mine gate production value is also forecast to grow by at least 10 per cent as BHP Billiton's Olympic Dam is aiming for production of copper, uranium, gold and silver at higher levels. In addition, increased iron ore exports and processing from OneSteel's Project Magnet are also expected to boost production, along with the production of mineral sands for the first time from Mindarie.

The increased production is expected to flow through to growth in mineral royalties and exports underpinned by the expected increase in the export of copper, iron ore and mineral sands. Looking further ahead to the medium term, the outlook also remains promising. PIRSA predicts that mine gate production and exports in 2008-09 will be influenced by the start of production at Oxiana's Prominent Hill deposit, Terramin's Angas deposit and Uranium One's Honeymoon deposit. Several iron ore deposits are poised for possible production within that time frame, including IMX Resources' Cairn Hill deposit, Western Plains Minerals' Peculiar Knob deposit, Centrex Metals' Wilgerup deposit and Ironclad Resources' Wilcherry Hill project.

Surges in private mineral exploration stimulated by this government's PACE initiative have ensured a steady pipeline of development projects to increase mineral production, net off-site refining and net mineral industry values and exports. The minerals industry has already achieved the exploration and production targets set in the South Australian Strategic Plan ahead of time, and it should be able to sustain these levels well into the future. That is good news for the industry, good news for the economy, good news for jobs, and good news for all South Australians.

PILL TESTING KITS

The Hon. D.G.E. HOOD (15:01): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about illegal pill testing.

Leave granted.

The Hon. D.G.E. HOOD: Ecstasy has been linked in a number of studies to brain damage, psychotic episodes and increased blood pressure, amongst other conditions. Despite data that makes plain that pill testing kits only encourage people to experiment with such drugs, one so-called drug expert has now suggested in today's media that these kits be made legal. Thankfully, on 2 December 2005, via a media release in her capacity as the then minister for mental health and substance abuse, the Hon. Carmel Zollo said:

> To expect the government to endorse pill testing, and in doing so endorse illicit drugtaking, is unrealistic both legally and morally. The government has a duty of care to all South Australians and would no doubt be held liable if we endorsed these tests and mental illnesses developed in the future. These testing kits, which are universally seen as unreliable and inaccurate, are not the answer. The simple way for people to avoid any risk is not to take illicit drugs.

It goes without saying that Family First endorses the comments of the Hon. Carmel Zollo. My question is: in light of the supporting evidence, and the comments of the previous Labor minister, is she willing to categorically rule out the legalisation of these so-called pill testing kits?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:02): I thank the honourable member for his important question. The government does not endorse the development or use of drug testing kits or the testing of drugs at youth-oriented events, rave parties and so on.

The government has a duty of care to young people attending rave parties as well as to the broader community, and it is essential that our message is clear and unambiguous. The government is committed to preventing the take-up of illicit drug use, reducing the harmful effects of licit and illicit drugs and offering pathways out of harmful drug use through the provision of appropriate intervention, treatment and rehabilitation services. There is no evidence that testing leads to any net reduction in the harm caused by illicit drugs.

The Ministerial Council on Drug Strategies reviewed the evidence on commercial pill testing and has publicly stated that it does not intend to support commercial testing at youth-

oriented events, rave parties, etc. Commercially available pill testing kits are currently being used in an attempt to test the content of pills. However, this raises a number of concerns, the first being the reliability and accuracy of the kit, which we know is questionable.

My understanding is that the kits do not necessarily identify the most toxic, harmful or abundant substances or contaminants contained in tablets, and they are not able to detect more than one substance in a single analysis. Also, the kits may provide a false sense of security to the user if they interpret the test results as conclusive; they may think that the pill is, in fact, 'safe'.

This testing does not provide any assurance about the effect of the substance taken because, obviously, people react differently to different drugs under different circumstances, for instance, whether they have eaten and how full their stomach is, and whether they have consumed alcohol; and a range of other things affect the way drugs manifest themselves. There is no evidence that users modify their behaviour to reduce the risks associated with the particular substance indicated by the test and, if there is no behavioural change, there is no potential for harm reduction.

There are also legal issues. As the former substance abuse minister (Hon. Carmel Zollo) pointed out, there are legal issues regarding drug testing, particularly in relation to the possession of illicit substances by users and testers. Under section 31(1) of the Controlled Substances Act a person who possesses an illicit drug commits an offence of possessing a prohibited substance. Upon handing the drug to another person for it to be tested, they could be seen as committing the offence of supply. Similarly, the tester can be charged with possession while they are holding the drug or testing it; and, of course, when they hand it back to the user they could be charged with supply. So, for those reasons, as outlined by the former minister for substance abuse and the reasons I have gone on to elaborate, the government does not intend to make drug testing legal.

PILL TESTING KITS

The Hon. A. BRESSINGTON (15:07): I have a supplementary question. Given that the government does not condone drug use at rave parties, etc., can the minister inform the council that, when the legislation concerning drug detection dogs is passed, she will ensure that those sniffer dogs will be present at rave parties in South Australia?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:07): The use of these dogs is outside my portfolio responsibility. Suffice it to say that, where the dogs go, how many, at what time and at what events, is an operational issue, and that would be a matter for SAPOL to determine as it determines the allocation and application of any of its resources.

PILL TESTING KITS

The Hon. A. BRESSINGTON (15:08): I have a supplementary question, just to clarify the matter. Perhaps I asked it wrongly. Will the minister seek advice from, and the cooperation of, the Minister for Police to coordinate such an effort?

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:08): My answer stands. I would not interfere with the operational decisions and matters of the police. They are very competent, and I would not interfere with their operational decisions.

TASERS

The Hon. T.J. STEPHENS (15:09): I seek leave to make a brief explanation before asking the Minister for Police questions about assaults on police.

Leave granted.

The Hon. T.J. STEPHENS: Last week I indicated and reported to the council that the new Police Association President Mark Carroll will lobby the government to support the introduction of tasers across operational policing roles. Latest statistics show there has been a 64 per cent rise in assaults on police in the Adelaide service area in the past nine months. Between July 2007 and March this year, 169 officers were assaulted, predominantly in the city, a rise of 66 assaults compared with the same period in 2006-07. Commenting on these statistics, Mr Carroll made the point that the community probably underestimates the level of violence in general, and assaults on police in particular, that officers confront every day. The Liberal opposition does not underestimate this problem, which is why we will continue to ask the same questions until we get reasonable answers. My questions to the minister are:

1. Will he advise the council whether he has discussed these latest statistics with the Police Commissioner, and is the Commissioner any closer to considering a trial of taser technology across policing roles?

2. Without turning the question around and blaming the former Liberal government as he usually does, will the minister finally admit now that it is time to trial taser technology across operational policing roles?

The PRESIDENT: The minister will disregard the opinion in the question.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:10): The Hon. Terry Stephens asked me a question earlier this week and one last week in which, of course, he had his facts totally wrong. Those questions related to the police plane and the issuing of uniforms to police in the northern areas. Certainly, the number of reported assaults have increased, and there are a number of reasons for that. It is partly due to the new category of serious assaults. However, there is no doubt—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: It does work like that, actually, yes. This question was asked in the lower house the other day. I was quoted by the Leader of the Opposition in the other place, and I am glad he did. There are 72 more police patrols in South Australia since 2002—72 more police patrols on the road. I simply pointed out that, if you have those patrols on the road, the police are more likely to see stolen cars and traffic offences, so statistics related to police proactive crime will increase. What we have seen is a decrease in victim-reported crime. Of course, the two go together—the more police you have, the more presence they have, the more proactive they are, the less victims are affected. That is why you have less victim reported crime but more police proactive crime. That is just a fact of the statistics.

It is a serious question in relation to assaults on police. Police have obligations. Their motto is to make our community safe; but, like all other workers, they have the right to have the safest working conditions available to them. They have the right to expect that they will be protected. There are a number of reasons why we have had an increase in assaults, not the least of which has been alcohol use, and there has been a broad debate about that in this community. The Prime Minister has bought into it, as well as other people. Obviously it is not a local debate but a national debate about growing alcohol use within the community, particularly binge drinking amongst young people.

It would not surprise anyone if I said that violence and assaults are more likely to be associated with heavy drinking. That has been the case for a long time. In relation to the city, yes, the police have been subjected to more aggressive behaviour, and there are a number of reasons for that. Yes, I have discussed the matter with the Police Commissioner on a number of occasions. To suggest that if you give police taser guns it will solve the problem is grossly over-simplifying it. The police have various types of equipment available to them. Under this government they will be getting automatic firearms. That have capsicum spray, batons, handcuffs and a lot of other equipment. Each type of equipment has its advantages and a particular application, and they also have disadvantages. Obviously—

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: What are the disadvantages with tasers? A couple of people have died during their application. They must be used properly.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes. It is important that they are used on the right occasions, because there have been those incidents. Tasers are deployed by the Star Force, which is the section of the police force best trained to deal with violent situations. Obviously, if you do get violence on the street the best solution is to get the Star Force involved because it has the specialist skills, training and equipment to deal with it. There is obviously a limit to how much equipment police officers on the beat can take with them. However, the priority is—

An honourable member: You're going to have to give them a bag to carry it in!

The Hon. P. HOLLOWAY: If the Hon. Terry Stephens had his way, the police would have so much around their belts they would be lucky to keep their trousers up. Put it this way: they would not be much good at chasing anyone. If someone had about 30 or 40 kilograms of equipment around them, they would not want to pursue someone. You cannot just keep arguing for more

equipment to be provided to police and keep adding to it and think that you are going to solve problems. If the honourable member thinks that we are going to solve problems that are committed basically because of excess alcohol and complex social issues, who is he kidding?

As I indicated some months ago when the honourable member asked a similar question, the Commissioner of Police was considering the issuing of tasers to senior officers and looking at where they might be used in particular locations where they have an advantage, but to have an across-the-board issue of them is not necessarily in the best interests of police officers. However, in cases where they do have advantages and where they can best be applied, I am sure the Commissioner will do so. Certainly, if that is his decision, this government will support him in relation to resources.

METROPOLITAN FIRE SERVICE

The Hon. R.P. WORTLEY (15:16): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about home safety.

Leave granted.

The Hon. R.P. WORTLEY: As we move into the cooler months, education about fire risk in domestic situations becomes more important as people start to use home heaters, electric blankets and so on. There is also concern in the community about inappropriate fire play and behaviour by young people. Is the minister able to provide some details about community education programs offered by the Metropolitan Fire Service?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:17): The Community Education Section of the South Australian Metropolitan Fire Service (MFS), which rests within the Community Safety Department, is a dedicated group whose primary aim is to improve fire safety through raising community awareness. As we all know, through education the MFS aims to bring about positive behavioural change to reduce loss of life, injury and property damage. Fire-related fatalities in South Australia occur primarily in a domestic situation, so community education programs aimed at home safety are the key to reducing loss of life and injuries.

The programs have been developed over a number of years and target identified high fire risk groups. Some of those high risk groups include the very young; the elderly; culturally and linguistically diverse (CALD) communities (for example, our recently arrived African humanitarian refugees); alcohol and drug impaired persons; and persons suffering physical and mental disabilities. There are currently 23 programs aimed at targeting these groups.

The main programs include the Road Awareness and Accident Prevention program (RAAP). I have mentioned this program in this chamber previously. This is a hard hitting and highly successful program delivered to young drivers at high schools to highlight the consequences of unsafe driving behaviour. The RAAP program has won numerous awards and accolades for both the program itself and those involved. It currently reaches about 40 per cent of all year 11 high school students. Schools wishing to participate in the RAAP program know that they have to contact the coordinator at MFS headquarters.

Another program is the Juvenile Fire Lighters Intervention Program (JFLIP). Again, I have mentioned this program in this chamber, but concern about dangerous fire-related conduct by young people warrants further mention of this program. Some 22 MFS staff within metropolitan and regional areas are trained as JFLIP practitioners, and they provide counselling to young firefighters to educate them to see the risks of unsafe fire lighting behaviour. The program develops a greater respect for fire and an awareness of its consequences. This program has been running for about 14 years and about 900 families have been assisted.

Last financial year, over 70 young people participated in the program; about one-third in regional areas. The group was predominantly male (93 per cent). As this program works with juveniles, generally between the ages of four and 17, it involves a close partnership with parents or caregivers.

The program has been successful in modifying inappropriate fire-lighting behaviour, with follow up research showing only a 5 per cent reoffending rate. I refer also to another one of the programs, the Hard to Reach Isolated Elderly program, and others. The Community Safety Department staff train health care workers who deliver care services into people's homes. Training is also provided to managers and supervisors of other organisations, such as Housing SA, which represents many of the state's high risk groups.

Another program is in respect of fire safety educational material. Fire safety material, brochures and posters are produced in 12 languages, and information is provided on the MFS website. The website provides a wealth of information about fire safety in the home in particular, and leaflets can be downloaded from the website. Given the approaching cooler weather, of specific relevance is the information provided on the use of electric blankets and therapeutic wheat bags. Other programs include the Adelaide Royal Show and school education programs targeting young children (which members will be familiar with), and the indigenous fire safety and community presentations to various groups, including culturally and linguistically diverse communities. The community education section plays a vital role in fostering behaviour to increase community safety and to ensure public safety and requires that the community is educated and informed in all aspects of fire safety.

LEGISLATION

The Hon. A. BRESSINGTON (15:22): I seek leave to make a brief explanation before asking the minister representing the Attorney-General a question about legislation.

Leave granted.

The Hon. A. BRESSINGTON: As members would be aware, some time earlier this year the pipes and bongs legislation, the drug-using paraphernalia bill, was passed and the Attorney-General actually worked with me on that bill, along with the fruit flavoured cigarettes legislation. We are now told that they cannot now be pulled from sale because of commonwealth law: section 92 of the Fair Trade Act relating to taking goods over state borders. My question is: if he is the Attorney-General, should he not know these things before we draft legislation and, if he does know it, why do we bother to draft and debate such legislation in this place when there is no hope of it ever being passed?

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:23): First, I ask that the Hon. Robert Lawson withdraw that comment.

The PRESIDENT: I did not hear any comment. What was the comment?

The Hon. P. HOLLOWAY: He used unparliamentary language in describing the Attorney-General. Obviously I will not repeat it.

The PRESIDENT: The Hon. Mr Lawson should withdraw.

The Hon. R.D. LAWSON: I am happy to withdraw, Mr President.

The Hon. P. HOLLOWAY: I thank the honourable member. In relation to the bill, the question is whether it has been assented to.

The Hon. A. Bressington: The bill cannot be proclaimed because of section 92 of the Fair Trade Act, which relates to bringing stuff across borders. Why do we waste time debating legislation, including the fruit flavoured cigarettes legislation, if it is not going to be passed? If the Attorney-General does not know that, why is he Attorney-General?

The Hon. P. HOLLOWAY: I am not sure that those facts are as suggested by the honourable member. We are the signatory to a number of international obligations. Obviously we have a constitution that limits what legislation we can pass. We can pass whatever we like, but the High Court determines whether it is constitutional and whether it is the responsibility of this level of government or of another level. We also have obligations under treaties. I will refer the question to the Attorney and bring back a response, but it was certainly my understanding that even today some legislation was proclaimed. Has the honourable member seen today's *Gazette*?

The Hon. A. Bressington: Not mine.

The Hon. P. HOLLOWAY: Are you sure?

The Hon. A. Bressington: Uh-ha.

The Hon. P. HOLLOWAY: I will refer the question to the Attorney-General and bring back a response.

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:25):

Given that the honourable member referred to flavoured cigarettes, I can respond to that part of the question if that is what she wants.

The Hon. A. Bressington interjecting:

The Hon. G.E. GAGO: That's all right; if the honourable member is not interested—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: The honourable member does not want the answer.

An honourable member interjecting:

The PRESIDENT: Order! The Minister for Environment and Conservation was only trying to assist, but it seems that the honourable member does not want that assistance.

DOMICILIARY CARE SA

The Hon. R.I. LUCAS (15:26): I seek leave to make an explanation before asking the minister representing the Minister for Families and Communities a question about cutbacks in domiciliary care.

Leave granted.

The Hon. R.I. LUCAS: Last month, on the Leon Byner program, a most concerned listener and constituent raised a concern about cutbacks in domiciliary care services. This lady described her circumstances as follows: she is 82, her husband died 12 months ago, and she is incapacitated and is currently receiving Domiciliary Care services for which she had a fee waiver, which meant that she did not have to pay $20 a month, or $240 a year, for the services provided by Domiciliary Care. She indicated that she was most concerned because she had received a letter from Domiciliary Care stating that she was about to lose the fee waiver and that her fees were to go up and that she could not afford the increased costs.

Upon investigation, my office has established that this person receives an annual income of some $13,000, and she receives the fee waiver from Domiciliary Care for the essential services she is being provided with. She indicated, without providing all of the detail, that, having paid her rent, she has only $54 a week to spend on all her food, clothing and general living expenses and that she could not afford the additional impost of $20 (or $240 a year).

Upon investigation, I advise that a Domiciliary Care representative indicated that there is a fee waiver for anyone who incurs expenses of over $96 on essential health and care-related expenditure in a four-week period, and the government department includes in that cost any moneys spent on private health insurance as a claimable expense item.

According to Domiciliary Care, there has evidently been a departmental directive from the Department for Families and Communities that now removes any payment by anyone for private health insurance as part of the essential health and care-related expenditure calculation of $96 a month.

To cut a long story short, what that means for this particular person—and, potentially, for many others—is that the fee waiver has now been removed from domiciliary care. In this person's case, it will expire on 31 May and she will be confronted with having to pay an additional $20 a month (or $240 a year) as a result of what would appear to be (according to Domiciliary Care, anyway) a directive from the Department for Families and Communities and a government decision. My questions are:

1. What has been the reason for the state government to make this change in policy?

2. How many individuals will be affected by this change in policy and will lose the fee waiver that they currently receive?

3. What is the saving to government as a result of this change in policy?

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (15:29): I will refer those questions to the Minister for Families and Communities in the other place and bring back a response.

YOUTH, RESIDENTIAL DRUG REHABILITATION PROGRAMS

In reply to the **Hon. A. BRESSINGTON** (31 October 2006).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (00:00): I am advised that:

1. Long-term residential places or beds for the rehabilitation of young people with drug use issues is complex as some may also be homeless, have mental health issues, or be unwilling to enter mainstream residential services.

The Government provides and funds a range of services that support young people in receiving treatment in a residential setting:

Mission Australia runs the Hindmarsh Centre in Hindmarsh, which provides shelter, support and non-medical detoxification for young people aged between 12 and 24 years who are homeless or are in danger of becoming homeless. The Centre can also arrange other services such as medical consultations, counselling, assistance in dealing with other agencies and providing referrals. The Centre does not encourage long-term stays for clients as this may cause clients to maintain their drug use patterns to obtain accommodation.

When it is necessary, the Children, Youth and Women's Health Service can provide a planned admission to their inpatient adolescent unit for young people up to the age of 16 years if a medical detoxification is required. All clients aged over 16 years are referred to Drug and Alcohol Services SA (DASSA) clinics.

The Woolshed provides a drug-free environment and offers a structured program to develop living, work and interpersonal skills through education, counselling, group work and recreational activities. It has associated halfway houses in Adelaide and links with self-help groups. The Woolshed takes people from 16 years old.

If a problem other than substance misuse is identified in relation to a young person (eg accommodation needs or financial problems), DASSA staff refer them to a range of services with a youth focus, including Second Story and Street Link. Some community health centres also provide specific support for young people in building self-esteem and for young pregnant mothers. Any referral will depend on the young person's particular issues and their willingness to receive assistance.

DASSA has staff who are qualified to undertake family therapy when appropriate. DASSA's clinical staff are always mindful of the importance of the family unit.

In addition, referrals can be made to CAMHS (who have a family therapy unit), or family support groups such as Family Matter and Family Drug Support.

2. For young people between the ages of 13 and 17:

- Mission Australia's Hindmarsh Centre has seven beds;
- The Child and Adolescent Mental Health Service's Boyland Ward has 12 beds; and
- The Children, Youth and Women's Health Service's Adolescent Ward has 12 beds.

CONTROLLED SUBSTANCES—PRECURSOR DRUGS

In reply to the **Hon. R.D. LAWSON** (6 December 2006).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

South Australia has been leading the Intergovernmental Committee on Drugs (IGCD) Scheduling Working Party on Controlled Substances in the development of recommended draft model schedules of controlled drugs, plants and precursors. This approach has been taken to ensure national consistency in the area of serious drug offences.

The IGCD Scheduling Working Party on Controlled Substances has developed the draft model Schedules of controlled drugs, plants and precursors for consultation.

I wish to advise that those parts of the Controlled Substances (Serious Offences) Amendment Act 2005 that could be proclaimed without supporting Regulation changes were

proclaimed on 12 January 2006 and those parts that could not be proclaimed, must come into operation on or before 5 December 2007.

The national model schedules includes some Schedule 4 drugs for which there is an illicit market and schedule 1 of the national model schedules had to be amended to exclude these drugs as further amendments to the Act will be required to bring in higher penalties relating to the illicit use of these drugs. Some nomenclature and quantities required amendment to be consistent with the legislation.

There are also amendments required to the Controlled Substances (Poisons) Regulations 1996 that are primarily administrative in nature due to changes in terminology and changes to some section numbers of the Act.

Draft regulations are currently being finalised and it is expected that the remaining parts of the Controlled Substances (Serious Offences) Act 2005 not already proclaimed, will be proclaimed in November 2007.

Supplementary Question—

It should be noted that it has always been the Government's intention to proclaim the new sections of the Act in a consistent and orderly way. Section 33 of the Act currently deals with the therapeutic use of drugs of dependence, as well as their illegal use.

When the amendments are proclaimed, these two uses will be addressed in separate sections with the therapeutic use of drugs of dependence to be addressed in the new section 18A. Section 18A retains the existing controls over the therapeutic use of drugs of dependence and does not introduce any additional controls. It does, however, clarify and correct some anomalies present in the wording of the current section 33 which are being addressed.

NEEDLE EXCHANGE PROGRAM

In reply to the **Hon. D.G.E. HOOD** (19 June 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

1. Despite the risks associated with non-professional ('backyard') piercings and the availability of professional body piercing services, some people still choose to conduct non-professional piercings. SAVIVE provides piercing needles, along with information and education on blood-borne virus prevention and referrals to professional piercing services in an attempt to reduce the spread of blood-borne infections.

2. SAVIVE reports that approximately one body piercing kit is being provided in each of the six sites per year and therefore it is not possible to link the distribution of these kits with suggested high rates of infections. In order to reduce the risk of infection, SAVIVE provides information on the dangers of non-professional piercing as part of the kits and recommends that people utilise professional piercing services.

3. The provision of body piercing equipment through SAVIVE is not funded by the Government.

SAVIVE has withdrawn the distribution of body piercing kits while advice is sought from the Department of Health about the efficacy of this strategy in reducing blood-borne virus transmission.

NEEDLE EXCHANGE PROGRAM

In reply to the **Hon. A.L. EVANS** (20 June 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

1. The Australian Injecting and Illicit Drug Users' League (AIVL) is a national organisation that represents state and territory drug user groups. It is a peer-based organisation that deals with issues of national significance for people who have used illicit drugs. The organisation provides information to drug users about the importance of safe injecting and the risks of transmitting blood borne viruses, such as Hepatitis C.

2. I was not aware that SAVIVE was distributing an Australian IV League petition prepared by international drug user activists. Officers from Drug and Alcohol Services South

Australia (DASSA) have met with the AIDS Council of SA/SAVIVE to discuss this matter. The AIDS Council has agreed to no further involvement in petitions of this nature.

3. DASSA does not provide funding either directly to AIVL or indirectly through SAVIVE.

4. It should be stressed that accessing people who engage in risky behaviour for the transmission of blood borne viruses is a difficult and complex task. The prevention of the transmission of HIV/AIDS and other blood borne viruses amongst individuals and the broader community is the paramount concern. It is therefore vital that the government funds agencies such as the AIDS Council to undertake this important work. The Council has a proven history of engaging hard to reach groups for the purpose of blood borne virus prevention. They undertake important work through the Clean Needle Program that focuses on strategies to reduce the transmission of blood borne viruses.

BLACK-FLANKED ROCK WALLABIES

In reply to the **Hon. A.L. EVANS** (17 October 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

Under IUCN red list ratings, the Black-flanked Rock-wallaby, at a *species level*, is rated as Lower Risk Least Concern. However, there are three subspecies and two geographic races of Black-flanked Rock-wallaby.

The MacDonnell Ranges Race occurs in the APY Lands of South Australia, and in nearby areas of Western Australia and the Northern Territory. The MacDonnell Ranges Race is known as *Warru* by locals of the APY Lands.

At a *subspecies* level, *Warru* is rated as Vulnerable under the IUCN red listing ratings. This is also the national rating under the Commonwealth's *Environment, Protection and Biodiversity Conservation Act, 1999.*

In South Australia, *Warru* is listed as Endangered under the *National Parks & Wildlife Act 1972,* due to its continued serious rate of decline in both range and abundance. In the matter of about 80 years it has gone from being a widespread and abundant animal in the north-west of the State to its current situation of only three known colonies totaling about 50 individuals. Two other colonies have become extinct in the past decade or so.

While IUCN listings provide a useful global overview of the status of the world's animal and plant species, these listings are infrequently updated and therefore seldom reflect current knowledge and action. Local listing under the National Parks and Wildlife Act 1972 is the determinate of action.

ENVIRONMENT PROTECTION AUTHORITY

In reply to the **Hon. M. PARNELL** (17 October 2007).

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health): I have been advised that:

The results from monitoring that are required through an EPA licence are available from the Public Register, which is a provision established under Section 109 of the *Environment Protection Act 1993*.

BUSHFIRE ARSON

In reply to the **Hon. D.G.E. HOOD** (16 October 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Attorney-General has provided the following information:

Between 1 January, 2003, and 30 September, 2007, there were two convictions under section 85B of the Criminal Law Consolidation Act that resulted in imprisonment for lighting bushfires.

One offender was sentenced in 2005 to 10 years imprisonment with a non-parole period of four years.

The other offender was sentenced in 2007 to 18 months imprisonment on one charge of bushfire arson. The individual also received an 18 month sentence of imprisonment for false representation to Police and a sentence of three years for attempted rape. The offender was set a head sentence of four years and 24 days, taking into account time spent in custody, and the non-parole period was set at 30 months.

The Office of Crime Statistics and Research (OCSAR) publishes one of the most comprehensive sets of crime and justice statistics of any jurisdiction in Australia. With more than 20,000 possible offences, it is not practical to publish separate statistics for every offence. OCSAR is, however, currently reviewing the content of its statistical reports and will consider identifying bushfire arson offences separately in the future. I can assure the honourable member that OCSAR is able to provide statistics for these offences whenever required.\

CRIMINAL COURT DELAYS

In reply to the **Hon. R.D. LAWSON** (16 October 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Attorney-General has provided the following information:

1. In 2006 I announced the formation of a Criminal Justice Ministerial Taskforce, to be chaired by the Solicitor-General, to address the time taken for committals and trials in the criminal court and to provide leadership in addressing any inefficiencies within the criminal-justice system. An important part of the work of the Taskforce was to address a report prepared by Judge Rice on these matters that had been commissioned by the Chief Justice and the Chief Judge.

The Criminal Justice Taskforce is made up of the leaders or senior representatives of:

- Attorney-General's Department
- Courts Administration Authority
- SAPOL
- The Office of the Director of Public Prosecutions
- Legal Services Commission
- Aboriginal Legal Rights Movement
- The S.A. Bar Association
- The Law Society of South Australia
- Office of the Commissioner for Victims Rights
- The Department of Treasury and Finance.

This group has been helped by the attendance of liaison representatives from the judiciary and the Office of the Commonwealth Director of Public Prosecutions.

I have recently received the first report of the Taskforce, with proposed measures for Government consideration. These measures are being costed so that they can be considered by Cabinet.

2. The Criminal Justice Ministerial Taskforce has been most effective in formulating a comprehensive plan improve the criminal justice system and reduce delays in the finalisation of cases. The plan will be submitted to Cabinet soon. None of the measures proposed by the Taskforce can be adopted until they are costed.

3. The Government will announce its adopted reforms after consideration of the Taskforce's proposals and their costs.

4. No.

SPORTING FACILITIES

In reply to the **Hon. T.J. STEPHENS** (23 October 2007).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): The Minister for Recreation, Sport and Racing has provided the following information:

The Government has a focus on improving the quality of existing venues, and promoting and developing the capacity for increased use of these venues. The Rann Government has made a significant commitment to AAMI Stadium, Adelaide Oval and the AM Ramsay Regatta Course at West Lakes.

The Government also recognises that quality, world-class sporting facilities build on South Australia's strengths and competitive advantages and contribute to the state's economy through attraction of major events.

STOLEN PROPERTY

In reply to the **Hon. D.G.E. HOOD** (2 April 2008).

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning): On Friday 28 March 2008 members of the Northern Operations Service Tactical Unit (NOS Tac Unit) seized over 3000 items of property, believed to be stolen.

To manually trace the owners of all the stolen items and return them may have taken several weeks due to the large amount of property seized. Therefore it was decided to plan a phone in to expedite and streamline the property identification process. This was planned to occur between 12.00pm and 7.00pm on Tuesday 1 April 2008 at the NOS Tac Unit office.

A media conference was held on Monday 31 March 2008 relaying this information to the public.

During the course of the phone-in, 250 calls were received on the nominated telephone line. The members assigned to the phone in worked constantly throughout the day, with the phone line diverting to two other areas within the Holden Hill Police complex if the phone line was engaged. Every effort was made to capture all incoming calls.

Unfortunately, due to the large amount of calls received, it was likely that some callers may have experienced delays. This was not due to a lack of resources but solely due to an underestimation of the number of likely callers.

The constituent who raised the issue with the Hon. Dennis Hood has since been contacted by police and the matter resolved to their satisfaction

AMBULANCE SERVICE

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:29): I lay on the table a copy of a ministerial statement relating to SA Ambulance Service reform made earlier today in another place by my colleague the Hon. John Hill.

RENAL SERVICES

The Hon. G.E. GAGO (Minister for Environment and Conservation, Minister for Mental Health and Substance Abuse, Minister Assisting the Minister for Health) (15:29): I lay on the table a copy of a ministerial statement relating to the integration of acute renal services made earlier today in another place by my colleague the Hon. John Hill.

MEMBER'S REMARKS

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (15:29): I seek leave to make a personal explanation.

Leave granted.

The Hon. P. HOLLOWAY: Earlier today, during the debate on the workers rehabilitation and compensation legislation, the Hon. Mark Parnell (as well as numerous media comments by the opposition members) asserted that the government's legislative priorities for the current sitting week and the previous sitting week were the Serious and Organised Crime (Control) Bill and not the WorkCover legislation. I table two documents, being letters sent to all members of the Legislative Council. The first one, sent four weeks ago on 11 April 2008, says:

The government priorities for the parliamentary sitting week commencing Tuesday, 29 April 2008 are the following bills in order of priority:

1. Workers Rehabilitation and Compensation (Scheme Review) Amendment Bill (N0. 116)
2. Serious and Organised Crime (Control) Bill (No. 100)
3. Firearms (Firearms Prohibition Orders) Amendment Bill (No. 108)

Then, on the 1 May 2008 I sent a letter saying:

The government's priority for the parliamentary sitting week commencing Tuesday, 6 May 20008 is the following bills:

1. Workers Rehabilitation and Compensation (Scheme Review) Amendment Bill (No. 116)
2. WorkCover Corporation (Governance Review) Amendment Bill (No. 118)

Four weeks ago I informed all members, and it was repeated last week, that for the last two sitting weeks the government's priority was the workers rehabilitation and compensation scheme. So that this can be cleared up, I table the two letters, which were sent to all members.

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2839.)

The Hon. M. PARNELL (15:31): It is very pleasing to see that historical revisionism is alive and well in the ranks of the Labor Party; I hope the people in my office are now going back through my inbox and looking at the letters the minister sent telling us, for two sitting weeks in a row, that—

The Hon. P. Holloway: It was four weeks ago.

The Hon. M. PARNELL: It might have been four weeks ago when we were ready to debate that damn bikies bill, yet day after day the minister adjourned it. This is outrageous, and I am pleased by the interjections I am hearing from my Liberal colleagues in the opposition. They know the truth of this matter.

However, I will just make a very brief personal explanation myself. I have altered my wardrobe since last we sat. I was previously wearing a badge but I understand that that is not really parliamentary, so I have removed the badge and will not wear it in this session of parliament. The badge is from the—

An honourable member: Table it!

The Hon. M. PARNELL: I will not table it; it will stick. It is from the Public Service Association—

The Hon. P. HOLLOWAY: I rise on a point of order. It was one thing for the Hon. Mark Parnell to act in ignorance of the standing orders, but to deliberately flout them in the way he is now doing in order to draw attention to it is outrageous. Mr Acting President, I ask that you uphold the standing orders in relation to displays in this place.

The ACTING PRESIDENT (Hon. R.P. Wortley): Mr Parnell has recognised the fact that he was wearing a sticker; all he is doing is trying to read out the writing on the sticker. It is all part of his presentation.

Members interjecting:

The ACTING PRESIDENT: Could we please have some order and allow Mr Parnell to speak.

The Hon. M. PARNELL: I said it was in the nature of a personal explanation, and I do not wish to flout the traditions of this place so I will not wear the badge. The badge, when I was wearing it, read, 'Nobody asks to be injured at work. Don't cut injured workers' pay Mr Rann.' I think that message really is at the crux of my comments today.

Before we broke for lunch, I drew the council's attention to the contribution made by various members in the area of WorkCover and occupational health safety, and I had started to refer to the contribution of the late Jack Watkins. I want to read a brief passage from his entry in the *Movers and Shakers* book. It does relate to the passion with which working people and union representatives hold the occ health and safety and the WorkCover debate. I mentioned a number

of instances in relation to asbestos. Jack was a great campaigner in relation to asbestos. In his entry it states:

> The other incident occurred in Parliament House. The members were debating the issue of asbestos use and Dean Brown (Liberal Party) was on his feet claiming that there were absolutely no safety concerns. This was too much for Jack, who was in the public gallery, so he took a package from his pocket and sent a shower of white powder descending into the chamber below, claiming falsely that it was asbestos. The place was in an uproar, with people scrambling to leave. 'Under police escort and handcuffed, I was brought before the Speaker and charged with contempt of parliament, a hanging offence. The Speaker said that had shown contempt for the Queen's Rod, so I told him what to do with it. I knew I was in serious trouble and I was eventually banned from even the steps of parliament for three years. This incident received a lot of publicity.'

I remind members that Jack Watson became a member of the ALP Executive, president of the South Australian Labor Party, and was twice a preselected Labor candidate for state parliament. No-one can justify that type of behaviour, but I refer to it because it shows the passion with which working people have approached this debate in the past and approach it now.

When we think of WorkCover and people who are 'on compo' for injuries, quite naturally we tend to consider the most seriously injured workers who are in heavy industry, building, construction or manufacturing. However, the contribution in the *Movers and Shakers* book in relation to Joy Palmer reminds us that workplace injuries go far beyond those types of areas.

Joy Palmer was involved with the Public Service Association, and she became the first full-time official elected in South Australia. She has held the positions of joint national secretary and national president of the Community and Public Sector Union. She says that it was her interest in health and safety and the widespread introduction of computer technology which led her to visit workplaces. She said:

> I was horrified to see the most appalling work practices, poor ergonomics, high-speed work rate and lack of appropriate training. It was not unusual to see typists with screens raised precariously on telephone books or, indeed, to be sitting on a phone book because their chairs were 1950s non-adjustable models. Closer investigation revealed thousands of women were suffering from repetitive strain injury. RSI, however, was not just a problem for keyboard operators, but extended to a range of other blue-collar industries and occupations. This led to a major campaign over several years which resulted in extensive redesign of work practices and a massive reduction in the number of injuries.

The message from that is one that is generally agreed in this debate, and that is that reducing workplace injuries and reducing the need for people to claim compensation are by far the best way of reducing the unfunded liability. What we will need to do when we explore the detail of this bill is to look at the question: does this legislation make workplaces safer?

The Hon. Ron Roberts (known to many people in this place, but not to me) also spent a great deal of his working life on issues such as occupational health and safety and WorkCover. Ron was active in the Electrical Trades Union. He was President of the local ETU branch. He became a member of this chamber (the Legislative Council) in 1989. He was a deputy leader and he was a president in this place. We should take a great deal of heed of his reflections. He said:

> As an apprentice, I was a member of the Electrical Trades Union and affiliated with the ALP. Many of the people I worked with in that period were returned servicemen who had a great sense of discipline and unity. There was a shared understanding that what was good for one was good for all. Your word was your bond and these fine qualities became the norm.

I think that we need to reflect on those words and assurances, which people in the union movement tell me they have received from government ministers, that injured workers will not be worse off under this regime. The Hon. Ron Roberts said that one outcome of his experience in the trade union movement was that he learned to argue from a position of weakness rather than strength. He stated:

> The trade union movement needs to be commended because every conservative government has tried to limit the unions' ability to do their job. I am actually pretty confident about the future of the trade union movement. The worth of the Legislative Council was shown when the Brown Liberal government was trying to cripple the union movement, particularly through an enormous attack on WorkCover. Labor opposition and the Democrats controlled the upper house and, with the support of the trade unions, we were able to maintain a reasonable system. It showed that, with trade union involvement, things could be achieved and that the unity of labour is the hope of the community.

I think that those words must ring very sourly in the ears of trade union officials today. Through all the internal channels (not channels of which I am a part, and I am not invited to those meetings), they have tried to get Labor to listen to them on this issue of WorkCover, but it has fallen on deaf ears.

I had a number of contributions I was going to refer to from the *Movers and Shakers* book, but I think that honourable members have the idea that generations of working people and their representatives have been fighting these issues from the earliest days. I guess that one of the take-home messages is that you might think you have achieved a result when you win a campaign, such as the one referred to by the Hon. Ron Roberts, only to find that without eternal vigilance you have to fight them again. The union movement is being eternally vigilant. I think that it has fought a very decent and competent campaign, and it is not about to stop. We are playing some small role here in doing justice to the debate that needs to occur and ensuring that this legislation is properly debated.

In pursuing this theme of the Labor Party's accountability to the people who elected it in the lower house, I have gone through its policies, its platforms and its constitution. However, I now want to refer very briefly to the words of one of its new and up-and-coming members. I hope that it is not a pattern that people start with ideals but end up jaded. I found fascinating the comments of Doug Cameron in his address to the Fabian Society in March this year. He reflected on these very questions, such as the responsiveness of the Labor Party to its traditional base in the trade unions, and WorkCover is at the heart of that debate at present.

I will not proceed to introduce Doug Cameron in any great detail, other than to say that most of his life has been spent working in the union movement. He has been an assistant state secretary and an assistant national secretary, and he was a national secretary of the Australian Manufacturing Workers Union and so on. It is a union CV as long as my arm. He will take up his seat in the Senate in Canberra on 1 July 2008.

Doug Cameron's speech to the Fabian Society was in response to a commentator, Mark Aarons, in a book edited by Robert Manne and entitled *Dear Mr Rudd*. He says that the trade union movement plays a crucial role in ensuring that the ALP is a party of vision and values with an anchor back to working-class Australians, and that is what he sees as its fundamental role. He is not in this state, so I have not discussed this with him, but I imagine that, if I put to him the evidence of what we are seeing the Rann Labor government doing in relation to WorkCover, I would invite him to say how it reflects on the ALP as a party of vision and values. He says:

> Trade unions are the biggest non-government organisation in the country, with close to 2 million members. These members volunteer to be part of the union and make a financial commitment to the organisation. The reach and influence of a trade union movement is much wider than its paid up membership. During the Your Rights at Work campaign, trade union activists mobilised and politicised family members, friends and community members. The argument for increased union influence within the party is justified by—

in particular, the movement's historical relationship with the ALP, also the membership base of the ALP and financial contributions to the party. The unions are also instrumental in the campaigning effectiveness of the party and the influence it exerts within the community. Doug Cameron says:

> In particular, restoring a proper balance between the influence of big business and government and the needs of society is a major task of the trade union movement and party activists.

I think that is important in the context of the WorkCover debate because, really, what we are hearing from government is this fairly feeble line that, 'We do not like doing what we have to do, but the economy and business demand tough action, and it is tough action that we are taking.' So I think that does bring into question the fundamental principles of this party.

What I think brings those principles into question even more is an issue which I have raised here several times (and I am not going to go into it in detail now because we are on WorkCover) and which is reflected on by Doug Cameron when talking about the New South Wales Labor Party, when he says that the real crisis is the 'power, influence and reprehensible behaviour of local party officials and developers'; and he is particularly talking about Wollongong. He says:

> These problems have not been the creation of the trade union movement. The influence of developers in the New South Wales ALP requires strong, decisive and effective leadership from the Premier and the party organisation. If ever there was a Gordian knot that needs to be cut, It is the relationship between the New South Wales ALP and developers.

It is only my commitment to be absolutely relevant to this debate that stops me going on to reflect even further on that relationship. Developers are bigger donors to the Labor Party than the trade union movement; and a consequence of that, I think, is the reaction that Labor now has to the union movement when it asks for something as simple as not cutting injured workers' entitlements.

Doug Cameron in his article does give some great historical context about the role that unions played in the formulation of the ALP, and I do not need to go into that history in any depth. He points out that the foundation of the federal parliamentary Labor Party in May 1901 was the

product of several decades of experimentation by the Australian trade unions with various forms of political activity and that they finally settled on the Labor Party as the vehicle. It was the union movement's determination to wrest political power from employers that brought the ALP into existence, and trade union activists made up a majority of caucus in the early years. How the times have changed, and how the tables have been turned!

The formal relationship between the ACTU and the ALP came in 1927, and until about 1951 parliamentary leaders such as Watson, Fisher, Tudor, Charlton, Scullin, Curtin and Chifley moved from the shop floor to actually lead the Labor Party. As an aside, he notes, with some pride in his ancestry, that seven out of the 24 parliamentarians in the first Labor caucus were Scots immigrants.

The ultimate relationship between the ALP and the union movement is complex. Doug Cameron describes it as 'tense, tangled, ultimately strong and unbroken' Well, tense?

The Hon. A. Bressington: Not anymore!

The Hon. M. PARNELL: The Hon. Ann Bressington says, 'Not anymore!' It is still tense. Tangled? Yes, it is, with factional influence. Ultimately strong? We have to put a question mark over that. Unbroken? Well, we have seen it broken in the past couple of weeks and months—the vision of thousands of workers on the streets of Adelaide calling on the Premier to 'can his plan'. I will just conclude with one other sentence from Doug Cameron because we need to move on. He said:

> The ALP must also be careful not to be seen solely as the safe, economically conservative managers of the economy. If managing the economy consumes the party to the exclusion of its capacity to build a society based on social justice, equity and real democracy, then the electorate can easily change one set of economic managers for another. This is the real threat to the ALP, not its historic and predominantly productive relationship with the union movement.

I think that he has put his finger on the button here as to why we are getting this WorkChoices legislation, that is, that the Labor Party has decided wrongly and against all the evidence (and we will get to that later) that it needs to be safe, economically conservative managers of the economy. If the only way that it can see to do that is to cut the entitlements of injured workers, the government has well and truly lost the plot.

The other interesting comparison between the Labor Party in New South Wales about which Doug Cameron was talking and the Labor Party here is how it has managed two different disputes that have a great many similarities. In South Australia it is the WorkCover issue (the bill we are debating now), and in New South Wales it is the issue of electricity privatisation. In New South Wales that is the Iemma government's agenda. Just as Premier Rann spoke out against the former Liberal government's privatisation of electricity, as opposition leader, Mr Rann spoke out about the former Liberal government's slashing of workers' rights to compensation if they are injured. We have a very yin and yang situation here, it is just that the names of the parties are being reversed.

Perhaps if there were still electricity assets to sell, we would see the Premier selling those as well. It is just that the other major party, the Liberals, got there first. In this WorkCover bill, even though the Liberals did get there first some years ago and they had their attack on workers' rights, Premier Rann is now having another go, and he is taking the axe to what the Liberals left behind. Premier Rann is selling the rights of workers' families. He is not selling electricity (there is nothing left to sell), but the rights of workers' families are there on the market. Just as Premier Iemma is privatising the electricity system in New South Wales, Premier Rann is privatising the pain, suffering and financial hardship that comes with many work injuries.

He is making it no-one's problem but the injured workers themselves. It is no problem for business anymore—not because the injuries have stopped, but because, under this bill, they will not have to pay the real costs of work injury anymore because this bill abolishes compensation for the real costs of workplace injury, and injured workers lose just that. The Premier is privatising the problem. He is telling injured workers, 'It's your private problem. Even though you were badly injured—perhaps by a grossly negligent employer—it is just your problem now. The employer does not have to pay the real costs of the injury anymore.'

I doubt that the injured workers who lose out will share the Premier's enthusiasm when the government tells them, 'We were the cheapest place for business in Australia, and we have made it even cheaper for business by telling them that they don't have to pay you full compensation anymore.' While there are many similarities between what is happening in New South Wales and the New South Wales government's power privatisation plan, there is one major difference, which I

will come to in a second. On the ABC's *Lateline* program on 5 May, under the heading 'Iemma dangerously defiant over power privatisation', the presenter, Kerry O'Brien, said:

> Labor's crisis in New South Wales, following a major rift at its state conference at the weekend which now threatens to split the party and the Iemma government. The unions and the rank and file overwhelmingly rejected Premier Morris Iemma's plan to privatise the state's electricity generators. Late yesterday the Premier defied his own party, announcing his government would push ahead with the sale anyway. For a leader whose popularity is at an all-time low, this unprecedented defiance of ALP policy may yet prove to be political suicide. Even more significantly, it's a clear signal of profound changes in the labour movement and the dwindling influence of unions in the Labor Party.

That is the similarity. The difference is that in New South Wales the Premier has said that he is prepared to sit down and consult with trade unions, but not in South Australia. Mike Rann has not followed that lead. There has been no discussion with the trade union movement over what to do about the Clayton WorkCover report; there has been no consultation on this legislation.

However, the major difference about the way in which the New South Wales government has handled power privatisation and the way this government is handling WorkCover is the absolute fear and panic by the Premier to shut down debate in the community, to avoid any scrutiny and to avoid, in particular, the internal democratic processes of the Australian Labor Party. It is obvious why the government is avoiding an open debate about this bill in Labor's own democratic forums, and that is because the government cannot win a debate on this bill because it is such a complete disaster for working families. The leaders of the Labor government know that, if they went through those democratic Labor Party processes, they would lose.

The other thing that some internal democracy might do, if the government was minded to do the right thing, is to make Labor Party members of parliament stand up and tell delegates what they stand for. Are they on Premier Rann's side or are they with the union movement and working families, all of whom are appalled at this disgraceful bill? The New South Wales government lost the vote on power privatisation by something like 700 to 100. Even though the Premier had ignored the Labor conference, at least in New South Wales there was some proper consultation with respect to the issue of WorkCover, but not here in South Australia. Premier Rann is so certain that his attack on workers' rights would be rejected at an ALP conference that he has gone into panic mode to make sure that there is no conference.

The question to the Premier is very simple: if the Premier claims that he is happy for there to be an ALP conference, why will he not let the people in the ALP who want to have a conference to debate a fundamental issue of workers rights have one? If he supports democracy, why will he not support them and make sure that there is a conference? The answer, of course, is that he will not allow democracy, because he already knows that he is turning his back on the Australian Labor Party with this WorkCover bill. This bill spits in the face of Labor values. It is an attack on the dearly held values and principles of the vast majority of people who participate in ALP forums, and the Premier knows it will be rejected and that he would be jeered and booed off the stage. So, he would rather not put himself in that situation.

The Hon. A. Bressington interjecting:

The Hon. M. PARNELL: As the Hon. Ann Bressington reminds me, some of the language we heard on the steps of Parliament House yesterday cannot be repeated here; it is unparliamentary. That is the ire that the Premier has raised in working South Australians. So, just like the New South Wales government and the New South Wales Labor Party on electricity privatisation, there could not be two more different positions on this bill than between the ALP and the government.

The news media, whether it is online or print, has been full of stories about this internal conflict between the leadership and the rank and file in New South Wales. One commentary (and I will not read much of it) by crikey.com, under the heading 'Caucus torn, conference resolute, Iemma powerless', states:

> The weekend conference voted not once but twice to show its explicit rejection of the privatisation of the publicly owned energy industry. According to the ALP's rules, that gives all members—premiers, ministers, MPs and ex-premiers (Barrie Unsworth and Bob Carr included)—the clearest riding instructions. They must have no truck with private ownership of power—it is not an optional issue. Membership of the ALP is voluntary, but it carries the basic requirement that all members are bound by current party policy. Members who break ranks and oppose the platform are in violation of the party's rules and risk being reprimanded, suspended or expelled. Yet, this is the course that Iemma, Costa and a small minority of party members have chosen. Their status has been conflated by editorial writers from the Tory media, the big end of town, and a cheer squad of corporate lobbyists (including Bob Carr, who is now a valet at Macquarie Bank).

Crikey went on to report that the vote of 702 against electricity privatisation and 107 for means that it was not only the union delegates who were opposed to the sell off but that nearly three quarters of the branch delegates joined them. That can be no surprise, because just like the unions here want to protect workers rights so do regular rank and file ALP members, but not this government. I know because the number of people who have come up to me and said, 'I'm a member of the Labor Party, but I cannot stand what I see the Labor Party doing to my colleagues in the workplace, and potentially to me if I am injured'. Another comment on Crikey could just as easily apply in South Australia:

> For be under no illusions: Labor in New South Wales is today in the midst of a serious crisis. It is not a matter of evil trade unions standing against a sensible and well-meaning Premier; branch members are just as opposed to electricity privatisation as is the industrial wing of the party. It is a clown of a Premier and his bullyboy Treasurer Michael Costa who, when insisting on getting their own way, are putting at risk the ability of ordinary members to have a say in what their party stands for. Why would anyone want to be what Kevin Rudd in his speech called `As the members of our party you are its heart and soul, its hands and feet if you are to have no influence on its mind'.

I will not labour these examples, but we can take them and replace the words 'New South Wales' with 'South Australia' and replace the issue of electricity privatisation with the issue of cuts to injured workers' entitlements.

In New South Wales there were four backbench MPs who spoke against that plan and said that Premier Iemma risked being a lame duck premier. We are told that there are a number of members of the Labor Party here who similarly have voiced their opposition. I would like them to voice their opposition during this debate—there is plenty of time.

The Hon. R.I. Lucas interjecting:

The Hon. M. PARNELL: As the Hon. Rob Lucas says, we have not heard a squeak yet. We had the Leader of the Government referring to things that look like ducks and swimming like ducks, but I want to hear what backbench members of the government have to say about the plan. The article further states:

> If we weren't so hypocritical we would've just told the people of New South Wales what we were going to do before the election and then let the people of New South Wales make the decision, but we did not do that.

That was Mr Gibson—one of the four New South Wales Labor MPs who came out against the plan. He said, 'I believe that this vote isn't only about the privatisation of electricity; it's about the very future of this party because, if we can have anyone in the party, whether it be a premier, whether it be a treasurer, come in here and overrule party policy and platform, then we haven't got a party'. Again, we might just as well be talking about South Australia because under this Rann Labor government there is no ALP conference until it is a convenient time for the government, and that will be after we have concluded our debate on this bill.

The Hon. T.J. Stephens interjecting:

The Hon. M. PARNELL: As the Hon. Terry Stephens says, there will not be a conference until after the blood starts flowing. Well, the blood is flowing. Again, that is at the heart of the argy-bargy we have seen over the role of the upper house and the role of proper scrutiny. The government knows that, for every minute, hour or day this debate continues, the Labor Party is suffering pain, because people are seeing it for what it is. They joined, and they voted on the basis of the lofty principles in the charter and in the platform, and now they have been sorely let down.

My understanding was that the ALP State Conference was supposed to be held in March this year, but it seems that it has been delayed until August to avoid an embarrassing vote on the conference floor. At least Morris Iemma in New South Wales had the guts to go to a party conference, but that is not the case here.

I also understand from media reports that two days ago (on Monday evening, in fact) an emergency state ALP Executive meeting was called and that at that meeting Premier Rann seconded a motion to shut down internal democracy by cancelling a scheduled state council meeting and deferring it to some time in June. I think that meeting was going to be held tonight; it is now not going to be held until June.

One union leader who is never backwards in coming forward is Wayne Hanson from the Australian Workers' Union. He referred in media comments to this issue of the Premier not wanting to face the party on WorkCover. He said:

The Premier and his parliamentary colleagues are doing everything they possibly can to engineer a situation to ensure that the government is not embarrassed in this situation as far as WorkCover is concerned because it knows that, if it does have a public debate, then this bill will be voted down by the party at large.

I cannot say it any more clearly than that. So, that is the plan: avoiding internal voice over WorkCover. Time will tell, as this debate proceeds, whether any other tactics, parliamentary or otherwise, might be used to try to silence those who want to have a thorough debate on WorkCover.

I have referred to anecdotal material, but I want now to refer to some of some of the more formal and considered responses of the trade union movement to the WorkCover legislation. The first of the press releases I am aware of from SA Unions from this current era (that is, since we have known about the legislation) was back in February 2008. The SA Unions' media release, under the heading, 'Strong support for injured workers', states:

An independent survey has revealed the public wants injured workers to receive proper WorkCover support. SA Union Secretary Janet Giles says, 'Two out of three South Australians do not support cuts to workers' entitlements.'

I might just reflect on that figure: two out of three South Australians. Two out of three South Australians did not vote for the Labor Party in the upper house of state parliament; the most democratic house of parliament, with proportional representation; the house where you achieve the number of seats according to the proportion of the vote you receive, and we know that two-thirds of the people did not vote for the Labor Party.

So, that has to bring into question this idea of a mandate—the mandate that people voted for us; we have a majority in the lower house; therefore we can do whatever we want. No; the people of South Australia voted for a parliament; they voted for two houses of parliament. They voted for an upper house of parliament, and they exercised their choice to ensure that the crossbench had a deciding voice when it came to government influence.

Those of us who work here are very familiar with the numbers: eight Labor; eight Liberal; six crossbenchers. We have collectively the balance of power, but no one of us on the crossbenches has it in our own right—and that is not a bad thing. It means that we do work together; we form loose alliances. However, the one thing those on the crossbenches have in common is that we vote according to our conscience and we always try to do what is right. We will not be told what to do by faceless party bureaucrats. However, the SA Unions' media release goes on:

[Janet Giles] says the state government will alienate voters if it caves in to business pressure to slash the WorkCover scheme.

I will not read her whole release, but she concludes by saying that South Australians want a fair deal for injured workers, and also:

We are heartened by the public's strong support for injured workers. There is widespread recognition that injured workers should not be further harmed by cuts to entitlements in order to satisfy the profit demands of the business lobby. Workers need support to rehabilitate and safely return to work and be productive again. It's apparent that people recognise slashing entitlements slows that process and ends up costing us more as a society. WorkCover is a crucial insurance policy for each and every South Australian who could potentially be injured at work. If it happens to you or your family, you want proper support to aid recovery. People don't want to be financially penalised in order to prop up business' bottom lines.

Later, on 26 February, under the heading 'Rann pulls a "Howard" on hurt workers', an SA Unions media release says:

Premier Mike Rann has abandoned any pretence of fairness and decency in sacrificing the rights of injured workers in order to prop up business profits...'This is a travesty' SA Unions secretary, Janet Giles says. 'Mike Rann risks being compared to John Howard by workers. He's stripping away their rights in order to appease the business lobby.'

As I mentioned before, the 'Your Rights at Work' T-shirts were prominent in the May Day rally on the weekend. Once the initial shock of this legislation had hit, the unions began to get more organised and, under the heading 'Unions unite to fight WorkCover attack', the SA Unions media release says:

A meeting of affiliate secretaries and officials unanimously supported SA Unions in coordinating a union campaign against the state government's unfair and ill-conceived legislation.

I know that a number of government members in this place still have strong connections to, or are still members of, those very unions who have agreed to form part of the campaign.

On 4 March, as details continued to emerge in relation to this plan, SA Unions pointed out in a press release that the 'WorkCover bill contains hidden nasties' (so we are now starting to get into the detail). The issue in that press release was one of retrospectivity, about whether these changes would apply to existing people on WorkCover. A quote from Janet Giles contained in the media release states:

> Despite what the Premier says, it is our understanding that it is in fact retrospective for many workers. It means that, if this bill gets through in its current form, any worker injured for more than 2½ years would instantly have their support cut off. It is our opinion that this bill goes far further than the recommendations in the Clayton report. We are concerned by suggestions that this issue is being run by Deputy Premier, Kevin Foley, the chair of WorkCover, Bruce Carter, and a tranche of WorkCover lawyers, and that Premier Mike Rann may not have been properly debriefed.

The release goes on:

> The original act is over 150 pages and the bill to amend the act is 75 pages. The amendments are complex and detailed. Even qualified Adelaide lawyers are currently spending days to properly examine the detail.

On that point, I would like to say that the complexity of this legislation is such that I have had probably six or seven experienced WorkCover lawyers contact me, offering to help to try to fully understand the legislation and help put together amendments to it. Janet Giles concludes that release by saying:

> The bill should be delayed in order for proper analysis, including the impact of any changes on injured workers. It is untenable that such a huge piece of detailed legislation is passed through the parliament without members of parliament, including the Premier, really understanding its implications.

That is why I get angry when I hear that we are not working hard and that we are somehow delaying the government's agenda. If I take my job as a member of parliament (as a Green) seriously, then I am going to insist that we look at this legislation properly. The alternative is that there will be no democracy and that whatever the government says goes, however unreasonable.

The public campaign by SA Unions over WorkCover was launched on 5 May. The release from that day states:

> SA Unions today begins its public campaign in defence of WorkCover with the launch of radio advertising in Adelaide. The two advertisements feature a man and a woman speaking directly to Premier Mike Rann about the impact that his proposed WorkCover cuts would have on them and their families. The ads are the first in what will be a targeted advertising campaign that will run for the foreseeable future until the WorkCover debacle is resolved.

It is perhaps an open question as to when the WorkCover debacle will be resolved. At one level, it will be resolved in this parliament when the legislation, as it appears it must, eventually will be passed. However, I have said it will not be passed until we have given it thorough scrutiny.

Yesterday in the Legislative Council we showed that when it comes to the serious and organised crime bill we can do the job that we were elected to do; we can give legislation proper scrutiny. However, we need time to do that. None of us are super human; none of us have unlimited resources. None of us have resources anything like the minister or the departments have but we do our best. If a resolution is achieved in parliament I am sure that the campaign will not end there. The campaign will then move into a number of other phases, one of which must be further reform to try to remove the worst excesses of this legislation.

In relation to these radio advertisements the media release continues:

> 'Their content mirrors feedback from the qualitative research commissioned by SA Unions to examine public attitudes and the potential impact of the government's bill. We know these are real. We know these are the real concerns of real people because that is what they have told us,' SA Unions secretary Janet Giles says. 'Mums are worried about the impact the cuts could have on their children. Dads are worried about their ability to provide for their families and make a safe return to work. For some, the spectre of being forced to sell their house, with rising interest rates and mortgage payments, is a very real possibility if they were injured and their WorkCover payments were slashed. WorkCover can be fixed without ripping support away from the injured,' Janet Giles says.

That, I think, is going to form a major part as we proceed with the debate: fixing WorkCover without slashing the entitlements of the people that WorkCover was set up to help.

The Hon. A. Bressington: And it can be done.

The Hon. M. PARNELL: As the Hon. Ann Bressington says, it can be done. In this parliament we will explore ways to do that as we go through the legislation. The media release states further:

> 'We urge Mr Rann to listen to the concerns of his constituency and negotiate a better way; a way that doesn't kick a worker in the guts while they're down, yet deliver a bonus to business,' Ms Giles says. 'The first step

ought to be a proper analysis of the bill and constructive cooperation with the union movement to achieve a fair solution. Under these changes, WorkCover will not be the most generous scheme in the country as the government claims, nor will people currently on WorkCover be spared from the changes, as the government is also claiming. There is a better way, ' Ms Giles says.

Just reflecting on that, it would have made our job in this parliament an awful lot easier if the bill that was presented to us was one that had been through those negotiations and had the support of the union movement and the support of those who represent injured workers. If we had been presented with a compromise we might still have needed to argue about a few little points here and there but the work would have been done. The work would have been done in the community around the negotiating table, rather than it having to be done by the 22 members of the Legislative Council.

On 30 March the unions called for an inquiry into the WorkCover rehabilitation industry. In a media release dated 30 March 2008, SA Unions secretary Janet Giles said:

'It will tell the influential Industrial Relations Society that the real problem with WorkCover is the rehabilitation industry.' Ms Giles has been invited to address IR Society members, including leading lawyers, judges, and industrial relations commissioners at a breakfast symposium on 31 March. It comes on the eve of a CFMEU rally at Parliament House on Tuesday, 1 April, the first in a series of actions leading up to a community rally on 3 May.

I remember that rally on April Fools' Day (1 April). I do not think I have ever seen workers as angry with the people who have, until now, been regarded as their political representatives. There was unparliamentary language, which I will not repeat here, but it was accurate.

In relation to the call for an enquiry into the rehabilitation industry, this media release states:

'We want a system that actively promotes swift, safe return to work. That requires an overhaul of rehabilitation and a better system than one that encourages employers to drag things out so they can wash their hands of responsibility after a couple of years. That's why we're rallying; why we are lobbying; why we have the backing of the community, and we won't stop until we achieve genuine fairness,' Ms Giles says.

The concern in this campaign against this legislation then switched to the tactics that the government appeared to be using to force the legislation through. Regarding the day on which the CFMEU members were rallying on the steps in front of this building, the release states:

'SA Unions has warned the government not to gag debate on its controversial WorkCover legislation by guillotining it through the lower house. We will be watching this law like a hawk, especially given the latest bit of extremism from Business SA and its blatantly excessive ambit claim of amendments,' SA Unions secretary Janet Giles says.

Janet Giles continues:

Mike Rann is supping with the devil. He's sat at the table with Business SA and tried to satisfy their appetite—and now they want even more. He must put an end to the business gluttony and ensure working families aren't starved. It's been suggested to us that the government may try to shut down debate and push it through the Lower House with minimal scrutiny. If that's the plan, then they ought to think again. Such a sneaky tactic would provoke widespread community outrage and intensify the union-driven campaign for a fair fix to WorkCover.

I am nervous that we might not get the opportunity to give the debate the thoroughness it deserves. We have managed to get through the second reading contributions pretty well, although a couple of members are still to speak. However, we need to ensure that we do this debate properly. It did not take very long in the lower house because really only one member of parliament was prepared to stand up and defend the rights of injured workers. The member for Mitchell was pretty much a lone voice, and he could not get support from parliamentary colleagues to thoroughly scrutinise the legislation. They did what they could, but the real debate was always going to be in the upper house.

According to this media release, the unions' warning came as the first of the rallies was held on 1 April, because it marked the resumption of parliament and the consideration of the WorkCover bill. Janet Giles said:

Today's rally of CFMEU members and their supporters is a taste of what's to come. These are the people who work in arguably the most dangerous jobs in our state and who have the highest levels of death and injury. They absolutely need a fair WorkCover system. What's more, they deserve it. They're putting their lives on the line only to see their support kicked out from under them by government MPs with the luxury of a limitless compo scheme.

The debate and the analysis of the legislation continued through April, but the additional information available to SA Unions was a range of amendments which the government proposed and which it claimed would fix up the system. On 2 April, SA Unions said:

The state government amendments to its controversial WorkCover legislation have served to tip the scales further in favour of employers.

So, according to the unions, it had the opposite effect, as follows:

SA Unions Secretary, Janet Giles, has disputed the Industrial Relations Minister's suggestion that the amendments were achieved through discussion with unions and business.

'These changes are manifestly inadequate and show that our concerns are falling on deaf ears. We have put comprehensive proposals to the government in the past 2 weeks, yet none of yesterday's amendments reflected the union position.'

'These changes are a stunt that proves the much vaunted negotiations were a sham. The amendments are merely an attempt to make Minister Wright appear reasonable, while distracting the public from our highly effective campaign.'

'Minister Wright's subsequent comments that this is his final position have exposed a government determined to attack injured workers by cutting their pay and stripping away their rights, while at the same time delivering a financial windfall to employers.'

'Mike Rann has lost the right to claim he's a Premier who represents the interests of working families,' Ms Giles says.

I am indebted to SA Unions because it has gone through in some detail the effect that the April Fool's Day amendments have on this legislation. For example, one amendment reduced weekly payments to 90 per cent of the salary after 13 weeks and to 80 per cent after 26 weeks. This was a slight modification of the original proposal but, as SA Unions pointed out, its implication was that a worker on minimum pay would still earn less than the national minimum wage because in this system there is no safety net or floor below which an injured worker cannot go. The verdict was that it was still bad for injured workers.

Another amendment introduced at that time related to the allocation of $15 million for a return-to-work fund. The response of the unions was that this was not new, that it was one of the Clayton recommendations and that it was not what the unions had asked for, namely, a discrete fund for retraining. I mentioned before that John Camillo has been consistent in his call for more effort to be made in the area of retraining.

This $15 million will be dissipated with the rehabilitation, promotion and information for business campaigns, etc. It will not solve the problem that workers who are injured can only go back to a different job if they can access the training to do so. The verdict on that amendment was that it was a window-dressing amendment and that it would not solve the problem.

The government also announced that there would be more powers for the WorkCover Ombudsman. Again, the response was that it would be window-dressing and, in fact, no better for workers. Another reform retained the 7.5 per cent levy cap instead of the proposed 15 per cent. We know that the government is keen to keep average rates low and, in fact, lower them, and that is the present in this—to lower them. However, in terms of the upper end of the cap, the proposal was 15 per cent, and it is being retained at 7.5 per cent. So, what are the implications of this?

The implications are that it will reward the most dangerous employers who injure and kill people. It was one of the only parts of the bill that put pressure on employers to make workplaces safer. This is a disgrace, when the bill already hugely favours employers. The SA Unions' verdict from these changes was that it was good for bosses—another benefit for bosses which does not help workers: it is a reward for bad behaviour.

Another reform that was introduced at that time was increased notice for ceasing payments and other penalties from seven days to 14 days, that is, to increase the notice period. The assessment of that is that currently the period is 21 days' notice, so it is still a significant reduction in the time for families to readjust to loss of income and changes in their circumstances. Verdict: it is bad for workers.

I will not go through every one of the amendments, but there are another couple I want to refer to. There was some clarification of this issue of medical questions that will be referred to medical panels. I know from the representations I have received that this is one of the major concerns that lawyers have with this, and I have had representations from many lawyers and legal groups saying the medical panels are a major problem. So there was some clarification in these amendments, but do they do the job? The assessment is that more detail needs to be seen, but the real fear is doctors determining inappropriate questions (and we have to deal with that), and it does not seem to stop the lack of justice for workers who would still not be able to appeal any decision of the medical panel. It is a question of whether it is the right body to be making the decisions and, regardless of the answer, if it makes the wrong decision, can anyone do anything about it? Can

anyone challenge it? The verdict was that these reforms were slightly better, but the whole concept of medical panels is still bad for workers.

There was a proposal in the original legislation that was withdrawn in these 1 April amendments, and the government said that it was not proceeding with the proposal to provide lump sum payments for stress injury. The verdict on that is that one of the few beneficial changes for workers in the bill is knocked out due to pressure from business. So, it was a negative change. This means that stressed, injured workers continue not to be able to have their injuries compensated through a lump sum payment. The verdict is that it is bad for workers.

The government also clarified, in amendments, that the levy would be GST-free so that employers would not have to pay GST on the levy. This was a request by the employers, and it was granted—so, effectively, there is another reward to employers, at the expense of the unfunded liability and at the expense of injured workers. I will not go through the rest of them, because in the committee stage we will go through the bill as it currently stands, but there were a number of amendments, none of which satisfied the union movement.

On 4 April, SA Unions put out a release under the heading 'Injured workers shouldn't pay for the world's problems', and it states:

> SA Unions secretary Janet Giles says it is entirely unfair to expect injured workers to pay for the impact of world financial markets on the WorkCover scheme.

The quote from her is:

> Workers don't ask to be injured and they deserve fair support when they are. Yet the government is now arguing that WorkCover's worsening financial situation as a result of world money market woes further justifies its controversial legislation which strips workers of their rights. Why should vulnerable workers have to pay for a problem with the world markets? Why should they have to pay for mismanagement of the WorkCover scheme? Why should they have to pay for the failure of employers to do the right thing and get them back to work?

We will have to explore that issue in some detail later, because it goes to the heart of the unfunded liability which, as people now appreciate, is an actuarial estimation and there is a wide range of factors that go to determining what that number might be. It is slightly better than having a figure plucked out of thin air, but it goes so far into the future that there is a lot of guesswork, and I have seen estimates from people who are knowledgeable about these things that it is currently grossly overstated. It might not seem important whether it is $1 billion or $800 million—people will say, 'It is still a problem'—but, given that the primary agenda of the government appears to be reducing the unfunded liability, I think it is important for us to know whether we are taking $1 billion or some amount less than that out of the hands of injured workers and giving it to the bosses. It is important to get those figures right.

There was an attempt, again, by SA Unions to try to work with the Labor Party, even as advanced as these proposals were, as we are getting into April. The unions are still trying to work within their own circles: they are trying to work with their political colleagues in the Labor Party to try to get an audience and some resolution. A release from SA Unions on 8 April under the heading 'WorkCover gag. Beware the guillotine' states:

> Today SA Unions was invited to brief members of the ALP caucus prior to the caucus meeting. Caucus members then requested that we be heard by the full caucus meeting, but this was an exercise in futility. A motion to caucus that the unions be heard was stymied by the Premier.

So, even within their own circles, there was not that opportunity for members of the Labor caucus to hear the message. I held a briefing and, again, not many turned up, so I will put on the record a bit later what members should have heard at that briefing. The release goes on to say:

> SA Unions secretary Janet Giles says it shows an increasingly authoritarian Premier who has lost his way in relation to Labor values and the needs of the working families he purports to represent.
>
> On the one hand unions were gagged and on the other hand senior members were deaf to reason despite this being probably the most challenging test confronting the ALP since it took office.

The unions in this campaign did not lose sight, and they have not lost sight, of the objective of trying to make sure that injured workers are looked after. If injured workers are not looked after properly by the WorkCover scheme, the unions, I think quite rightly, have looked to how else we can make sure that we do not send these injured workers below minimum wages and below the poverty line and have them miss out on their just compensation. On 9 April, the unions announced that they would use other methods to seek make-up pay for the WorkCover shortfall. The release states:

Some of South Australia's largest and most powerful unions will flex their industrial muscle to ensure their members are not short-changed by the state government's controversial changes to WorkCover. The Construction, Forestry, Mining and Energy Union, the National Union of Workers, the Australian Workers Union and the Australian Education Union will seek make-up pay if there are cuts to WorkCover entitlements.

SA Unions' Secretary, Janet Giles, says, 'Unions are determined that workers injured through no fault of their own are not financially penalised. These four unions will seek clauses in their enterprise agreements compelling employers to cover the gap between wages and WorkCover payments for injured workers. This is especially pertinent for the AEU which is presently negotiating its new agreement with the Rann state government. Employers should think very carefully about their support for the Rann government's bill, because if it proceeds in its current form we'll be demanding that employers make-up for workers' lost entitlements. This would cost them considerably more than the reduction in their WorkCover levies. So if the state government pushes ahead with plans to slash workers' pay by 90 per cent or 80 per cent, business will be charged the difference', Mrs Giles said.

'It is a shame it has come to this. We know that it is possible to fix WorkCover's finances without hurting injured workers. Make-up pay is not our preferred option, but if that's what's required to protect injured workers and their families from being financially bludgeoned by this government, then so be it. And don't think that we can't do it. The precedent has been set interstate, particularly in Victoria. Unions there won the right to make-up pay as a result of former premier Jeff Kennett's attack on their workers compensation scheme. If Mike Rann wants to model himself on Jeff Kennett, then he has to expect a similar response here. We have conservatively estimated that if make-up pay was to be applied to people currently on WorkCover it would cost business $260 million, and that's on top of their WorkCover levies. These four unions will be amongst the first to seek make-up pay clauses in the agreements if the government proceeds with its retrograde and unfair WorkCover legislation, but they won't be the last' she says.

Meanwhile, we remind the government that we remain ever prepared to negotiate a new fair solution that fixes WorkCover's finances without further hurting injured workers. We know there's a reasonable solution. All that's required is reason on the part of government.

I must admit that I see the patience of a saint in these releases—to be calling day after day for the right to be heard, to sit down and to negotiate, but to be stymied at every step. There are parallels, I guess, with this concept of make-up pay with cuts that were made over many years to Medicare and to our medical insurance scheme. In the early days it was said, 'Yes, everyone will have all their medical costs covered'; but as the scheme is eroded people have to start looking at alternative ways to make up the gap. You go to the doctor now and, unless your doctor bulk bills, you still have to hand over cash—a very similar situation here.

We will end up with maybe a rump of WorkCover, and then entitlements having to be negotiated through other mechanisms, such as make-up pay, with employers needing separate insurance policies. It is not just SA Unions as the peak body that has waded into this debate. A range of other workers' organisations and other unions have come out very strongly against this legislation. For example, the AMWU, in a press release on 17 April 2008 under the heading 'Injured workers must not be disadvantaged', said:

Workers in South Australia are at risk of losing entitlements under the SA WorkCover scheme and the AMWU is not happy. In a move that has angered many people in South Australia, the government wants to cut workers' weekly payments by 20 per cent or they are off work through a work-related injury.

That has since been modified to a two-step process: 10 per cent, and then 20 per cent, but the 20 per cent is still there. The press release continues:

The AMWU has been leading the wider union campaign against the state government's move to reduce injured workers' weekly payments. Now the union has declared it will go after employers to make up the loss in earnings. AMWU's South Australian Secretary, John Camillo, says that the government's solution to the problem of the unfunded liability (to the tune of $800 million) is unfair to workers. Cutting workers' entitlements is punishing them for being injured. People who are injured at work do not deserve a cut in their pay and do not deserve to be put under financial pressure. Mr Camillo claims that the independent consultant employed by the government to look into solving the unfunded liability issue, Alan Clayton, did not give enough weight to the union submissions. The AMWU worked extremely hard to put in a submission which seems to have been ignored, as have all the unions. The unions asked for $30 million to be put aside for retraining long-term injured workers—

as we saw, we had only $15 million, and it was not directed to that role—

That is about 3 per cent of the amount that WorkCover receives from employers every year and we need to do something to retrain long-term injured workers who can't get back to work in order to reduce the unfunded liability. The government has agreed to half the amount. But Mr Camillo said the money will not be effective unless there is something in the legislation that compels employers to act on rehabilitating workers.

Mr Camillo said the AMWU is also angry about the government's plans to award employers who report workplace injuries early. Having a reward for employers in a bill which punishes workers for having the misfortune of being injured on the job is totally unfair. Mr Camillo says unions will not stand by and allow workers to lose their entitlements. We intend to seek enterprise agreements that compel employers to cover the gap between wages and any WorkCover payments for injured workers.

I think it is remarkable when in legislation we provide benefits to people for obeying the law rather than penalising them for breaking the law. I think it brings the law into disrepute when we start to go down that path.

One union that represents many people in the lower wage brackets, people who are very often casually employed, is the Liquor, Hospitality and Miscellaneous Workers' Union. On 4 April, the union came out with a statement, and I note that it also had half-page advertisements in the newspapers. The union stated:

> Mike Rann has introduced changes to WorkCover that will slash injured workers' pay and significantly reduce their rights. At the same time, he wants to make WorkCover cheaper for employers.

It goes through some of the key changes, in particular, reducing injured workers' wages after just 13 weeks, restricting entitlements of workers with permanent disabilities and kicking injured workers off the scheme after 2½ years. Anyone can be injured at work. No-one asks to be injured, and that is why we need a fair system that helps injured workers to recover. We want safer workplaces and a system that gets injured workers back to work fairly and safely.

I believe that we should be grasping tight those areas where we have agreement, and everyone agrees that the Liquor, Hospitality and Miscellaneous Workers' Union's statement is what we should be aiming at: getting injured workers back to work, treating them fairly and making sure that their return to work is safe, rather than starving people back to work and having them go back prematurely.

Another union that has come out very strongly against these changes, the Public Service Association, is a most important union, because it represents people who work for us; people who work in our service sectors, whether it be prisons, national parks or hospitals, or wherever. In a release very soon after this legislation was announced, the PSA stated:

> Media reports suggest that the government is considering cutting WorkCover benefits to injured workers.

Well, that is an understatement. It was not media reports suggesting it: it was happening. The release continued:

> The PSA is completely opposed to any reductions in benefits. Workers do not choose to be injured and should not suffer further injury through pay loss. The media reports arise from the Clayton Walsh review, established by the government in 2007, to recommend changes to the WorkCover legislation. This follows proposals by the WorkCover board to reduce the corporation's financial pressures by savagely reducing benefits. Cutting benefits to workers is a knee-jerk reaction that inevitably arises when financial questions are raised about workers compensation.

I think that is an important comment. I will come back to this matter later, because the unfunded liability reflects a number of things. There is money in; there is money out. If money in and money out do not look to be adding up, you can say, 'Well, how do we deal with that? Do we reduce the number of people who are entitled to take money out? Do we reduce the amount that each person receives who is entitled to take money out? Do we put more money in? Do we try to make the pie bigger? Do we try to modify the types of payments we make to people, in terms of continual payments through weekly payments, or do we look at redemptions? Do we look at lump sums?' The formula is absolutely complex but, at the end of the day, it comes back to that simple 'money in and money out'.

The government's solution is to attack both sides of the equation. It wants less money in because it is going to collect fewer premiums: it wants less money out because it is going to cut the workers' entitlements. The PSA release concludes:

> South Australian workers deserve a more effective, better workers compensation scheme, better focused on return-to-work programs. This would improve the system's financial situation and provide better support for injured workers.

I could (but I will not) go through a number of other press releases that a range of unions have issued. I think I have covered the key points. It is no disrespect to the other unions that their voices have not been heard. Through the vehicle of SA Unions, I can assure them that the Greens at least have heard what it is they have to say.

On 18 February, when these changes were announced, the Secretary of SA Unions, Janet Giles, was put in a very difficult position. She was on the WorkCover board and she had to decide whether she would continue in that role or whether she would take the role more appropriate to her office, that is, to stand up for the rights of workers. She inevitably chose the latter role and resigned from the WorkCover board. She made a brief statement to announce her resignation to the

community, and I think it is important that that statement is placed on the record of this parliament. Janet Giles said:

Today I delivered a letter to Michael Wright, minister of industrial relations, submitting my resignation from the WorkCover board. The reason for my resignation is that as a board member I am unable to comment publicly on any matter in relation to WorkCover. This puts me in a conflict with my position as Secretary of SA Unions, which is to publicly advocate and lead campaigns for the rights of working people in our state.

Over the last five years the union movement has actively and positively participated on the board in order to address issues facing the WorkCover scheme. We supported a number of changes to the operation and management of the scheme, which we believe have set the right direction for the difficult job of turning the scheme around after a decade of mismanagement by the previous Liberal government and senior WorkCover officials. These changes included replacement of nearly all the senior staff, including the appointment of a new CEO; development of a strategic plan that was linked to outcomes; reviewing major parts of the scheme's operations, such as medical costs, self-insured employers and rehabilitation; employing one legal firm at a significantly reduced cost; and, rewriting a more accountable contract for the agent, including employing one agent, EML, rather than the previous four agents.

She goes on:

Because of the huge task at hand, these changes only started to take effect in March 2006. The scheme is now on track to be fully funded by 2013. It is a big and complex business and will take some time to turn around.

I will pause there because that begs one of the most important questions in this debate. If changes have been put in place, which a member of the WorkCover board believes were on track to lead to an improvement in the funding situation, why on earth are we rushing through with this legislation rather than perhaps tweaking those changes a little and giving them a chance to have some effect?

The Chicken Little 'sky is falling' attitude of the government that, if we do not pass this legislation, today, tomorrow or Mothers Day (as I think the Premier wants us to sit) somehow it will be a disaster for this state. I will not be bluffed or bullied into believing that the sky is falling. Yes, there are problems we have to deal with, but to suggest that if this legislation is not passed immediately it will be all rack and ruin is laughable. Janet Giles' resignation release goes on to say:

The rush by the board to recommend significant changes to injured workers' income and entitlements in an attempt to starve them back to work came out of the blue and was strongly opposed by the union representatives who produced a minority report to the minister in 2007. I believe the push for cuts to workers' entitlements is largely driven by the business lobby in order to reduce their WorkCover levy payments at the expense of injured workers. The recommendations of the board shift the blame and pain directly onto the injured workers and at the same time give employers a financial windfall. This is unfair and unbalanced and in our view contrary to the objectives of the Workers Compensation Act.

It is easy in this debate to lose sight of the objectives of the act. This is a system for injured workers to help them get back to work and compensate them for the time they are off work or if they are unable to work again. The statement continues:

For example, the board recommends a worker on the minimum wage have their gross weekly wage of $522.15 cut immediately to $496 as soon as they are injured, and then to $391.60 if they have not recovered after 13 weeks. No family can survive on this money, especially one with the extra strain of living with a work injury. In addition, a worker would have their income cut completely if they challenge a decision about their workers compensation claim.

I want to return to that issue later: the idea of someone having the temerity to challenge a decision and then having that used against them to cut their pay. She continues:

Unions in SA have met and determined that we will publicly campaign to ensure that working people in South Australia are protected when they are injured but also are returned to work safely as well as quickly. We call on the state Labor government to remember their core values of representing the interests of working people in our state and not support a reduction in injured workers entitlements. There are other ways to improve the return to work rate, in effective and humane ways which address the behaviour and practice of employers, service providers, WorkCover management and the agent. These should be explored by the state government rather than rushing to blame injured workers. We are willing to assist in this work. Unions in South Australia have successfully campaigned for the last three years to protect workers rights against a hostile federal government. We will be disappointed if now we are forced to campaign against our state Labor government to protect the rights of injured workers, but if we need to we will.

Clearly, that is exactly what the unions have been doing. It did it on 1 April on the steps of Parliament House with the CFMEU; it did it on May Day and at the rally on the weekend following May Day.

When something as important to South Australia as the resignation of a high profile person from an important public position occurs, it is reported widely in the news. I will not go through all the news reports and the reaction to Janet Giles retirement from the WorkCover Board because I am conscious that I have been telling the Legislative Council the views of peak bodies.

I have referred to the views of SA Unions and to other unions, but I have not referred to the reaction of ordinary people, ordinary workers, to these events. When Janet Giles resigned from the WorkCover Board a number of the online commentary websites started to fill up with public reaction. A range of comments was posted. For example, Joanna Vaughan, who writes for *The Advertiser,* reported it in both the newspaper and on line and some of the responses people made (I won't read all of them as there were many) were as follows:

> Congratulations to Janet Giles for stepping out of the circle of greed constantly demonstrated by the employer and acknowledging that injured workers are not getting true value of care and financial support after they have been injured at work. There are many workers who are injured seriously and will never work again and, yes, there are those workers who attempt to 'rort' the system, thus giving genuine receivers of compensation a bad image. It is not this, however, that needs to be addressed but the imbalance of the system that is unfair, and this is what Janet Giles is demonstrating about.

It concludes:

> Well done, Janet Giles, for standing up and being counted for an issue that so many are prepared to just sweep under the carpet. Blame the injured workers when, in the first place, it was not their fault they are in the position. Yes, Mr Rann, it will do some of your overweight ministers to take a 20 per cent cut, not just freeze what they have now and say what a good job the government is doing in controlling the state's economy and how responsible government is acting in this manner. Who are you trying to fool? Certainly not the true injured workers who from the day they were rushed into hospital with a life-threatening injury and have suffered financially and medically ever since, and now you want to make them bleed more. Mr Rann, there is no more blood left, but there is plenty of spine left, just ask Janet Giles.

I do find that the stream of conscientiousness that one gets on these websites shows that the responses are truly from the heart. It is often difficult to make out exactly what it is they are saying, but the sentiment is absolutely clear. Another comment is as follows:

> Good onya, Janet. If you cannot abide by the politically motivated rules governing WorkCover, go out and help the poor buggers who are injured and have no income. The Rann-led Labor Party here in South Oz is getting arrogant and becoming ignorant to real people's needs, as did Howard's Liberals... 'is it time for a change of leadership of the Labor Party?

That is the question. Another comment states:

> This is a real case of kicking people while they are down. Good on you, Janet, for making a stand. It's a pity the rest will not join you. As for those who get hurt at work, make sure you take all you're entitled to. As for you, Mr Rann, I hope you never need WorkCover.

Another comment states:

> Well done, Janet. Congratulations to Janet Giles for quitting the WorkCover Board.

The final comment I will read states:

> It is good to see Janet acting on the integrity of her position as a representative of South Australian workers. Regrettably, the ones who should be resigning from the WorkCover Board but who won't are those with the vested interests in aspects of the industry, together with Business SA representative, whose only mission seems to be to sink the compo raft that helps keep injured workers afloat during soul-destroying times that they are out of work and at the mercy of the system. Why do we still not have an independent commission against corruption to investigate the stench that hangs over WorkCover's $1.5 billion in foreign investments? I'd like to know where that card sits in the house of cards that is the international financial crisis.

Well, I am not even going to go there; that is a whole new can of worms, but I do mention that a common sentiment that is coming out is why injured workers should pay for the international financial crisis.

I urge honourable members to go on line if they want to see the depth of feeling. There is a range of blog sites where injured workers are having their say. I put a note on one of those blog sites inviting injured workers to write to me with their stories, and I said that I would refer to those stories in parliament, and I will do that, as we proceed through this debate, because no-one else is doing it. No-one else is putting the human face to this debate. The debate, whilst it focuses on unfunded liabilities, claims managers and administration, is at great risk of forgetting the ordinary South Australians who need extraordinary help because they were unfortunate enough to be injured at work.

I invited all members of the Legislative Council to be part of a briefing on WorkCover as this debate progressed, and I did it on 1 April, just after the CFMEU rally had been held. When we look at how long we have been engaging in this, we were talking about the bill even before it got to the upper house. We pre-empted that we would get it; that is the way in which parliament works. I do not want anyone to say that we sat on our hands and that we were not interested. We were working on this bill before it even got into this chamber and, if that is not giving deference to the

government's legislative agenda, I do not know what is. We have worked very, very hard to make sure that we are in a position now to debate this bill fully.

I was disappointed that very few members of the Legislative Council chose to attend that briefing. Had they attended the briefing, they would have been given a different perspective on the WorkCover situation from the one they have been getting through the government's spin, which is all about unfunded liabilities and the ruin and destruction that will occur to the state economy if we do not cut the entitlements of injured workers.

I want to refer to some of the remarks that were made at that briefing, because honourable members were not there to hear it. Honourable members might think, 'Well, we choose what briefings we attend and, if we were not there, it was because we didn't care to be there.' However, I still want to make sure that the record shows what was said on that day.

There were a range of speakers. Janet Giles (and, again, I am not picking on her but I am emphasising her) was invited to present the position of SA Unions, and she put a lot of effort into succinctly summarising what the issues are for unions. I want to make sure that the record shows what she said on 1 April. Janet said:

> I speak this morning as a union official. I am not a lawyer and nor is it one of my ambitions to be one—

to which I would say that being a lawyer can be a fine profession, and some of us have found it very rewarding—

> Therefore I will address the current debate about proposed legislative change from the perspective of one who speaks for workers, defends the rights of people with little power and believes that industrial law should be there to provide balance and fairness in a world of work where employers have significantly more power than individual workers.
>
> Our system of workers compensation was introduced to do two things. Firstly to provide support for workers who are injured at work to recover from that injury in a safe and supported way and return to work with minimum disruption to them or their workplace, and secondly to provide financial compensation to workers who have lost physical and psychological capacity due to being injured at work. At the same time our OHSW law makes it clear that it is the employer's responsibility to ensure that workplaces are safe both through ensuring the safety of their workers but also ensuring processes for workers to raise safety concerns, refuse unsafe work and have their issues addressed. One goes with the other. In order for a workers compensation system to work effectively we also need a strong OHS act with severe penalties for those who put workers in danger of injury and death.
>
> The union movement has historically worked to get these laws in place. Even back in the very early days of the development of South Australia it was the tailoresses' union, including people like Augusta Zadow, who pushed for the inquiry into the sweatshop conditions of the textile industry and then lobbied for setting up of the very first industrial and safety inspectorate and laws to govern these.

As an aside, just yesterday we rejected (I think quite properly) a move to disallow regulations that affect outworkers, that affect those vulnerable, often newly arrived migrants who are exploited in a home work environment. I had not realised that it was those tailoresses who were at the forefront of this debate way back then. Janet continued:

> On the other side, employers have constantly lobbied to reduce their industrial obligations to their workers and there has been a powerful lobby both here and nationally to weaken the obligations on employers in relation to safety as well as make it easier to just get rid of workers once they are injured.
>
> In 2002 when the Rann Labor government was elected, they inherited a workers compensation system which was the victim of this political lobbying and it was not in good shape. When the system was first designed through a good process of discussions between unions, employers and government it did work. It did provide the support and security that injured workers needed. It did ensure employers met their obligations and it was also financially viable.
>
> The messing around with the law over the years by politicians through the process of ideologically-driven posturing and lobbying left a legacy. The outsourcing of claims management because of the belief that the private market was more efficient led to a competitive insurance culture and in a small market like South Australia led to the danger of relationships that were far too close and a culture of lack of accountability. The introduction of redemptions into the system led to a lump sum culture and the changing of WorkCover to a corporate entity severed its connection to the parliament and undermined the ability for public scrutiny.
>
> At the same time the OHS act was not used properly for many years by the previous Liberal government in the way it was intended. There were almost no prosecutions of employers during this time and the penalties in the act were embarrassingly low.
>
> In Labor coming to power, the minister of industrial relations, Michael Wright, established three major reviews looking at three planks of our industrial framework—industrial relations, OHS and workers compensation. The first two were used as the basis for development of an overhaul of the legal framework and are now modern, effective and balanced laws. This was not done for the workers compensation system. The minister instead appointed a new board and gave them the job of making the system work more effectively, including dealing with the

funding ratio which was badly affected by a political decision of the previous government to reduce the levy for employers. This single act sent the scheme financially backward.

The board was keen to help and took on the challenge in a bipartisan, constructive way by putting in place a large number of changes very quickly which had positive outcomes. We set our goal on being fully funded by 2013 and set about shifting the culture of the corporation to return to work and building accountability for this with every organisation we have contracts with.

Then last year something happened. I am still unclear about the trigger (my guess is that it was a realisation that it would be impossible to reduce employer levies for some time) but there was a sudden panic and push which led to a shift from looking at all aspects of the scheme and their interaction to a focus just on the injured worker as the problem and the need to change legislation to get people off the scheme. And let's be clear that this is the purpose of the amendment bill, not a focus on return to work (in fact there is very little research anywhere in Australia that compares return to work rates around the country, the only comparative numbers relate to getting people off the workers comp scheme).

This panic in my view did a number of things. Firstly it stopped the focus which was beginning to have effect in examining the internal workings of the scheme. Secondly it stopped the agent focusing on improving their own practice and allowed them to blame the legislation and the injured worker. They began to focus heavily on the funding position of the scheme as an agent priority. We even had injured workers reporting that their claims managers were justifying their unreasonable behaviour by saying their job was to reduce the unfunded liability. Thirdly, it created immediate conflict on the board even to the extent that when a report was made to the minister the union representatives refused to endorse the report and instead provided a minority report to the minister. A divided board is not conducive to considered and constructive management of a scheme. My fear was that there was at this time external pressures on the board which were not made explicit.

As they say, the rest is history. We now have a bill in parliament that has had no input from unions who represent injured workers and no input from legal experts who work in this area or from the community as a whole; and the worst-case scenario is that the bill could be passed through the parliament unamended by early June.

Why would this be a problem? First, the false premise behind the drafting of the bill is that injured workers are the problem because they do not want to go back to work and, therefore, the legislation needs to be designed to force them back to work or set a culture of fear that if they do not return they will be penalised. Cutting workers' pay to 80 per cent after 13 weeks will only serve to add financial stress to people who are already in pain and dealing with an injury recovery. Although most people do return to work before 13 weeks, it is common for there to be issues of timing of appointments for specialists and complications to the injury which cause delays outside the control of the worker.

If someone is on minimum pay the implications of this change would be to pay them lower than the national minimum wage. This change will result in a very small saving to the scheme of around $22 million, yet will cause so much distress. The impact of cutting people off the scheme after 2½ years is a very blunt instrument which is designed to be retrospective for all workers currently on the scheme, and force them off payments regardless of whether they are better. Nothing in the bill builds a better work review test or legislates for earlier fair resolution.

To discourage people not to pursue disputes by suspending their pay if they raise matters with the tribunal (with no equivalent penalty on employers) is very much based on a false assumption that workers are vexatious when they dispute decisions around their claims. Setting up medical panels is very likely to significantly reduce the acceptance of claims through a closed-shop approach to medical decisions about injuries in the interests of the financial position of the scheme, and the interests of employers rather than the injured worker.

All of these changes in the bill set a culture which actively dissuades people from making a claim and using the workers comp scheme as it was intended. They act against the support required to get people back to work. They are designed to focus on the injured worker and shift them from the state-funded workers comp scheme and onto the federal social security scheme. Secondly, there is no legislative incentive in this bill to encourage employers to do the right thing or penalise them when they do not. In a number of areas, the onus of proof is shifted to the worker. Also, a number of provisions under the current act are shifted by the bill to being set by WorkCover policy rather than by legislation and regulation, giving less public scrutiny and democratic control—something that recent experience would tell us favours employers rather than workers.

In the bill there is a weakening of the obligations for employers to find suitable work, as well as a weakening of the definition of suitable work, making it easier for employers to actively get rid of injured workers by providing them with unsavoury jobs. The proposed changes to the work capacity review at 2½ years, in practice, would provide no incentive for employers to get people better and back to work. It could work against the health of the scheme, because employers could do nothing and just wait the time out, knowing that they would have no obligation after this.

The opposition to the reintroduction of common law rights also means that there are savings for employers just by the removal of workers' entitlements. In Victoria, where the entitlements are similar to those in the proposed bill, 28 per cent of workers' payments under the scheme come from common law cases—and, in Queensland, it is 41 per cent. Without the right to sue the bill would not provide the fairest scheme in the country. It would provide a scheme that is 28 per cent less fair than in Victoria. There is also no recognition in the drafting of these proposals that self-insured employers do not have the same scheme management issues yet come under the same law. The bill will deliver a massive windfall to these businesses.

Thirdly, there is a huge missing piece of the system not even dealt with, and that is: what happens to people on the scheme? There is no examination or legislative requirement that will improve the behaviour of the rehabilitation industry or the connection between the employer, the agent and the rehab provider. We all know what works, and some self-insured employers, such as the Local Government Association, actually put it into practice: fast

claims determination; immediate and supportive response; clear and targeted support for the worker; and return to work as soon as possible.

We have a rehab industry which, in a number of reported cases, seems to focus more on how to charge WorkCover for their services rather than actually achieving results. There is a need for an independent inquiry into the practices of the industry and also legislation that builds in the processes that we know work.

Finally, our overall concern is one of process and final legislative and scheme outcome. Yes, we do need to address the financial viability of the scheme. We have offered again and again to assist but the agenda does not appear to be really about this. It seems to be more about reducing the cost to business. If this is the motivation and this legislation is rammed through, then we are very likely to end up with a scheme which is still not effective in returning people to work safely and fairly but which is significantly cheaper for employers. Our estimation of the savings to business of this bill is $865 million over six to nine years, more than WorkCover's unfunded liability of $843 million.

What do we want?

1. Time to do the job of fixing the scheme properly. The bill should not be pushed through parliament. Members should have time to consider and amend, and an attempt to guillotine the debate would be scurrilous.

2. Engagement by the government of the key parties who legitimately care about having a fair but effective scheme.

3. To be able to learn from the experience of the self-insured employers in South Australia with speedy management of claims, immediate involvement of rehabilitation and health providers and fast return to work.

4. No levy reduction until we are confident that a fair system is delivered for workers that also addresses the financial issues of the scheme.

5. Independent inquiry into the rehabilitation industry in SA and their practice and success in supporting workers return to work.

6. Stronger focus on OHS with on the spot fines, penalties for employers that are linked to levy payments and the right of entry for union officials in order to assist in injury prevention.

7. Funding for re-training of injured workers.

We seek common sense and the bringing together of good minded people in our state from unions, employers, lawyers and providers who genuinely share our concern that injuries should be prevented but if they happen workers should be supported to get better quickly and get back to work and if they can't then they receive appropriate compensation.

If we do not succeed in getting a just result for workers in the current political process, unions will continue to meet our objectives of building justice for our members in the way that we have always done. If we cannot achieve it through good laws, we will use our collective strength to get it in other ways. In Victoria, it is common for collective agreements to have make up pay for injured workers for 52 weeks to ensure that, when the workers comp scheme stops protecting them they can rely on their union collective agreement for the rest. I know that SA unions are considering this as an option and looking across the border for assistance.

We will also continue to campaign publicly and politically to achieve justice for injured workers. If the bill is passed in its current form we will be forced to campaign beyond this legislative time frame. This issue goes to the very core of our business as unionists and regardless of the political persuasion of the government we will continue to do our job which is looking after the rights of workers to safe and fair work.

That address was aimed at us. It was prepared for members of the Legislative Council, the vast majority of whom chose not to attend. I draw the council's attention to the exception—that is, my honourable colleagues on the cross benches, many of whom attended that meeting.

I think that that contribution, from someone who has been intimately involved in the system for a long time, summarises very clearly what is wrong, what the process should be to get it right and what some of the practical solutions might be.

I want also to refer to some other remarks that Janet made not in the parliament but at the May Day rally. Again, they are important because they are addressed to the people of South Australia who hold themselves to be close to the labour movement and to the interests of working people. That is what May Day is all about. Again, remarkably few members of this place attended the May Day rally. Those who did attend did so in a fairly nervous manner because, whilst on one part they wanted to be seen to be supporting workers and supporting the campaign against this bill, they were nervous because their commitment to the parliamentary party did not enable them to actually put what they said were their principles into practice. So, this is the reflection on May Day specifically as it relates to WorkCover.

On May Day we remember the great achievements made by our nation to make the world a fairer and safer place. Over the last three years we have worked hard to get rid of Howard and create an opportunity for, once again, establishing fair work laws in our nation. This was done

through the actions of many people at the grass roots level who spoke with their workmates and their families and persuaded them that Labor was the party for the workers and would support workers' rights.

Now is the chance to rebuild our nation on a platform of fairness and justice. It is the time to build from the ground up a new fair industrial relations system based on the principles of collective bargaining, to also build a family friendly workplace culture with a national paid maternity leave scheme for all, and to build a nationally consistent occupational health and safety system, which prevents accidents and injuries in the workplace and a nationally consistent system that fully and fairly compensates those who are injured and assists them to get better and back to work.

Yet in South Australia we are faced with a fight to maintain the rights of injured workers. This fight is fundamental to the work of the union movement. It is one of the big three jobs that we have in our nation: one, to advance the rights of workers to fair pay, treatment and respect; two, make sure workplaces are safe; and three, ensure that workers are looked after when they are injured at work. All these form a platform for decent treatment for all.

We thought that our Labor government shared this purpose and would work with us even in difficult circumstances on this shared purpose. We also thought we were partners in making this state a fair and just place to live and that, even if we had disagreements, we would be able to work them out in the interests of working people.

This current bill before the parliament at the moment shows that there is greater concern from our government about its reputation as economic managers than its reputation as social managers, yet this issue is also an economic one. At a time of high skills shortage we need to attract workers to South Australian industry and improve the skill level of our workforce. If wages, conditions, safety standards and workers compensation rights are worse here than other places we will not be able to deal with these issues.

The actuarial unfunded liability of a workers compensation scheme is a predictive number about the future. It is based on assumptions and patterns of the scheme operating over the next 40 years. It is not, as the Liberals would claim, a State Bank. It will not affect the ordinary South Australian taxpayer. It will not even affect the Foley AAA credit rating. It is outside the state budget.

Yes, there are financial problems in the workers compensation scheme and, yes, there needs to be change, but the problem with the bill is that the philosophy behind the proposed legislation is that the financial problems arising from people not being able to return to work lie with them, that there needs to be an incentive (financial and legal) to force and starve workers back to work because they choose to be on workers compensation payments. Well, none of us would willingly choose to be injured, and none of us would willingly choose to be treated the way workers are treated by WorkCover.

What the bill before parliament will mean to an ordinary worker is this. After injury, your capacity will be determined by a star chamber of five medical practitioners, chosen by WorkCover, with no representative rights and no appeal of their decision, except to the Supreme Court, which costs around $1,000 to appear, let alone lawyers' costs. If you are not back to work and better in 13 weeks, your pay is reduced by 10 per cent; and after 26 weeks it is reduced by a further 10 per cent.

For low paid workers living on the minimum wage—process workers, cleaners, aged care workers, disability support workers—this would mean that they would be living on less than the legal minimum wage set each year. Seventy-five per cent of women in this country earn less than $42,000 a year. South Australia is one of the lowest wage states in Australia. This will hit the most vulnerable the hardest.

If after 2½ years you have not been able to find work and are still injured, you will be kicked off all payments and forced to go to Centrelink to claim support. This means a significant reduction in pay, forcing injured workers to live on $546.80 a fortnight on a disability pension and $437.10 a fortnight on the Newstart Allowance. This will immediately apply to at least 1,000 workers, maybe up to 2,000 workers, who are currently on the workers compensation system for more than 2½ years.

If you have a dispute with the way your WorkCover claim is being managed and you want to go to the tribunal to argue it, your pay will be suspended during the dispute. This is just unjust. It will not be a significant saving to WorkCover and, once again, it will hit hardest workers on the lowest wages. Along with reductions in the amounts payable for loss of limb or function, cutting off people from payments after 2½ years is not backed up with any ability to access common law

rights and sue employers for damages. Every other state in the country has this legal right in their workers compensation schemes.

The most insidious part of this plan, however, is that the justification for making these changes is not only the funding position of the scheme but also that employer levies are high and the government wants to cut their levies. So the plan is to cut workers' entitlements in order to give a windfall to employers. There are no corresponding demands on employers to behave differently to ensure that they make more effort to find work for injured workers and assist with retraining and making their workplaces safer in the first place. All the pain is borne by the injured worker.

So, what do we want? We want the ability to sit down with the government and genuinely work through a fair system that would also solve the financial problems of the scheme. This may mean some change, but change should be fair and impact on employers and not just on workers. We also want an independent examination of rehabilitation services, a genuine retraining scheme and a special project established to humanely manage those people who are currently on WorkCover for over three years to get them better and treat them with some dignity.

There is an undue rush to get this legislation through parliament. The plan was always, and continues to be, to get it enacted by July this year. The briefing continues:

> It was passed in the lower house through the unsightly spectacle of Labor crossing the floor to sit with the Liberals on the 90 amendments put by Kris Hanna and then on the bill itself.
>
> It is now in the upper house. Every crossbench member opposes this bill. The Liberals are playing a game where they speak against the bill but vote for it. It's up to the Independents and small parties to now ensure there is at the very least thorough debate in time for the community to hear the arguments.

The Hon. A. Bressington: Another Labor and Liberal collude.

The Hon. M. PARNELL: Another Labor and Liberal collude, the Hon. Ann Bressington reminds us. Janet Giles' briefing continues:

> We thank them for this. And I want to ask them now to come to the stage so you can see those who will support workers in this Legislative Council.

In fact, we did not go to the stage at that point, because a couple of us had spoken already. It continues:

> We also call on those supporters who are ALP members of parliament and are also opposed to this bill to be brave, stand with us and do all they can to put pressure on the Premier to see sense and talk.
>
> If the bill is delayed or if the bill goes through the parliament, regardless of the result, the fundamental work of the union movement continues. We will meet as a movement and determine how we best protect members in a hostile workers comp climate. We will continue to highlight the impact of these changes on working people and remind the public of who did it to them. We will re-examine the support we give to candidates in the next election and determine this support according to those who we know stood with us during this time.
>
> We will also continue their campaign for safer workplaces and the better treatment of injured workers. This is our job. May Day reminds us of the nature of our work. It's a long struggle, never an easy fix. We have done before, we will continue to do it, and we know we have the ability, the will and the support to achieve it for the sake of the dignity of working people, a fairer community and a just future for our children and grandchildren.

I thank the indulgence of the council to put on the record those two important contributions by Janet Giles, because they do sum up more quickly than I could the real issues behind this WorkCover debate.

I mentioned earlier that, in response to Janet Giles resigning from the WorkCover board, a great many comments were put on the public news websites, which invite people to respond to news items of interest. A number of people responded not just to Janet Giles' resignation but also to the issue of the bill itself. The following include some community contributions made after people had explained to them what the impacts of this legislation would be. One such comment on *The Advertiser* website on 3 March this year is from Michael Dann of Two Wells. He states:

> Mike Rann this surely is a joke. I and many other common blue-collar workers put my faith in the Labor Party to look after the average working man or woman. The grossly unfair IR laws had us all looking for a better leader to save us from sure financial and more than likely mental ruin only to be stabbed in the back by our own state leader...

There is now an unparliamentary word which I will not repeat. I did not realise how colourful his language was. It continues:

> What are we to do now Mr Rann? With rising interest rates, higher cost of living, trying to support a family...which the government is begging us to make bigger, have more kids, earn less money, and if you hurt

yourself while working? Too bad, goodbye house, goodbye self-worth, goodbye life as you once had it. Maybe next time you will be more careful!

I wonder if Mr Rann has ever had to live with chronic pain day in day out. Managing your life on painkillers, unable to go out with family, play games with your kids, constantly grumbly due to constant pain and use of painkillers. But then just when things couldn't get any worse, we will take away his job, his ability to support his family. Thank you Mr Rann. If you ever happen to be passing me in the street, sleeping on a park bench after our government is finished with us, please be sure to spit on me and kick me while I am down just to complete the job.

The quote concludes with another unparliamentary word, which I will not read. I will not go through all these, because there are pages of them. I will not test the patience of the chamber doing that. Another entry on the website states:

Shame, Mr Rann, shame, and to think I was stupid enough to think you cared about people and was even more stupid to help vote you into government. Ah, the benefit of hindsight—won't make that mistake again.

Another entry states:

I hope that some of the smug individuals who support these amendments sustain a work-related injury after these changes come into force. They may discover that it is possible to have a partial incapacity beyond the 2½ year mark and an employer unwilling to accommodate their restrictions. Guess what happens next? They will have every chance of losing their job when the employer insists that they perform their full and unrestricted pre-injury duties and they are physically incapable of doing so. This is the reality of what the economic rationalists are supporting. To add insult to injury, workers in this state have no right to sue their employer where their injury has arisen as a result of the employer's negligence, including a preventable explosion resulting in the loss of an arm. Well done Mike Rann and the Liberal—sorry—Labor Party.

That is a common theme where people mistake the Liberal and Labor parties on this issue. Another entry states:

Have Liberal Party members infiltrated the Labor Party to such an extent that they could seriously consider introducing legislation to reduce injured workers' entitlements? It is an absolute disgrace. So much for looking after the battlers!

Another states:

Shame on you Mr Rann. Injured workers should not be punished financially for being on workers comp. It's hard enough to get by on a mortgage and other expenses, and then to punish injured workers financially will only hurt them more. It does nothing to address the causes of workplace injury or safe occupational health and safety in the workplace. Why is Rann punishing injured workers in the hip pocket where it hurts them most? I'll be writing to my local Labor MP. My family and I will fight this bill to the death. (Yes, someone in my family is on WorkCover and I'm ashamed to have voted Labor at the last election).

There are far too many for me to go through them all, but I would urge members to get on to web sites, such as Adelaidenow.com.au. I have skipped over about 20. I will not read them. I will just do a couple more. Another entry states:

How can you call any system fair where injured workers' income maintenance is cut off until the dispute is settled? How do you explain to your family that we live in a democratic society and that's how the governments do things? Perhaps the job should be left to WorkCover counsellors to explain why injured workers are forced to sell their family homes because they were injured at work and are not getting paid until the court settles a dispute. Will the government reimburse the auctioneers' fees and the sales tax in the case that wages and back pay are reinstated in these circumstances? It is apparent that injured workers were not really consulted by Mr Clayton—another classic example of our democratic society. P.S. See you all on the steps of parliament house tomorrow.

The Hon. Ann Bressington asked me whether there is anything in these dozens and dozens of contributions about the Libs. For her benefit, I have found one. It states:

Mr Rann is sounding more like John Howard every day. It's an absolute disgrace to even contemplate cutting benefits to genuinely injured workers. I can't believe I am hearing a Labor leader support this. With this and the law and order debacle, with this softly, softly attitude of judges and Rann and the government lack of guts to take them on, I might have to vote Independent—oh God, I can't believe I am saying this—even Liberal at the next election.

Members are keen to see that I am reporting in a balanced way some of this online commentary. These are the contributions of ordinary South Australians—people whose voice is not normally heard in this place; people who have not, even through their elected union representatives, had a chance to put their position directly to the government. The final contribution I will read from this series is from John of Unley. He said:

Am I dreaming? I thought the Liberals would support the business sector and crucify the worker in this way and Labor would fight to the death for workers' rights.

There is some unparliamentary language, which I will not read. The contribution continues:

These changes will affect everyone, as we all work and know someone who has been injured at work at some time and needed WorkCover. It won't be hard to work out who to vote for at the next election. Good-bye Mike.

What about those in dangerous occupations such as the police or firefighters who get badly injured protecting us all? Why would they want to do that when they will be left high and dry if they get injured? Snap out of it Mike. You are a Labor man. Trim the admin costs and reduce the fat cats and leave the workers' entitlements alone.

I think that pretty well sums up the range of contributions from ordinary members of the public and their reactions to this legislation.

We then get to the situation where the legislation has been introduced into the parliament and the lower house is invited to debate it. That is where we find this fascinating exchange in the other place where Labor members of parliament either speak with a forked tongue in saying that they do not like it but they will vote for it, or some even trying to justify the unjustifiable position. It was summed up, I guess, by the member for Enfield, who I think summarised the position of many of his colleagues. He said:

I can tell members here that the minister does not find the solutions palatable. Nobody in the government finds these solutions palatable.

My response to that is that, if I find some things not palatable, I do not eat it: I put it to the side of my plate. It ends up in the compost eventually. I try to find some good use for it.

I accept that a lot of what governments need to do is not palatable, but the usual approach and the decent approach when difficult and unpalatable decisions need to be made is that you try to bring people with you. You work hard on explaining to and working with your key stakeholders to get them to the point where they can see it from your point of view and they accept that something might be done. They accept often that painful solutions need to be put in place. But we are not even at that stage. As I have said before (and I will not repeat myself): the unions have not had the ability to sit down and negotiate with the Labor government.

The Treasurer in another place has tried to spin this debate in a way that I find most disturbing. He says:

As I have said before, this is clearly not an easy decision for a Labor government. This is a decision that has caused much angst within the Labor caucus, much angst within the Labor movement...There are unions protesting against this, and many of my colleagues are very unhappy about what this government is doing—and I respect their views. The Labor Party has demonstrated that, notwithstanding the fact that this has been an exceptionally difficult decision—and, dare I say, also a very difficult one for the minister—he should be applauded for the way in which he has managed to tackle a fundamental structural flaw in the scheme in the manner in which he has...This has not come easily to the minister, and I know that. It has not come easily to the cabinet, but it is what has had to be done. I think that what demonstrates a government's capacity to govern is that, even though a decision causes much friction, much tension, much emotion within a political party and its constituent bodies, at the end of the day it has the internal fortitude and the structural elements within the party to enable people to voice their opinions but for the party ultimately to reach a landing on a position. I have never been prouder of the Labor Party than I am today...

That is what the Treasurer said in relation to WorkCover. What a remarkable statement that is. I have never, I think, heard such an internally inconsistent statement which tries to reflect values which have been abandoned and make a virtue out of an appalling process that did not need to be handled in the way it was. He talks about 'internal fortitude' and 'structural elements within the party to enable people to voice their opinions'. Where was the internal fortitude when we compare the government's approach to this legislation to poor old Mr Iemma in New South Wales, who could have said exactly the same things about having to make tough decisions, but at least he had the decency to go through his party processes and be roundly defeated 700 votes to 100 votes, and then face the music.

The Hon. P. Holloway interjecting:

The Hon. M. PARNELL: The minister says that I should worry more about the bill than the Labor Party, but the point is that, in a democratic institution, people have a right to compare the legislation that a government puts forward with the principles that the government says it stands for. If there is a disconnect between what the government is doing and what the party says it stands for, then I think it is most appropriate for me, as it is for anyone else in the community, to draw attention to that fact. So, I do not apologise for pointing out the hypocrisy of the government. The Treasurer goes on:

I have never been prouder of the Labor Party than I am today, because I think that the Labor Party has demonstrated that we are a natural party of government, that we are a party that can govern, that we are a party that has the inner strength to do what is right...This is what makes a government. In a vibrant democracy with parliamentary representation, it is quite natural, quite appropriate and quite understandable that there will be varying degrees of emotion, dispute and unhappiness within a political party when it makes a hard decision. We are not a dictatorship.

Say that again: 'We are not a dictatorship'? It continues:

> Our nation, our country, our state and our political parties are organic beings: they all have a view; members are entitled to express their views, and those views have certainly been well expressed.

Well, they have not been well expressed in the organs of the party that were specifically designed to have them addressed. Whether it is council meetings or state conferences, all of these are being subsumed under the desire of the government to get this appalling legislation through. So, the question that I have for the Treasurer is: if you are so proud and so confident of the democratic institutions within your party, then why will you not let your state council meet and why will you not bring forward your state conference?

I think the real reason for this is summarised in a very short but most telling sentence that was published in the *Weekend Australian* of April 19-20, in an article by John Wiseman under the heading: 'Labor, unions slug it out over WorkCover'. We have this very simple sentence which I think sums up the Labor Party's position and its attitude to the lack of consultation and negotiation in this whole debate. The commentary from John Wiseman is as follows:

> Premier Mike Rann believes he can sweep this internal opposition aside because—

and then he quotes the Premier—

'We're a bloody sight better for working people than the alternative.'

At the end of the day that, I think, is at the heart of this debate. What the Premier is banking on is that, with those historical connections between the labour movement and the Labor Party and the general antipathy between the labour movement and the Liberal Party, the union movement at the end of the day will just lump it; they will just say, 'Yes, he's right, you know. There's nowhere else that we can go.'

I am not denying the century-long relationship between organised labour and the Labor Party and, as I said at the May Day rally, it is a relationship of some familiarity and we all know what the outcome of familiarity can be: familiarity breeds contempt.

The contempt that the Premier shows in the statement, 'We're a bloody sight better for working people than the alternative', is effectively saying, 'There is nowhere else for you to go. You must accept what we are doing because there is no alternative.' TINA, the acronym: There Is No Alternative. Where did that come from? Margaret Thatcher: she is the one who was forever saying, 'There is no alternative.' Clearly, the people at the May Day rally could see that there were Independents in attendance; the Greens were there in great numbers, and people could see that there was an alternative to the Labor government.

The person who received a great deal of praise was the Independent member—not Labor, not Liberal—for the seat of Mitchell, Kris Hanna, who received a rousing response from people. His contribution in the lower house is really the only contribution of any great worth. In fact, for all the effort that he went to with his amendments, his analysis and his suggestions for alternatives, I have even heard people say that he was too polite, that he did not go hard enough against the government.

I think that the member for Mitchell's contribution is one that he should be proud of. I expect to have my amendments to this legislation on file very shortly, a great many of which are based on the amendments that were moved by the member for Mitchell in another place.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: Members will say, 'Well, we haven't had a chance to look at them', and that is right. The Hon. David Ridgway says, 'We haven't had a chance to look at them,' but —

Members interjecting:

The Hon. M. PARNELL: I have a few more. Members have not seen the amendments, but they will see them soon. It will not take most members by surprise to realise what kind of amendments they are. We will get to the committee stage of this debate and we will go through these amendments. Mr President, at this hour I seek leave to continue my remarks later.

Leave granted; debate adjourned.

SERIOUS AND ORGANISED CRIME (CONTROL) BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

TRAINING AND SKILLS DEVELOPMENT BILL

Received from the House of Assembly and read a first time.

The Hon. CARMEL ZOLLO (Minister for Emergency Services, Minister for Correctional Services, Minister for Road Safety, Minister Assisting the Minister for Multicultural Affairs) (18:01): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is committed to ensuring all South Australians have the opportunity to participate in and benefit from our State's economic growth. This necessarily includes a strong commitment to supporting the delivery of education and training that contributes to the achievement of the twin goals of economic development and social inclusion, and that leads to sustainable employment opportunities for all South Australians.

Workforce development will be critical in underpinning the growth of our economy and in providing pathways to rewarding and sustainable jobs. The Government's strategic approach to workforce development will focus on increasing the capacity of individuals to meet their employment needs throughout their lives - as well as meeting industry demand for a skilled workforce - and increasing the capacity of firms to adopt work practices that support their employees to develop the full range of their potential.

A review of the *Training and Skills Development Act 2003*, which included extensive stakeholder and participant consultation about the effectiveness of the Act in supporting our education, training and workforce development goals at the State and national levels, has been undertaken and has provided the foundation for the development of this Bill.

The *Training and Skills Development Bill 2008* provides a legislative framework for our training system, higher education and community learning, and includes the provision of advice on workforce development, the registration of training providers, course accreditation, arrangements for traineeships and apprenticeships, and protections for students.

This Bill provides for a stronger role for the Training and Skills Commission, in consultation with industry training bodies, such as Industry Skills Boards, and employee and employer associations, in providing high level strategic advice about the application of workforce development strategies that are informed by effective industry engagement.

Through this Bill, the role of the Training Advocate, which has been widely accepted, is being given statutory recognition. The Training Advocate will continue to support clients or prospective clients, including international students, regarding their questions or concerns about the education and training system. The Training Advocate will carry out functions described in a public charter developed by the Minister in consultation with the Training Advocate and the Training and Skills Commission, and will have powers to request information which may be necessary in resolving issues.

The 2007 National Protocols for Higher Education, which create a national framework for the approval of Australian universities, other higher education providers and their courses, as well as international higher education institutions operating in Australia, will be incorporated into the Act through this Bill.

Our State must balance the need for a flexible and responsive training sector with ensuring that the interests of apprentices, trainees and students are protected.

Employers will be required to be registered before engaging apprentices or trainees under a training contract. Registration will be for up to five years, with employers who are currently a party to a contract of training being automatically registered for five years. Details of employers who are registered, and the scope of their registration, will be available through a public website. These changes aim to streamline the processes for employers wanting to take on apprentices or trainees, and will assist in making parties to a proposed training contract better informed about their rights and obligations under the training contract.

Early intervention strategies, many of them requiring a re-direction of administrative focus, will be implemented to identify grievances and disputes arising from training contracts and assist the parties towards an appropriate and timely resolution.

Parties to a training contract will be able to access the resources of the Industrial Relations Commission of South Australia (the *IRC*) as a means for resolving disputes arising from a training contract. The IRC is establishing processes, in consultation with stakeholders, to ensure that disputes arising from training contracts can be resolved in a manner appropriate to the needs of the parties to those contracts. This Bill allows for the inclusion of compulsory conferences to resolve training contract disputes, prior to matters being referred for hearing. Assessors, nominated by employer and employee associations, will assist the IRC in considering training contract disputes brought before it. Orders of the IRC will be enforceable and an appeals process will be available.

This Bill introduces measures to streamline yet strengthen matters concerning the quality of education and training that will be delivered under this legislation, including the issuing of compliance notices and expiation fees, and offences and penalties have been reviewed.

The legislation proposes related amendments to the *Fair Work Act 1994*.

Transition provisions provide for the vacation of all offices of members of the Training and Skills Commission, the Grievance and Disputes Mediation Committee, any committee established by the Training and Skills Commission and any reference group established by the Minister.

Transition provisions also provide continuity of registration of training providers, accreditation of courses and continuation of current contracts of training. These provisions also establish that suspensions, orders or decisions of the Grievances, Disputes and Mediation Committee in force immediately before the repeal of the *Training and Skills Development Act 2003*, continue in force as a suspension, order or decision of the IRC.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects

The objects of this measure are to further the State's economic and social development through the operations of the Training and Skills Commission (the *Commission*)—

- in assisting the Minister to establish priorities and workforce development strategies to meet the State's current and future work skills needs through education, training, skills development and workforce development; and
- in providing quality assurance in relation to higher education (other than that delivered by a State university) and vocational education and training by regulating training providers, courses and the relationship between employers and apprentices/trainees; and
- in promoting—
  - (i) equity and participation in and access to education, training and skills development; and
  - (ii) partnerships with industry and enterprises for the development of skills for the State's workforce; and
  - (iii) an integrated national system of education and training that recognises the diversity of the State's workforce needs; and
  - (iv) the development of a culture of continuous learning through adult community education.

4—Interpretation

This clause contains the definitions of words and phrases used for the purposes of this measure. Among the many terms defined are *AQTF*, *AQF*, *higher education*, *vocational education and training* and *education services for overseas students*.

5—Declarations relating to universities and higher education

The Minister may, by notice in the Gazette, make the following declarations:

- that an institution is—
  - (i) a university; or
  - (ii) a university college; or
  - (iii) a specialised university of a kind specified in the declaration;
- that an institution is a self-accrediting higher education institution;
- that an institution that is an overseas higher education institution is an institution authorised to offer non AQF higher education qualifications in the State.

Any such declaration—

- may be subject to such conditions (including conditions that determine the scope of the operations of the institution) as the Minister thinks fit and specifies in the declaration; and
- will operate for the period set in the declaration; and
- may, by further notice in the Gazette, be varied or revoked.

It is an offence for an institution in relation to which a declaration has been made to contravene a condition imposed by the Minister and specified in the declaration. The penalty for any such offence is a fine of $5,000, expiable on payment of a fee of $315.

6—Declarations of trades and declared vocations

The Minister may, on the Commission's recommendation—

- by notice in the Gazette, declare an occupation to be—

  (i) a trade; or

  (ii) a declared vocation; and

- by further notice in the Gazette, vary or revoke such a declaration.

Part 2—Administration

Division 1—Minister

7—Functions of Minister

The Minister has the following functions under this measure:

- to establish priorities and workforce development strategies to meet the State's current and future work skills needs in conjunction with industry, commerce, employee representatives and governments;
- to manage—

  (i) the State's system of vocational education and training, and adult community education, by allocating resources within the State on a program and geographic basis;

  (ii) the State's system of higher education (other than that delivered by a State university), vocational education and training, and adult community education, through planning and regulating the provision of public and private training; and

  (iii) the State's role as part of an integrated national system of education and training;

- as the State Training Authority under the Skilling Australia's Workforce Act 2005 of the Commonwealth;
- any other function assigned to the Minister under this measure or an Act or that the Minister considers appropriate.

8—Delegation by Minister

The Minister may delegate his or her functions or powers under this measure within the usual terms.

Division 2—Training and Skills Commission

9—Establishment of Training and Skills Commission

The Training and Skills Commission (the *Commission*) is established. The Commission will consist of 11 members appointed by the Governor on the nomination of the Minister. Its membership will include a representative of employer groups and employee groups, respectively.

10—Functions of Commission

This clause provides for general and other functions of the Commission. Its general functions include the following:

- to assist, advise and make recommendations to the Minister on matters relating to the development, funding, quality and performance of vocational education and training and adult community education; and
- to regulate—

  (i) training providers under Part 3 of the measure; and

  (ii) apprenticeships/traineeships under Part 4 of the measure.

11—Ministerial control

The Commission is subject to control and direction of the Minister apart from when the Commission is formulating advice or reports to the Minister.

12—Conditions of membership

This clause is drafted in the usual way in relation to the appointment of a member to the Commission by the Governor, with the term and conditions of membership being determined by the Governor.

13—Proceedings of Commission

This clause makes provision for the manner in which the Commission is to conduct its proceedings.

14—Validity of acts

This clause provides that an act or proceeding of the Commission (or 1 of its committees) is not invalid by reason only of a vacancy in its membership.

15—Staff

This clause makes provision for the Commission's staff, which is to consist of—

- Public Service employees assigned to work in the office of the Commission; and

- officers or employees under the Technical and Further Education Act 1975 assigned to work in the office of the Commission; and
- any person appointed to the staff by the Commission with the consent of the Minister.

16—Report

The Commission must, before 31 March in each year, present to the Minister a report on its operations for the preceding calendar year. This report must be tabled by the Minister in Parliament.

Division 3—Reference groups

17—Establishment of reference groups

This clause makes provision for the mandatory establishment of 2 reference groups by the Minister to advise the Commission in relation to its functions under Parts 3 and 4 of this measure, and in relation to its functions relating to adult community education, respectively. The reference groups must submit a report on their respective operations to the Commission for inclusion in the Commission's annual report.

Division 4—Training Advocate

18—Training Advocate

There will be a Training Advocate.

19—Appointment of Training Advocate

Under this clause, the Governor will appoint a person to be the Training Advocate on terms and conditions determined by the Governor.

20—Term of office of Training Advocate etc

This clause makes provision for the following matters in relation to the Training Advocate:

- term of office (5 years);
- how the office becomes vacant;
- removal from office.

21—Functions of Training Advocate

The functions of the Training Advocate will be set out in a charter prepared by the Minister after consultation with the Training Advocate and the Commission. A number of examples of the sorts of functions that may (but need not) be given to the Training Advocate under the charter are set out. The charter is to be tabled in Parliament within 6 days of coming into force or being amended.

22—Training Advocate subject to direction of Minister

The Training Advocate is subject to the written direction of the Minister, except in relation to an investigation being undertaken by the Training Advocate in the performance of his or her functions.

23—Delegation by Training Advocate

This clause makes provision for the Training Advocate to delegate his or her functions.

24—Staff

This clause makes provision for the Training Advocate's staff, which is to consist of—

- Public Service employees assigned to work in the office of the Training Advocate; and
- officers or employees under the Technical and Further Education Act 1975 assigned to work in the office of the Training Advocate; and
- any person appointed to the staff by the Training Advocate with the consent of the Minister.

25—Report

The Training Advocate must present a written report on his or her activities to the Minister on or before 31 March in each year. Such a report must include any direction given to the Training Advocate by the Minister and must be tabled in the Parliament by the Minister.

Part 3—Higher education, vocational education and training and education services for overseas students

Division 1—Registration of training providers

26—Registration of training providers

The Commission may, on application or of its own motion, register, or renew the registration of, a person as a training provider—

(a) to—

- deliver education and training and provide assessment services; and
- issue qualifications and statements of attainment under the AQF,

in relation to higher education or vocational education and training, or both; or

(b) to—

- provide assessment services; and
- issue qualifications and statements of attainment under the AQF,

in relation to higher education or vocational education and training, or both; or

(c) for the delivery of education services for overseas students.

An application for registration or renewal of registration must—

- be made to the Commission in the manner and form approved by the Commission; and
- be accompanied by the fee fixed by regulation.

27—Conditions of registration

This clause makes provision for the conditions to which the registration of a training provider is subject, including conditions establishing the operations the provider is authorised to conduct by the registration. A registered training provider who contravenes a condition of registration is guilty of an offence, the penalty for which is a fine of $5,000, expiable on payment of a fee of $315.

28—Variation or cancellation of registration

The Commission may, on application, vary or cancel the registration of a training provider. Variation of any such registration means variation of either the conditions of registration or the registered details of the training provider.

29—Criteria for registration

This clause sets out the criteria that the Commission must apply when determining whether to register, renew or vary the registration of, a training provider and the conditions of registration.

Division 2—Accreditation of courses

30—Accreditation of courses

The Commission may, on application or of its own motion, accredit a course, or renew the accreditation of a course, as a course in higher education or vocational education and training.

An application for accreditation or renewal of accreditation must—

- be made to the Commission in the manner and form approved by the Commission; and
- be accompanied by the fee fixed by regulation.

31—Conditions of accreditation

This clause makes provision for the conditions to which the accreditation of a course is subject. The holder of accreditation of a course who contravenes a condition of accreditation is guilty of an offence for which the penalty is a fine of $5,000, expiable on payment of a fee of $315.

32—Variation or cancellation of accreditation

The Commission may on application vary or cancel the accreditation of a course. Variation of accreditation of a course means variation of the conditions of accreditation of the course.

33—Criteria for accreditation

This clause sets out the criteria that the Commission must apply when determining whether to accredit, or renew or vary the accreditation of, a course and the conditions of accreditation.

Division 3—Duration of registration/accreditation

34—Duration of registration/accreditation

This clause provides that, subject to this measure, registration or accreditation remains in force for a period of up to 5 years determined by the Commission. The holder of registration or accreditation must, at intervals fixed by regulation, pay a prescribed fee and lodge returns.

Division 4—Other powers of Commission relating to training providers and courses

35—Grievances

A person with a grievance relating to a registered training provider may refer the grievance to the Commission for consideration.

36—Commission may inquire into training providers or courses

This clause provides the Commission with power to inquire into a training provider or a course.

37—Commission may cancel, suspend or vary registration or accreditation

This clause empowers the Commission to impose or vary a condition of registration or accreditation, or cancel or suspend registration or accreditation, where there has been a breach of a condition of the registration or accreditation. Such action cannot be taken without first giving the holder of the registration or accreditation 28 days written notice of the proposed action, taking account of any representations made to the Commission, and consulting (where necessary) the registering/course accrediting body in other jurisdictions.

38—Commission may issue qualification or statement of attainment in certain circumstances

This clause gives the Commission the power to issue to a person a qualification or statement of attainment under the AQF in relation to specified higher education or vocational education and training offered by a registered training provider if satisfied that—

- the person has achieved the learning outcomes or competencies necessary to demonstrate that the person possesses and is able to apply the knowledge and skills acquired; and
- the provider is unable (whether because it is no longer registered or for some other reason) to issue the qualification or statement of attainment.

39—Cancellation of qualification or statement of attainment

The Commission may (by written notice) cancel a qualification or statement of attainment issued by a registered training provider if the Commission is satisfied that the qualification or statement of attainment was issued by mistake or on the basis of false or misleading information.

40—Commission may assess and certify competency in certain circumstances

Under this clause, the Commission may assess (by such means as the Commission thinks fit) the competency of persons who have acquired skills or qualifications otherwise than under the AQF and, in appropriate cases, having regard to the standards and outcomes specified in accredited courses or training packages, grant, or arrange for or approve the granting of, statements certifying that competency.

41—Provision of information

The Commission may, subject to such conditions as the Commission thinks fit, provide to another registering body/course accrediting body any information obtained by the Commission in the course of carrying out its functions under this measure.

Division 5—Appeal to District Court

42—Appeal to District Court

An appeal to the District Court may be made (within 28 days of the making of the decision being appealed) against a decision of the Commission—

- refusing an application for the grant or renewal of registration or accreditation; or
- imposing or varying conditions of registration or accreditation; or
- suspending or cancelling registration or accreditation; or
- cancelling a qualification or statement of attainment.

Division 6—Offences

43—Offences relating to registration and issuing of qualifications

This clause sets out the offences relating to registration of training providers and the issuing of qualifications. The penalty for each of the offences under this provision is a fine not exceeding $5,000. The offences are set out below.

A person must not claim or purport to be a registered training provider in relation to higher education unless registered as a training provider in relation to higher education.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to higher education unless—

- the person is a State university; or
- the person is—
    - (i) a declared institution; and
    - (ii) operating within the terms and complying with the conditions (if any) of the declaration; or
- the person is—
    - (i) registered as a training provider in relation to higher education; and
    - (ii) operating within the scope of the registration of the provider and complying with the conditions of the registration.

A person must not claim or purport to be a registered training provider in relation to vocational education and training unless registered as a training provider in relation to vocational education and training.

A person must not issue, or claim or purport to issue, qualifications or statements of attainment under the AQF in relation to vocational education and training unless the person is—

- registered as a training provider in relation to vocational education and training; and
- operating within the scope of the registration of the provider and complying with the conditions of the registration.

A person must not claim or purport to be able to deliver education and training that will result in the issue of a qualification or statement of attainment by another person if the person knows that the other person is not lawfully able to issue the qualification or statement of attainment.

This provision does not apply to the Commission.

44—Offences relating to universities, degrees, etc

This clause sets out the offences relating to universities and the granting of degrees and graduate qualifications. The penalty for each of the offences under this provision is a fine not exceeding $5,000. The offences are set out below. The offences prohibit an institution from holding out that it is an institution (whether a university, university college, etc) of a kind that it is not, and prohibit such institutions from issuing degrees or graduate qualifications unless they are authorised to do so.

Part 4—Apprenticeships/traineeships

Division 1—Interpretation

45—Interpretation

This clause sets out definitions for the purposes of Part 4.

Division 2—Training contracts

46—Training under training contracts

An employer must not undertake to train a person in a trade (see clause 6) except under a training contract. The penalty for such an offence is a fine of $5,000, expiable on payment of a fee of $315. An employer may undertake to train a person in a declared vocation under a training contract.

Only registered employers may enter into training contracts.

The clause sets out requirements for training contracts and the obligations and duties of the parties to such contracts.

47—Minister may enter training contracts

This clause provides that the Minister may enter into a training contract (on a temporary basis or where it is not reasonably practicable for another employer to do so) assuming the rights and obligations of an employer under the contract.

48—Approval of training contracts

An employer must, within 4 weeks after executing a contract—

- by which the employer undertakes to train a person in a trade, apply to the Commission for approval of the contract;
- with a person that is intended to be a training contract under this Part, apply to the Commission for approval of the contract.

The Commission may decline to approve a contract as a training contract if the criteria set out in the clause are not met.

It is an offence for an employer to continue to train a person in a trade if the Commission has declined to approve the contract entered into for that purpose.

The penalty for non compliance with a provision of this clause is a fine of $5,000, expiable on payment of a fee of $315.

49—Term of training contracts

The Commission may, on the application of the parties to a training contract (or proposed training contract) or of its own motion, determine—

- that the whole or a part of a period of training that occurred before the date of the contract be treated as a period of training served under the contract; or
- that the whole or a part of a period of training that occurred under a previous training contract be treated as a period of training served under the contract; or
- that a period of absence of the apprentice/trainee under the training contract be excluded from consideration in computing the length of the apprentice's/trainee's service under the contract.

The term of a training contract must be computed and the contract must be construed and must apply in accordance with any such determination of the Commission. However, if there is a conflict between a determination

of the Commission and a determination of the Industrial Relations Commission (the *IRC*), the determination of the IRC prevails.

If the Commission is satisfied of the competence of an apprentice/trainee or former apprentice/trainee, the Commission may, of its own motion or on the application of each party to the training contract (whether or not the contract is still in operation)—

- certify that the apprentice/trainee is to be taken to have completed the training required under the contract; and
- if the contract is still in operation—terminate the contract and relieve the parties of their obligations under the contract.

50—Variation of training under training contract to part-time or full-time

The Commission may—

- on application by the parties to a training contract, vary the contract so that it provides for part-time training instead of full-time training, or full-time training instead of part-time training, if to do so is not inconsistent with the award or industrial agreement under which the apprentice/trainee is employed;
- on application by the parties to a school-based training contract, vary the contract so that it provides for full-time training or part-time training (as the case requires) when the school-based apprentice/trainee finishes school.

51—Termination or suspension of training contract

Subject to Part 4, no person apart from the Commission may terminate or suspend, or purport to terminate or suspend, a training contract. The penalty for such an offence is a fine of $5,000, expiable on payment of a fee of $315. Subject to Part 4, the Commission may, on application or of its own motion, terminate or suspend a training contract. A party to a training contract may, terminate a written contract within the probationary period of the contract by written notice to the other party.

52—Transfer of training contract to new employer

A change in the ownership of a business (or part of a business) does not result in the termination of a training contract entered into by the former employer but, where a change in ownership occurs, the rights, obligations and liabilities of the former employer under the contract are transferred to the new employer, both of whom must notify the Commission of the change.

53—Offence to exert undue influence etc in relation to training contracts

A person who exerts undue influence or pressure on, or uses unfair tactics against, a person in relation to entering into a training contract is guilty of an offence, the penalty for which is a fine of $5,000. It is also an offence (carrying the same penalty) for a person to exert undue influence or pressure on, or use unfair tactics against, a party to a training contract in relation to—

- the making of an application to the Commission in relation to the contract under clause 49;
- variation of the contract; or
- the transfer or assignment of the contract from 1 employer to another; or
- the termination or suspension, or purported termination or suspension, of the contract.

54—Termination/expiry of training contract and pre-existing employment

If a training contract is entered into between an employer and a person who is already in the employment of the employer, the termination, or expiry of the term, of the training contract does not of itself terminate the person's employment with the employer.

Division 3—Registration of employers

55—Registration of employers

The Commission may, on application, register, or renew the registration of, an employer who may enter into a training contract as follows:

- in relation to a specified trade—for the training of a particular apprentice/trainee;
- in relation to a specified trade or specified trades—for training apprentices/trainees generally;
- in relation to a specified declared vocation—for the training of a particular apprentice/trainee;
- in relation to a specified declared vocation or specified declared vocations—for training apprentices/trainees generally.

56—Conditions of registration

Registration of an employer is subject to—

- the conditions determined by the Commission as to the operations that the employer is authorised to conduct by the registration; and

- a condition that an apprentice/trainee, or apprentices/trainees of a specified class, will be managed in a specified way; and
- if guidelines have been developed by the Commission—the condition that the employer will comply with the guidelines; and
- any other condition determined by the Commission.

57—Criteria for registration

This clause sets out the criteria that the Commission must apply when determining whether to register, or renew or vary the registration of, an employer and in determining any conditions of the registration.

58—Variation or cancellation of registration

The Commission may, on application, vary or cancel the registration of an employer.

59—Duration of registration

Subject to this measure, registration of an employer remains in force, on initial grant or renewal, for a period (which may not be longer than 5 years) determined by the Commission.

60—Commission may cancel, suspend or vary registration

If—

- a registered employer contravenes this Act or a corresponding law or a condition of the registration (whether the contravention occurs in this State or elsewhere); or
- the circumstances are such that it is, in the Commission's opinion, no longer appropriate that the employer be so registered,

the Commission may do either or both of the following:

- impose or vary a condition of the registration;
- cancel or suspend the registration.

The Commission must, before taking any such action, give the person 28 days written notice of its intention and take into account any representations made by the person.

61—Appeal to District Court

An appeal to the District Court may be made (within 28 days of the making of the decision being appealed) against a decision of the Commission—

- refusing an application for the grant or renewal of registration of an employer; or
- imposing or varying conditions of registration; or
- suspending or cancelling registration.

62—Commission may inquire into employers

The Commission may, at any time, inquire into an employer, whether registered or the subject of an application for registration.

Division 4—Compliance notices, misconduct, disputes and grievances

63—Compliance notices

If it appears that an employer has contravened a provision of this measure, the Commission may issue a compliance notice requiring the employer, within a period stated in the notice—

- to take specified action to remedy the non-compliance; and
- to produce reasonable evidence of the employer's compliance with the notice.

Non-compliance with a notice within the time specified in the notice is an offence, the penalty for which is a fine of $5,000, expiable on payment of a fee of $315. An application for review of any such notice may be made to the IRC within 14 days of the issue of the notice.

64—Employer may suspend apprentice/trainee for serious misconduct

If an employer has reasonable grounds to believe that an apprentice/trainee employed by the employer is guilty of wilful and serious misconduct, the employer may (without first obtaining the approval of the Commission) suspend the apprentice/trainee from employment and must, in that event—

- immediately refer the matter to the Industrial Relations Commission; and
- within 3 days of the suspension—confirm the reference in writing.

A suspension under this section must, unless confirmed or extended by the Industrial Relations Commission, not operate for more than 7 working days.

65—Other matters to be dealt by Industrial Relations Commission

A party to a training contract may apply to the IRC for consideration of a matter arising from a dispute between the parties to the contract or if aggrieved by the conduct of another party to the contract. The powers that may be exercised by the IRC in relation to a matter before it under this Division are set out in the provision.

66—Holding of conciliation conferences compulsory

Proceedings (other than applications for review of a compliance notice) before the Industrial Relations Commission under Part 4 Division 4 are proceedings to which Chapter 5, Part 1, Division 4A of the *Fair Work Act 1994* applies (Division 4A provides for the holding of compulsory conciliation conferences).

If a conciliation conference before the Industrial Relations Commission is held in proceedings relating to a suspension under section 64, the member presiding at the conference—

- is not required to give a preliminary assessment or to make a recommendation under section 155B(3) of the Fair Work Act 1994; and
- if the proceedings are not resolved by conciliation or withdrawn—is not disqualified from further involvement in the proceedings by reason only of the fact that he or she presided at the conference.

67—Representation in proceedings before Industrial Relations Commission

Representation in proceedings (other than appellate proceedings) before the IRC under this Division is regulated as follows:

- representation of a party by a legal practitioner or a registered agent will not be permitted;
- if a party to the proceedings is a body corporate, the IRC may, if the party seeks to be represented by an officer or employee who is not a legal practitioner or registered agent, permit such representation;
- if a party to the proceedings satisfies the IRC that he or she will be disadvantaged in the proceedings if he or she is not given assistance by another person, the IRC may permit the party to be assisted by a person who is not a legal practitioner or registered agent, but only if that person is not acting for fee or reward.

68—Participation of assessors and other experts in proceedings before Industrial Relations Commission

In proceedings before the IRC under this Division, the IRC—

(a) must sit with assessors selected in accordance with Schedule 1; and

(b) may select an expert in accordance with Schedule 1 to advise the IRC in relation to a matter relating to the proceedings.

However, in the types of proceedings listed below, the IRC has absolute discretion to sit with assessors or select an expert advisor:

- a conference under Chapter 5, Part 1, Division 4A of the *Fair Work Act 1994*;
- proceedings for the purposes of—
  - (i) dealing with preliminary, interlocutory or procedural matters; or
  - (ii) dealing with questions of costs; or
  - (iii) entering consent orders;
- a part of the proceedings relating only to questions of law;
- appellate proceedings.

Division 5—General

69—Relation to other Acts and awards etc

This clause provides that this measure and any statutory instrument made under this measure will prevail to the extent of any inconsistency over the *Fair Work Act 1994* and any regulation, award or other determination, enterprise agreement or industrial agreement made under that Act or an Act repealed by that Act. However, a provision of an award or other determination, enterprise agreement or industrial agreement made under the *Fair Work Act 1994* or an Act repealed by that Act requiring employers to employ apprentices/trainees in preference to junior employees remains in full force.

70—Making and retention of records

This clause provides that an employer who employs an apprentice/trainee must keep records as required by the Commission for at least 7 years after the expiry or termination of the training contract to which the record relates.

Part 5—Miscellaneous

71—Training and Skills Register

The State register under the repealed Act continues in existence as the *Training and Skills Register* (the *Register*) under this measure and the following matters must be recorded in the Register:

- details of the declarations (if any) made by the Minister under clause 5;

- the registration of training providers and accreditation of courses under Part 3;
- the variation, cancellation, suspension or expiry of the registration of a training provider or accreditation of a course under Part 3;
- the registration of employers under Part 4;
- the variation, cancellation, suspension or expiry of the registration of an employer under Part 4;
- any other matter that, in the opinion of the Commission, should be recorded in the Register.

The Register will be kept in the form of a computer record and published on a website determined by the Commission.

72—Provision of information to/by prescribed authority

This provision gives the Commission and the Training Advocate the power to request for the purposes of this measure certain information from a prescribed authority and the prescribed authority the ability to comply with such a request within a reasonable time. The clause also authorises the Commission and the Training Advocate to provide information to a prescribed authority. A prescribed authority is defined as an agency or instrumentality of the Crown or a person or authority prescribed by regulation.

73—Other powers of Commission, Training Advocate, etc

This clause provides that, for the purposes of this measure, a member of the Commission, the Training Advocate, or a person authorised by the Commission or Training Advocate (an *authorised person*), may exercise any 1 or more of the following powers:

- an authorised person may question any person—
  - (i) in relation to Part 3—about the delivery or provision of education and training or other services;
  - (ii) in relation to Part 4—about—
    - (A) the delivery or provision of education or training; or
    - (B) the employment of an apprentice/trainee;
- an authorised person may require the production of any record or document required to be kept by or under this measure and inspect, examine or copy it;
- an authorised person may enter and inspect, at any reasonable time, the following places or premises or anything in the following places or premises:
  - (i) a place or premises in which education or training is provided, including a place or premises in which a person undertakes the practical component of any such course;
  - (ii) a place or premises in which an apprentice/trainee is employed.

74—Immunity from liability

No civil liability attaches to a member of the Commission, a member of a committee of the Commission, the Training Advocate, a person authorised by the Commission or the Training Advocate or a member of a reference group established under the measure for an act or omission in the exercise or performance, or purported exercise or performance of powers, functions or duties conferred or imposed by or under this measure or any law. An action that would, but for this provision, lie against a person lies instead against the Crown. This provision does not, however, prejudice rights of action of the Crown in respect of an act or omission not in good faith.

75—False or misleading information

It is an offence (punishable by a fine of $5,000) for a person to make a statement that is false or misleading in a material particular in information provided under this measure.

76—Evidentiary provision relating to registration

This clause makes provision for evidentiary matters for the purposes of this measure.

77—Gazette notices may be varied or revoked

A notice published in the Gazette by the Commission may be varied or revoked by the Commission by subsequent notice in the Gazette.

78—Service

This clause provides that a notice or other document required or authorised to be given to or served on a person may be given or served personally or by post

79—Regulations

This clause makes provision for the making of regulations for the purposes of this measure.

Schedule 1—Appointment and selection of assessors and other experts for Industrial Relations Commission proceedings under Part 4

Division 1—Assessors

Clauses 1 to 7 of this Schedule make provision for the appointment and selection of assessors for IRC proceedings under Part 4.

Division 2—Experts

Clauses 8 and 9 of this Schedule make provision for the appointment and selection of experts in higher education and vocational education and training to provide advice to the IRC in proceedings under Part 4.

Schedule 2—Related amendments, repeal and transitional provisions

Part 1—Preliminary

Part 2—Amendment of *Fair Work Act 1994*

This Part of the Schedule contains amendments to the *Fair Work Act 1994* that are related to the conferral of jurisdiction on the IRC under Part 4 of this measure.

Part 3—Repeal of *Training and Skills Development Act 2003*

The *Training and Skills Development Act 2003* is to be repealed.

Part 4—Transitional provisions

This Part of the Schedule contains transitional provisions consequent on the passage of this measure and the repeal of the *Training and Skills Development Act 2003*.

Debate adjourned on motion of Hon. D.W. Ridgway.

[Sitting suspended from 18:02 to 19:45]

WORKERS REHABILITATION AND COMPENSATION (SCHEME REVIEW) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2878.)

The Hon. M. PARNELL (19:47): Before the dinner break, I had started to look at some of the debate in the lower house, and I mentioned the member for Mitchell and the contribution he made to that debate. Over dinner, I took my red pen to some of my prepared contribution. So, I will not keep the council longer than I think it is necessary to tell this story properly.

I will leave the extracts from the member for Mitchell's contribution I was going to refer to, other than one particular quote the honourable member mentioned that I think deserves to be heard by members in this place as well. At the end of his contribution, the member for Mitchell said:

> I want to finish with a quote from one of our most powerful, persuasive and tactically brilliant members of parliament. He said:
>
> > 'We will see injured workers threatened and harassed. We will see a government that will actively reduce benefits and work against the proper return-to-work arrangements that are essential if we are really committed to rehabilitation. We will see legislative and administrative action aimed at forcing workers onto social security, out of compensation, out of rehabilitation, out into the streets and onto social security. Instead of rehabilitation and support we will see this government enter into an adversarial approach to injured workers. It will cause massive financial hardship to many genuinely injured South Australian workers. It will cause stress to families and it will undermine personal dignity.
> >
> > That is what this government is about, make no mistake about it. This bill is not innocuous: it is about a change in power. It is about an end to consensus, and it is about the end of industrial relations, commonsense and consultation in this state. This is a day not of historic reform but of shame. It is about turning the clocks back by decades, and members opposite know it.'

There is no Freddo Frog prize for knowing who said that: it was our Premier, the Hon. Mike Rann, and he said it in 1995. It is exactly what the union movement is saying in 2008, and it is exactly what I am saying applies to this legislation today. I went through the Labor Party's policy platform at some length in relation to industrial relations, occupational health and safety and WorkCover because I felt that it was important that it be put on the record so that it can stand in contrast to what the government is now doing. I was also proposing to read into *Hansard* the alternative view in terms of party political policies, even though the Premier believes there is no alternative, but the Greens have a very strong policy on industrial relations.

Everything that I am standing for in my contribution to this debate and the amendments that I will be moving are part of my party's platform. The Greens are proudly standing behind working people, working families, and in relation to WorkCover, the injured workers in particular. But it is not just here in South Australia—we are a relatively new political force in this state on

issues such as WorkCover: my colleagues interstate have had to fight these same battles. In Western Australia, the Greens were central to amending and having softened some of the worst aspects of that Labor government's legislation. In New South Wales, in 2001 it was a situation very similar to the one we find here, where the Greens were instrumental.

I was going to refer at some length to a very relevant report that came out of New South Wales but I will not do that; instead, I will refer to a couple of sentences because I still think it is important. The New South Wales Greens Parliamentary Report June to August 2001 authored by one of our members there, Lee Rhiannon, in relation to the Workers Compensation Amendment Bill (No. 2) states:

> Workers compensation was a hot issue both inside and outside parliament throughout June. An unprecedented protest outside the NSW parliament against the Labor government's workers compensation package reflected the depth of anger over this important issue. A picket line, organised by the NSW Labor Council, attracted thousands of unionists and people concerned to protect the rights of injured workers. Passions ran high at the protest reflecting people's concern that the fundamental right of compensating employees injured at work was being dismantled. Lee [Rhiannon] and Ian [Cohen] spoke on a number of occasions on the picket line to inform protesters of The Greens' support for a strong workers compensation scheme and about negotiations concerning the government's legislation. When the legislation did come before the Upper House, we worked closely with a number of unions and developed and introduced 118 amendments. Most of these were defeated by the combined forces of the Labor Party and the Coalition.

I guess what that says is that there is nothing new under the sun. I think we can now see what is happening to Labor in New South Wales and I think that has to be sending alarm bells to Labor here in South Australia not to end up down the same slippery slope to irrelevance as far as working people are concerned.

One of the important things, I think, when someone is taking an oppositional view to government legislation is to propose what some of the alternatives might be. Clearly, we will go through that in detail in the committee stage but, for starters, I will refer to the Greens' five-point plan for dealing with WorkCover's unfunded liability. The first of those points is to ensure safer workplaces to stop injuries occurring in the first place, and that is because there are still far too many serious work-related injuries in South Australia. Clearly, when we look at the unfunded liability—that simple formula of money in, money out—if fewer people are being injured at work, fewer people are claiming on the system. So, what better way is there to reduce the unfunded liability? I do not think anyone disagrees with that as a proposition. Of course, that is what we all want to happen. The question for us is whether this bill delivers that outcome.

The second point of the Greens' five-point plan is that we need to reform WorkCover management, including the rehabilitation and claims management. It is important that we do that so that we do not blame sick and injured workers for poor management by WorkCover and its claims managers. We need to get workers back to work faster, we need more funding for retraining of injured workers, and we need a better system for ensuring a safe return to work.

The third point of the Greens' five-point plan is to reintroduce the right to sue under common law to provide incentives for employers to fix dangerous workplaces. As I have said before, they do it in every other state so why can we not do it?

The Hon. B.V. Finnigan interjecting:

The Hon. M. PARNELL: The Hon. Bernard Finnigan says that this is the lawyer speaking, as if my position on WorkCover is somehow based on a desire, perhaps post parliament, to enter the lucrative field of WorkCover litigation. I can tell the honourable member that there is nothing further from my mind. What I am interested in is enabling those workers whose injuries are the result of the negligence of their employers to get decent compensation that reflects the blame that lies with those who were negligent.

The fourth point of the Greens' five-point plan is that we need a better and more equitable system of offering long-term injured workers lump-sum payouts. If there is no chance to return to work, let us give injured workers a better chance to get on with their life.

The fifth point of our five-point plan is no levy reduction for employers until the scheme is financially secure. I have said it before so I will not go into all the reasons, but cutting workers' entitlements at the same time as reducing the WorkCover levy is a direct transfer of wealth from working people to employers. I cannot for the life of me see why the government thought that would be palatable to the community, let alone it being a gross injustice delivered to injured workers.

I think it helps to look a little at the history of WorkCover in order to determine the lessons for today that come out of that, but I will spare the council a detailed history lesson and will just

make a couple of points. One of the reasons my contribution is as long as it is is because I think all this material, including historical material, helps us understand what is happening today—and I would like to put on record my thanks to Dr Zoë Gill of the Parliamentary Library who prepared an excellent summary of the history of WorkCover as well as an excellent summary of the various stakeholder positions.

All members have that material, so I do not need to read it into *Hansard*. I would also like to urge members who do want to learn from history (so that we do not repeat the mistakes of history) to go to the 2005 Statutory Authorities Review Committee report into WorkCover, because there is also a very comprehensive history of the WorkCover scheme in that. It does help a little to cut to the chase if members do their own basic historical research.

One feature that no member can fail to appreciate is that we have had an extraordinary number of reviews and inquiries into WorkCover in our recent history since this government came to power. In particular, in May 2002 we had the establishment of the Occupational Safety, Rehabilitation and Compensation Committee. In 2002 we also had the Stanley review, and the member for Mitchell, to whom I have referred before, in commenting on that review in March last year, said:

> ...the government has done practically nothing to implement the many recommendations to make the system more rational and fair as His Honour Judge Stanley recommended.

One of the most galling things about this legislation is that we have put WorkCover under the microscope a number of times in a number of different forums but the government has ignored many of the recommendations that have come out of that system. When it does finally come up with a solution, it is one that is not based on consultation: it is one that is pushed through without talking to the stakeholders. In 2003-04 the Occupational Safety, Rehabilitation and Compensation Committee produced three reports regarding a review of the Statutes Amendment (WorkCover Governance Reform) Bill. History shows that that bill went absolutely nowhere.

In 2004, WorkCover commissioned the Mountford McEwan review—and I will refer briefly to that shortly. In 2005, the Statutory Authorities Review Committee inquired into the WorkCover Corporation in South Australia and tabled its 40th report. I think that we need to have a close look at the lessons from that report as well, and I will do that a little later in my contribution.

In 2006 we had the WorkCover review when, in fact, WorkCover undertook a review into itself. That, effectively, went nowhere, as well. That brings us up to the review that most people are talking about in connection with this legislation, and that is the 2007 Clayton and Walsh review. In 2007, minister Wright announced a review into WorkCover to be conducted by two workers' compensation experts: Alan Clayton and John Walsh.

The review was due on 30 November 2007 but we did not see it until 26 February 2008. Given the complexity of this issue, the variety of contentious stakeholder positions, the fact that we have had that for only a couple of months says something about the haste with which the government is pursuing this legislation. There has been no reasonable time to fully consider the implications of that report. What we have by this government, once again, is an attempt to get agreement by attrition and lack of consultation. I think that is a disgraceful way to behave.

I was going to talk a little more about the Mountford McEwan review, and some other reviews as well, but I will not. However, the take-home message from all those reviews is that, throughout its history, WorkCover is a highly-contested field of debate, and that is why more scrutiny, rather than less, and more debate, rather than less, is appropriate.

The bluster and debate in relation to the current bill has reached a most unusual position—I am trying to be very polite with my words—in the response of the Leader of the Opposition to this legislation. Most of us were quite dismayed at the way the alternative premier handled this situation in the lower house. What the member for Waite (Mr Hamilton-Smith) said was:

> This bill is so fundamentally flawed that a swag of amendments would do nothing more than shift the responsibility for this ugly mess from the government to others.

That was the Leader of the Opposition's rationale or excuse for not even trying to fix up this legislation. I disagree with the Leader of the Opposition. I think that a swag of amendments is the only way that we can attempt to fix, as he describes it, 'this ugly mess'. The Leader of the Opposition said:

> ...we will allow the government's bill to proceed without amendment. The Labor government is incapable of running our WorkCover scheme competently. So workers are to suffer and small business is to suffer.

As a legislator, I just do not understand why it is appropriate for the alternative government not even to consider amending this legislation when it was so outspoken in its condemnation of it. The member for Heysen in another place said:

> Now we find that their final solution to the problem is actually to decimate the entitlements of the workers, and then the weak-willed people on the other side want to turn around and say that it is somehow up to us to fix it for them. Well, no; it is the government's problem, it is the government's solution and they can wear it.

I do not understand why that is an appropriate response to this situation. It seems to me that in this place we have the tools, the wherewithal and the ability to go through this legislation clause by clause and make it better. No-one is saying that the current WorkCover system is perfect. I and my colleagues on the crossbenches will do opposition's role for it, and we will pursue this raft of amendments to make this deplorable legislation better. Mrs Redmond (member for Heysen) said:

> As part of my answer to the member for Enfield's question, 'Why aren't we fixing it?', I will tell you why I do not want to fix it personally: I do not consider that there is any benefit for me in fixing the workers' rights when the Labor Party will not.

I must have missed something, because I cannot see how anyone can think that fixing workers compensation is something that we do because it benefits us politically or as members of parliament: we do it because it is the right thing to do. We do it because, if we do not, no-one else can. That is why we do it. It has nothing to do with obtaining personal benefit. The member went on to say:

> ...no matter what the Labor Party does, Unions SA is still going to fund it at the next election, and therefore what motive would I have for trying to fix something for the workers?

Now we are getting a little closer to the truth and coming back to familiarity breeding contempt, which we heard in the Premier's remark that there is no alternative for working people

I think that what this debate has shown, and what the past couple of weeks of rallies have shown, is that working people do have somewhere else they can go: they have come to the upper house, and they are looking at the Greens and the Independent members, such as the Hon. Ann Bressington and the Hon. John Darley; and Family First and the Democrats are on the record as saying that they do not like this legislation. Working people are looking to all six crossbench members. There is an alternative, and I think the Labor Party ignores that at its peril. The member for Frome said:

> ...I apologise to those who would love the opposition to heavily amend or defeat this legislation. The government has created a situation, through its own denial...

So, the Liberals are apologising for not doing the job of an opposition in parliament. I have said that the Greens and my colleagues on the crossbenches are happy to step into the breach.

The PRESIDENT: Order! I remind the honourable member that this is not a political campaign speech.

The Hon. M. PARNELL: Thank you for your guidance, Mr President. I will not labour the point any further, as I think that all members present understand where I am going with it. Certainly, crossbench members have fewer resources than Her Majesty's Loyal Opposition. We have to consider the whole of the government's legislative agenda. I often tell people who ask what my role is that I am the Greens shadow minister for mining, fishing, farming, planning, education, health, WorkCover and serious and organised crime. We have to deal with the whole of the government's agenda. It is a big imposition for the Liberal Party to put onto us the job of trying to fix this legislation.

I read earlier a quote from the Premier when he was in opposition in relation to the 1995 WorkCover campaign, and I think it is worth having a closer look at that campaign. It is interesting to note the comments by Premier Rann (then leader of the opposition) in 1995 when the Liberal Brown government tried to attack injured workers. I refer, in particular, to a press release put out by the then opposition leader Mr Rann entitled 'Liberals must recognise the human cost of their WorkCover cuts'. If one compares the changes that the Liberals were trying to carry out then to the changes that the Labor Party is now proposing, one could argue that the Liberal Party was offering workers a much better deal in some ways. In 1995 the Premier said:

> The Liberals' WorkCover laws would force these people [injured workers] onto pensions—a situation that would see them lose their homes.

That is the exactly the situation we are now facing; that is what the unions are telling me and it is what injured workers are telling me they most fear about these changes.

The campaign in 1995 is informative for the decisions we have to make today about the WorkCover bill. I refer, briefly, to an *Australian* newspaper article of 9 January 1995, under the heading 'Brown faces tough test on WorkCover reforms'. The article by John Kerin states:

> The South Australian Brown Government faces its toughest legislative test with opposition mounting to a crucial bid to reform the state's WorkCover scheme. The state's peak union—the United Trades and Labor Council—warned in December that it would consider statewide industrial action over the issue, while the opposition has now also pledged to block key amendments when the bill is debated after parliament resumes on February 7.

It should be a case of changing around the names of the parties, but the difference here is that we do not see the opposition pledging to block the legislation or move any amendments. The article continues:

> The opposition industrial affairs spokesman Mr Ralph Clarke claimed the changes proposed by the government would destroy rather than reform WorkCover. It is hard to imagine how anyone could draft a more vicious and uncaring piece of legislation.

He is no longer a member of parliament. He said back then that it would be hard to imagine. We do not have to imagine it now: it is a reality and it is before us. Mr Clarke continued:

> Every clause is unacceptable in its current form.

However, the acting minister for industrial affairs, Mr Oswald, said the opposition had lost 'sight of the facts'. He said that the reforms were necessary to protect the very viability of the scheme, given that its unfunded liability had blown out to $111 million in the past financial year. He said that the opposition was part of a blatant and expected scaremongering campaign in the lead-up to the parliamentary debate. That is precisely what the Labor government has accused me, my crossbench colleagues and the unions of, as well.

I am indebted to a number of active Labor campaigners for hanging on to some of the old material from the 1994-95 campaign. One document forwarded to me is of particular interest—and it will be of particular interest to the Hon. Bernard Finnigan. It is a members' newsletter from the Shop Distributive and Allied Employees Association (SA Branch). The front cover of this newsletter contains a picture of a younger Don Farrell. He is standing in front of a billboard that was funded by the union. There is a picture of an injured worker on the billboard and the caption is: 'Pray you're not hurt at work under the new WorkCover laws'.

The headline item from the SDA members' newsletter is: 'SDA campaigns against attacks on injured workers'. I will not read the whole of that newsletter, but I will refer to a couple of the salient points. Under the heading, 'Hands off WorkCover', the newsletter goes on to say:

> It does not pay to be a sick or injured worker under the Brown Liberal government and your union is taking every step it can to increase awareness of the planned changes to WorkCover legislation. According to the SDA State Secretary, Don Farrell, the proposed WorkCover changes not only take away an injured person's right to choose their own doctor, they remove incentives for employers to provide safe work places. The SDA is committed to reducing WorkCover costs by providing safe work places. Prevention of work place injuries should be a high priority and those with injuries should be rehabilitated, not abandoned by a new system.
>
> The SDA supports calls to reject the Liberal government's WorkCover bill and the proposed privatisations of WorkCover claims management. Don Farrell said that a tax on weekly benefits—currently 100 per cent of average weekly earnings for the first 12 months and 80 per cent thereafter—are forecast. These benefits may drop as low as 60 per cent after a short period of time. He said the appeals tribunal had already lost one of its four judges, with the result that workers involved in appeals to the tribunal will now wait well over a year just to get a hearing, let alone a decision. The review panel has not been expanded and there are indications that its role will come under attack, threatening workers access to a fair and independent adjudicator.
>
> Your union is making every effort to offset these threats by bringing awareness to members, participating in the WorkCover rally, lobbying the Democrats and expressing its concerns via submissions and a petition to the government, Don Farrell said. Don Farrell stated that the cost to the community is not only demonstrated in terms of emotional and social destruction wrought on victims and their families, although this was sufficient in itself to move the community to action.

The newsletter goes on. That was Mr Farrell's view 10 years ago. I would love to see a reprint of this newsletter. The plates probably still exist at a printer somewhere. It should not be hard to do. Only a couple of names need to changed and we could have the SDA back on this campaign. The question I will leave for the chamber is: where is that particular union and where is Mr Farrell in this debate today?

Another one of the brochures under the heading 'Just imagine Mr Brown' has a picture of our former premier standing there with little arrows pointing to various parts of his body: 'stress', with an arrow pointing to his head; 'respiratory illness', the chest; 'lower back injury'; and 'repetition

strain injury', with an arrow pointing to his hands. I will refer to a couple of sentences from the brochure. In part, the brochure states:

> Work injury happens all the time. It can and does happen to anybody. Repairing the hurt is not cheap but it is uncaring and irresponsible to throw people on the scrap heap. That's what your proposed radical WorkCover changes would do. Mr Brown, you cannot know just how bad it is to be an injured worker, to be forgotten, to be too expensive, to be uncertain of whether your career will ever get back on track or whether you can meet your mortgage, to be called a WorkCover bludger. When the Brown government says, 'We cannot afford WorkCover', it is saying 'Injured workers must pay'. They already pay. Problems in WorkCover can be fixed by preventing injury and illness, not slashing benefits and rights.

This is an advertisement, but there is an invitation in this advertisement to attend a rally on the steps of Parliament House. A large number of community groups have offered their support. Some of them are unions, some of them are ethnic groups, such as the Ethnic Communities Council, the Greek Welfare Council, there are student groups and a range of other professional bodies as well.

Another campaign pamphlet was put out at the time. I will not read all of it, because I think that members get the idea, but basically we are having a rerun of that campaign. The only difference is that the parties' names are different and we do not have an opposition standing up as we did back then. Under the heading 'Who's being responsible, Mr Ingerson?' the brochure states:

> The current argument in parliament about workers compensation is not really about fiddling with some minor technical changes to the compo system. It is about money: taxpayers' money. Instead of maintaining a system that makes employers with unsafe workplaces pay the costs, the Brown government is taking the easy option and dumping the problem onto the Commonwealth government's lap. Under the new arrangements long-term injured workers will have little choice but to take Commonwealth government pensions; and who pays for that? The taxpayer; you and me.

I will not read the rest of that. Similarly, I do not need to go through in great detail the UTLC media release of the day, but it focuses on that same theme, the fact that taxpayers will be footing the bill for South Australia's WorkCover injuries. The call of the unions then was the same as the call of the unions now. They say:

> We are calling on the ALP and the Australian Democrats—

who were the only crossbench members back then—

> in the Legislative Council to vote out these new and draconian measures when parliament resumes on 4 April.

We will be going to a vote at some stage in the not too distant future on this legislation and I can tell you that, unless the government sees reason and supports the amendments that I will be putting forward, we will have no alternative but to throw the whole package out.

The rest of my notes regarding that old campaign consist of newspaper articles, the thrust of which is that the campaign was regarded as a major victory for employees. The opposition and the crossbench eventually combined to defeat the worst aspects of the bill, and we could be doing that now. We could have the crossbenchers and the opposition combining to defeat the worst aspects of this bill. Because we members in the Legislative Council take our role seriously, we would be doing so with the aim of meeting the government's objectives, or at least the main government objective—getting injured workers back to work, reducing the unfunded liability and when that has happened, but only when that has happened, reducing the burden of WorkCover levies on employers.

We can do all those things and I am terribly disappointed that I do not have the opportunity to work with the opposition to do this job properly. Unless the government changes its views, we will see a very similar situation to what happened in the lower house, which is that all the amendments put up by the member for Mitchell were defeated. Some of those amendments, it would be correct to say, fundamentally went to the heart of the bill and I can understand why a government that thought that it had the right bill would be against them, but others were practical, sensible measures to fix up problems with the legislation, and my amendments will fall into those categories as well. There will be some that are fundamental that go to questions such as the step-downs in relation to injured workers' entitlements, but others are more of a housekeeping exercise, to actually reform the system, make it more efficient and help it to achieve its objectives.

In the interests of keeping the debate moving, as I said, I have taken a red pen to some of my comments so I will not go through all the material I had, but I would like to go to one important point which I think touches at the heart of the credibility of the Labor Party on this issue, and that is the interview that the President of SA Unions, Nick Thredgold, gave to ABC Radio earlier this year. He was pressed by the journalists about whether he thought cuts to workers' entitlements were on

the cards. Was it going to happen, did he think? And he talked about conversations that he had had with the government and, referring to the relevant minister, minister Wright, he said:

> This minister is a man of his word and he has reassured the union movement that there will be no cuts to benefits.

That is one of those quotes that I think will go down in infamy. We have also seen some similar claims by an ex-WorkCover board member, Les Birch, that Labor has also reneged on undertakings that it has given to unions. With the permission of the council, I will read some of this, although not all of it because I have crossed out great chunks. It is an email that says it has been prepared and issued by Les Birch, a workers compensation advocate who has been employed for the last 14 years by the Construction, Forestry, Mining and Energy Union (Forestry and Furnishing Trades Division). Les has been actively involved in workers compensation since 1979, and from April 1987 to June 1994 was a WorkCover Board member. This email was posted on a website called workcovergonebad.com.au—and the title is a story in itself. He says:

> When Michael Wright was the opposition spokesperson for industrial relations and workers compensation prior to the election of the Australian Labor Party...to government in 2002, he was provided with an enormous amount of information from people inside the trade union movement and within the WorkCover Corporation that clearly showed that the scheme was on a downward slide as a consequence of political decisions that had been taken by the Liberal state government and the leadership of the corporation.
>
> In 2000-01 the WorkCover board and the CEO of the WorkCover Corporation decided not only to reduce the levy rate but also to provide a rebate to employers throughout South Australia. In 2000 and 2001 Michael Wright attended at least three meetings at the [UTLC] office on South Terrace...On one occasion the opposition leader, Mike Rann, accompanied Michael Wright. On each occasion Michael Wright gave an absolute assurance that on election of the ALP to government the Workers Rehabilitation and Compensation Act would be improved to benefit injured workers.
>
> On one occasion Michael Wright stated that should the ALP be elected in 2002 he would have a review conducted of the workers compensation scheme within six weeks after being elected and the findings would be introduced through legislative change. The trade union representatives involved in workers compensation at the time felt that the time frame was ambitious but the commitment was welcomed.
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> On being elected, minister Wright established the Stanley review, and the findings were handed down in mid-2002. However, it was not until 20 December 2002 that minister Wright officially released the findings. They have gathered dust ever since. Minister Wright is to be condemned for his failure to honour his commitment to the trade union movement and his lack of responsibility in addressing the leadership and management problems within the WorkCover Corporation.
>
> Approximately 18 months ago, the Treasurer Kevin Foley (supported by representatives of the business sector) stated that there was a problem with WorkCover and that it would be fixed. Treasurer Foley and the chairperson of the WorkCover Board, Bruce Carter, decided that the board would put up recommendations to the government to change the WorkCover legislation.
>
> The recommendations that were put forward were extremely draconian. However, Bruce Carter and the majority of the WorkCover Board were so confident that the recommendations that they had put to the government would be introduced that the WorkCover management established a unit within the WorkCover Corporation specifically to assist the government in drafting the necessary legislative changes. In mid 2007 I and another union official were invited to minister Wright's office to discuss our concerns that the corporation was outsourcing their responsibilities under section 58B and 58C of the act to Employers Mutual which was like putting Dracula in charge of the blood bank. The minister stated that he shared our concerns but was powerless to do anything about it as it was a WorkCover board decision. During our discussion I raised with minister Wright the trade union movement's concerns that the corporation was working on amendments to the legislation that were draconian.
>
> He gave his undertaking that, while he was the minister responsible for workers compensation in South Australia, he would not introduce legislation that was detrimental to injured workers. History has now shown that minister Wright has reneged on that undertaking just as he reneged on his promise in relation to the Stanley review in 2002. Minister Wright, however, is not the primary architect behind the proposed legislation [it is now the bill we are discussing] that will have dramatic adverse effects on injured workers in this state.

The Hon. A. BRESSINGTON: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. M. PARNELL: I will continue where I left off. In relation to the Treasurer, Mr Les Birch said:

> This is the man that masquerades as a Laborite but in reality is more conservative than his counterparts in the Liberal Party. This is the man who got it wrong in the Nicole Cornes saga, the Port Adelaide bridges and the Victoria Park corporate grandstand, and he considers South Australians as whingers.

I will not go through the rest of his criticisms of the Treasurer.

The Hon. P. Holloway interjecting:

The Hon. M. PARNELL: No.

The Hon. T.J. Stephens: Start again; I missed it.

The Hon. M. PARNELL: No, I will not start again. I am determined to keep to relevance. There are whole aspects of Les's report that I will not read. I do not need to go through every word.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: The honourable member says that he is glad I am keeping it brief.

The ACTING PRESIDENT (Hon. I.K. Hunter): The honourable member is not only out of order: he is also out of his seat.

The Hon. M. PARNELL: I will reflect on the fact that people are no doubt tired. People are no doubt thinking, 'This is going on for a long time.' But what I say to people is that, if we are talking about, over time, cutting $1 billion from injured workers, feel free to criticise me for speaking for one day and for taking up, as I have, most of today on this important topic. I would like to move on to a new point. I want to talk about some of the consultation in relation to this legislation. I have pointed out the unions' position. They have made it very clear that they were not properly consulted.

However, I think there are parallels here between the Premier and WorkCover and former prime minister John Howard in relation to his WorkChoices. The parallel is that, the more people learn about these attacks on working families, the angrier they will be. That is why, as the union campaign gains momentum and as information slowly gets out there in the community, as it necessarily does, the angrier people are.

In the industrial relations area, the Rann government has passed two major pieces of legislation since coming to office: the fair work bill and the safe work bill. Both bills went through the same process. There was a report, there was public consultation on the report, there was a draft bill for public consultation and then the bill was introduced into parliament. That is the proper process for important legislation such as this. However, we have not gone down that path, because this time Premier Rann knows that he needs to get this off the news cycle. He needs to get it off the agenda before too many people see what it is really about.

As well as the unions that were not consulted, other people are complaining to me (and to my crossbench colleagues, no doubt, because we are the only ones who are listening to them) that they have not been involved in negotiations on an issue that affects them fundamentally: the self-insured employers are very unhappy that they have not been properly consulted; the workers themselves, and especially those workers who are already on WorkCover; the Injured Workers Support Group; the Work Injured Resource Connection Inc.; the Working Women's Centre; and the Injured and Disabled Workers Support Group. There are many others, but I will not go through all of them.

Another group is the Australian Lawyers Alliance. That group, in particular, has gone to great lengths to let us know, as members of the Legislative Council, what it sees is wrong with this legislation. Most of us (or, at least, those on the crossbenches) would have received a letter from Tony Kerin, the South Australian President. I will not read the whole of his letter, but he describes the Australian Lawyers Alliance and its commitment to the protection of individual rights, and he goes into some analysis about why the process has been so poor.

The association acknowledged that it made a lengthy submission to Clayton and Walsh, but it noted that very little comment or reference was made in the report to its submission, and ditto for the Law Society. It also noted that no-one with extensive legal training sat on the review committee.

The ALA commended Clayton and Walsh for their efforts and expertise but made the point that it is not the be-all and end-all of the debate. It said that the government commissioned that report, and what does it do now? It ignores the report. There is precedent for that. Judge Stanley's report still sits on the shelf somewhere in the Parliamentary Library, I am sure. The letter states:

> The ALA's view is that it is never too late to agitate an issue, despite the fact that the state government would appear to have confirmed its position in recent days in relation to the bill.

Attached to the letter is a PowerPoint presentation from an expert in the field, Mr Simon Morrison, a former national president of the Australian Lawyers Alliance, who gave a briefing to some members of parliament on 1 April 2008. I am very disappointed that not more of my Legislative Council colleagues attended that briefing. Unfortunately, I do not think that a PowerPoint presentation falls

into the category of documents that can be incorporated into *Hansard*. Perhaps with technological advances in the future we will be able to incorporate PowerPoint presentations.

The Hon. B.V. Finnigan interjecting:

The Hon. M. PARNELL: The Hon. Bernard Finnigan said, 'You can photocopy it.' It was photocopied. It has been circulated to all members of parliament. The Australian Lawyers Alliance thought that, on an issue as important as this, particularly given that the Labor Party would appear to be enacting a law that is directly contrary to its constituency, some thought may have been given to listening to an expert in the field. Mr Morrison's suggestions were plentiful. He said that the current bill will solve the long-term problem but cause great and unnecessary further damage to a number of already injured South Australians, and there are less draconian ways to solve the issues.

It is probably worth accepting that point: yes, you probably will fix the unfunded liability if you cut the entitlements of workers. Money in and money out. If you reduce the money out because you reduce the payments, that will probably do the job. But it does miss the point that the entire purpose of our workers compensation legislation is to compensate workers and to help them get back to work. The letter goes on to talk about Mr Morrison's submission, and states:

> He explores the common law, a redemption strategy and other solutions which explain a way forward without further damage to injured workers. It is of great concern to ALA that both of the major parties appear to agree with having the bill passed. You have not had to, as our members and unions have, field phone calls from WorkCover recipients who are anxious, emotionally distressed and, in some cases, psychiatrically disturbed as a result of the bill. It is frightening to think of their reaction if this bill becomes law. There are solutions to this problem other than that which has been adopted.
>
> It would have been good if parties could have put people beyond politics in this issue. This has much wider ramifications than the many thousands who are injured. Families will be destitute, injured workers will not go back to work, and the workers will be cut off the system with only Centrelink benefits. A number will lose their houses, homes will be destroyed, lives will be wrecked, suicides may, in fact, result. You need to ask who might be responsible for that happening. The answer is every member of parliament who votes for this bill, in our view. It is never too late. We would certainly ask that you all reconsider your positions regarding the bill. I look forward to receiving a call from any of you who have an inkling of statesmanship about them. This bill should not be about party politics. I await your contact should you care to discuss any aspect of the matter or the PowerPoint presentation.

That was Tony Kerin from the Australian Lawyers Alliance. I had an email today from another lawyer, who I think may be a member of this group. It was a very brief email, which was typed with some difficulty, with the lawyer in a neck brace. He had broken his neck in a mountain bike accident, and had turned up to work. I do not think that he was doing much client work, but he was keen to write to me and offer support and extra advice to try to advance this debate. That just shows the level of passion within the legal community.

I have talked a little about the reasons for rushing through this legislation but I have not talked about the pressure that both the major parties—the old parties—are under from Business SA. That is clearly a key feature of the debate so far, and I think it is very much at the heart of the Liberal position. Liberal members have been quite happy to see the Labor Party suffer under this legislation, but at the end of the day we know that they will vote for it because Business SA wants them to.

I now want to very briefly contrast the treatment that injured workers will suffer under this new legislation to the situation of those of us in parliament who might suffer the misfortune of a work-related injury, because I think it is a very useful comparison. Let us look at the benefits we will get if anything happens to us. The WorkCover scheme appears not to apply to members of parliament because we do not fit within the definition of employees or workers under the Workers Rehabilitation and Compensation Act 1986, although further legal advice should be sought on this matter; so, my advice is that we are probably not under it.

Instead, members of parliament are provided for under the Personal Accident Compensation Scheme policy and, in some instances, of permanent incapacity or invalidity under the Parliamentary Superannuation Act 1974. The Personal Accident Compensation Scheme for members of parliament is outlined in the members' handbook. In broad terms, the scheme policy covers any extra costs associated with an injury that are not covered by Medicare or a member's private health insurance and provides for lump sum payments in accordance with the WorkCover scheme; so, there is some connection.

The scheme also provides for payments for the injury or death of a family member where the government is satisfied that the person was injured or killed as a result of his or her relationship with a member in his or her official capacity. What a remarkable provision that is. On those rare

occasions when a member of my family might need to accompany me to an official work-related event, if something happens to them, they are covered as well. I wonder whether any other workers in South Australia with a spouse or children would have that benefit as well.

I will read a couple of sentences from the Personal Accident Compensation Scheme policy. It states:

> 1. The government carries its own risk in relation to the cover of members of parliament and will—
>
> (a) make lump sum payments and pay medical and other relevant expenses to—
>
> (i) Members who are caused personal injury or death arising out of any circumstances anywhere in the world.

Now, with WorkCover, when we get to the amendments we will be talking about journey claims; being injured going to work. I am covered, as are other honourable members, anywhere in the world. It is not just for when you are going to and from work. It continues:

> (ii) spouses and other adult members of the families of members of parliament, where the government is satisfied that the person was injured or killed as a result of his or her relationship with a member in his or her official capacity;
>
> (b) pay medical and other relevant expenses of minors where the government is satisfied that the minor was injured or killed as a result of his or her relationship with a member in his or her official capacity.
>
> 2. (a) lump sum payments and expenses payable under 1(a) above will be equivalent to those payable under the Workers Rehabilitation and Compensation Act...

So, there are links, in some circumstances, between the payments that we get. However, the circumstances in which we get them and their extension to members of our family who might be helping us with our work, I think, is far beyond what ordinary workers get.

There is a proviso, however, that medical expenses would normally be limited to the amount incurred in excess of the amount, if any, claimable under Medicare and any policy of medical insurance taken out by the family. I will not read the rest of that policy, but I can certainly provide members with a copy, in fact all members have it in their members' handbook.

I will say that the Personal Accident Compensation Scheme appears to be the result of a policy decision rather than being legislated, and as a result it could be changed at any time, compared with workers' rights, which are in legislation, and we cannot change those unless we do it through legislation. If we get it wrong in legislation then we get it wrong for the long term until, in fact, that legislation is amended.

I am advised that the clerks of both houses of this parliament have no record of workers' insurance for members of parliament before 1978, when an SGIC insurance policy was taken out in the name of the government to cover members of parliament of South Australia, although there is some anecdotal memory of a member receiving payments before that date. Since then the scheme has been revised a few times.

It is important to note that in 1986 the scheme changed to align with the structure and administrative procedure of the WorkCover scheme. I should also note that whilst people might think that that is close enough to WorkCover and maybe members of parliament are practising what they preach, what we have also got to look at is that we have additional benefits that relate to disability and injury through work, and that is through our parliamentary superannuation.

Whilst that does not technically count as workers compensation, it does provide for payments to permanently injured members who are unable to continue in their parliamentary business. I will not go through the different arrangements that apply. There are several different parliamentary superannuation schemes, but my recollection is that, if I am unable to continue my work as an MP, even though I might be able to do other work, from memory, I think it is five times salary as a lump sum, and then I can go on and do other work.

So, it is a very generous scheme. I hope I never have to take advantage of it and I hope no other honourable members need to take advantage of it, but we have in place a very generous scheme. I think the take-home message from that is that complaints of double standards will be difficult to bat off if we are not going to apply to ourselves exactly the same standards that apply to other workers.

I now want to go on to a new area relating to the government's claims that, with this legislation, we will still have the fairest system in the country. That is an easy claim to make, but it is wrong, and I think it is important that I put on the record why we will not have the fairest system

once this act goes through. The Premier's WorkCover plan through this legislation, I think, says quite clearly that South Australian workers will not be worth as much as other Australians, and I think that is the bottom line.

Under this plan, recklessly or negligently injuring South Australians is at a discount. There are a number of ways that this plan short-changes South Australians compared to workers interstate. In every other state, workers have civil rights when they are badly hurt by serious employer negligence. We have talked about common law before; this bill bans workers' civil rights to take action. That is something that we want to try to get back into this legislation. I have mentioned before that, with some minor tweaks, this really is the Victorian legislation and that, in Victoria, 28 per cent of payments were due to serious employer negligence, civil rights.

We have to ask ourselves, and I ask the government: what makes up for that 28 per cent that the Victorian workers have that we do not have in South Australia? That is a gap that is undeniable, given the compensation figures that come from Victoria. It is true that the bill before us has slightly better step-down rules than the Victorian legislation, and the bill has a higher prescribed sum for lump sum payments than in Victoria, but it has been suggested to me that, at best, those areas where our system is better make up for about 8 per cent. So, that still leaves our injured workers 20 per cent worse off than Victorian workers.

The claim that our scheme will be the fairest in Australia, as I have said, has been at the centre of the government's campaign to sell this. It was the key feature of the Premier's ministerial statement to the parliament on 26 February and it featured very prominently in the minister's second reading explanation on 28 February. The fullest expression of the government's view and that of the WorkCover Board is probably that which was set out in an article included in the April edition of WorkCover's *Newslink* publication and that article was titled 'The fairest and most generous scheme'. I will quote a couple of sentences from that article, as follows:

> South Australia's workers compensation scheme is an essential safety net for injured workers and remains, as it was in 1987 when it was established, one of the state's most significant initiatives to benefit the community. Coinciding with 20 years of operation of the scheme, an independent review has been undertaken reassessing the fundamental structure of the scheme for the first time since inception, despite South Australia's changing social and economic environment. The outcomes of the review, and the proposed legislation, will maintain the South Australian scheme as the fairest workers compensation scheme in the nation.

This is WorkCover telling the readers of its newsletter. When we examine the article's treatment of weekly payments we find that it contains the following statements:

> Weekly payments are the compensation payments made to injured workers while they are unable to return to work (essentially, income replacement). For seriously injured workers, weekly payments can be paid until retirement. A significant proportion of injuries for which workers compensation is claimed are usually expected to heal within 12 weeks. The government has proposed that weekly payments be paid at a rate equal to the worker's wage for 13 weeks (i.e., 100 per cent).

This would ensure that there is full or near full coverage of the majority of workers' wages during the entire period of their claim. The article continues:

> At 13 weeks there is a reduction in payments to 90% (a step-down), which is followed by a further step-down to 80% at 26 weeks, in line with the reduction that already occurs in South Australia for longer-term claims (ie, claims of a duration of one year or more)...
>
> The existing cap on the maximum weekly amount payable to injured workers (of $2,159.20 indexed) has been retained at the current level of twice the State average weekly earnings, higher than other comparable schemes.

Under the heading of Work Capacity Reviews, the article goes on:

> The South Australian workers compensation system was designed to provide rehabilitation support and fair compensation in the short term for all injured workers, and adequate ongoing compensation and support to the most seriously injured. It was not intended to provide ongoing compensation for less seriously injured workers who could return to work.

The article states that the proposed legislation aims to strengthen the test, called the work capacity review, that determines whether an injured worker is entitled to ongoing compensation beyond 130 weeks or 2½ years. The article goes on:

> The Victorian model, which would be adopted under this amending legislation, creates an effective test to determine which workers have work capacity and which don't. This test is called a work capacity review. Under the proposed legislation, only those injured workers who have capacity to return to work, but who have failed to do so, have no ongoing entitlement to weekly payments. Those injured workers who have no capacity for work will continue to be sponsored by the scheme. Those injured workers who have returned to work to the extent of their capacity will also continue to receive 'top up' payments until they can fully return to work. This proposal has been assessed as having the most significant impact on the SA scheme's liabilities.

This WorkCover article provides a comparison that considers the timing and the level of step-downs in the weekly payments between the Victorian and the New South Wales scheme and the proposed South Australian changes. These comparisons are set out in a table. I seek leave to have the statistical table incorporated in *Hansard* without my reading it.

Leave granted.

Comparison of Timing and Level of Step-downs			
Period	SA (Proposed)	Vic	NSW
0-13 weeks	100% ($2,159 max)	95% ($1,210 max)	100% ($1,536)
13-26 weeks	90% ($1,943 max)	75% ($1,210 max)	100% ($1,5636 max)
26-52 weeks	80% ($1,727 max)	75% ($1,210 max)	90% ($348 max)
52+ weeks	80% ($1,727 max)	75% ($1,210 max)	90% ($348 max)

The Hon. M. PARNELL: I will not read every figure in this table, but what it shows in the three columns is the proposed South Australian regime, the Victorian regime and the New South Wales regime, and the level of payments for the periods up to 13 weeks, 13 to 26 weeks, 26 to 52 weeks and then over 52 weeks.

The Hon. M. PARNELL: I will not read every figure in this table, but what it shows in the three columns is the proposed South Australian regime, the Victorian regime and the New South Wales regime, and the level of payments for the periods up to 13 weeks, 13 to 26 weeks, 26 to 52 weeks and then over 52 weeks.

Putting aside any calculation mistakes that will arise from the overlapping of the different periods contained in the WorkCover comparison table, three fundamental errors remain. The first concerns the comparison with the New South Wales scheme. In what should be the 14 to 26 week period, New South Wales workers with pre-injury award or related earnings of $1,536 or less would be better off than their South Australian counterparts.

It should also be noted that, during the 27 to 52 week period, injured workers in New South Wales may be eligible to payments greater than the maximum of $348 a week—which is referred to in the table—if they have a dependent spouse or dependent children.

In situations where an injured worker has, for example, two dependent children and a dependent spouse, he or she would be entitled to weekly payments of $585. Similarly in the case of an injured worker with three dependent children, he or she would be entitled to $591 a week. This means that they would be better off than South Australian workers with pre-injury earnings less than $730 week and off work between 27 and 52 weeks. It is important to note that, as low paid workers make up a substantial proportion of injured workers, this is an important consideration when we make these interstate comparisons.

The second problem with the WorkCover comparisons is that they are confined to only two other jurisdiction, that is, jurisdictions that both WorkCover and the government have selectively chosen in order to boost their case. Even so, as I have indicated, many lower paid injured workers in New South Wales would still be better off than their South Australian counterparts if this legislation is passed. If payments to injured workers in other jurisdictions, including Queensland and Tasmania, are included, it becomes apparent that South Australian workers will, in many circumstances, be worse off by comparison, courtesy of this government's legislation.

In Queensland, workers covered by an award or other industrial instrument are entitled to weekly payments that are 100 per cent of the pre-injury earnings for the first 26 weeks of incapacity, whereas in South Australia payments will be cut to 90 per cent after 13 weeks. In Tasmania, weekly payments are set at 100 per cent of pre-injury earnings for the first 13 weeks of incapacity; 85 per cent from 14 to 78 weeks; and 80 per cent thereafter for another 7½ years. Other than for South Australian workers with no work capacity whatsoever, or those unable to return to work from 14 to 26 weeks, workers injured in Tasmania would receive higher levels of weekly payments. It is really important that we understand that the spin around this being the fairer system does not hold up to analysis when you go through the figures.

The third problem is that the WorkCover comparisons are based on 'point in time' comparisons. Although this approach is not without some value, a more useful approach is to

examine payments to injured workers over time as it more adequately captures the impact of step-downs on the amount of compensation received overall by injured workers. It also helps to consider the impact of weekly payment arrangements on workers with different pre-injury income levels as this assists in obtaining a better picture of the extent to which weekly payments compensate for the loss of pre-injury earnings.

I am indebted to the Public Service Association of South Australia for providing me with a table and associated commentary, which provides details on weekly payments for all Australian state and territory schemes, based on comparisons over time. I seek leave to have the statistical table incorporate in *Hansard* without my reading it.

Leave granted.

Weekly Payments Replacement Ratios										
Level of pre-injury income	NSW	Vic	QLD	WA	SA1	SA2	TAS	NT	ACT	Aus Gov
13 Weeks of Incapacity										
Low Income	100	95	100	100	100	100	100	100	100	100
Middle Income	80	95	85	100	100	100	100	100	100	100
26 Weeks of Incapacity										
Low Income	100	85	100	100	100	95	93	100	100	100
Middle Income	80	85	85	93	100	95	93	100	100	100
52 Weeks of Incapacity										
Low Income	100	80	100	100	100	88	89	95	97	99
Middle Income	69	80	80	89	100	88	89	89	83	97
104 Weeks of Incapacity										
Low Income	100	78	100	100	90	84	87	93	95	94
Middle Income	63	78	73	87	90	84	87	83	74	86
120 Weeks of Incapacity										
Low Income	100	77	100	100	89	83	86	92	95	94
Middle Income	62	77	72	87	89	83	86	83	73	84

The Hon. M. PARNELL: For South Australia, two scenarios are included in this analysis. The first (SA1) is based on existing entitlements and the second (SA2) is based on those contained in the bill. The results that are presented in this table, other than for SA2, are derived from data that was published by the Workplace Relations Ministers Council in February 2008. So they are very current figures.

The table shows the earnings replacement ratios for two categories of injured workers during selected periods of incapacity for work. The earnings replacement ratio is defined as the percentage of earnings compensated for by weekly payments. The higher the ratio the more adequately injured workers are compensated. Conversely, a lower replacement ratio reflects a lower level of compensation. Injured workers with pre-injury earnings of $500 per week constitute the lower income category, while those on $1,000 per week make up the middle income group. These two income categories cover the overwhelming majority of injured workers in receipt of weekly payments.

In keeping with the approach adopted by the Workplace Relations Ministers Council, it is assumed that low-income workers are covered by industrial awards, while middle income earners are award free. This distinction is relevant because in some jurisdictions, such as New South Wales, Queensland and Western Australia, compensation in the case of work-related injury provides full earnings coverage for workers employed under awards. While the table does not

capture the full extent of differences in the adequacy of weekly payments available to injured workers between the state, territory and federal government schemes, it does enable indicative comparisons to be made. For the first 13 weeks, low income workers in all Australian jurisdictions, other than Victoria, have a replacement ratio of 100 per cent. With middle income workers, the replacement ratio is also 100 per cent in most jurisdictions. The only exceptions are Victoria, New South Wales and Queensland.

When we look at weekly payments at 26 weeks, we see that if the period of incapacity extends to 26 weeks, six jurisdictions (including South Australia) have a replacement ratio of 100 per cent for low income workers, followed by Tasmania with 93 per cent and Victoria with 85 per cent. In South Australia's case, the replacement ratio would fall to 95 per cent if the current bill is passed. For middle income workers only four jurisdictions, including South Australia, would maintain a replacement ratio of 100 per cent. These jurisdictions would be followed by Tasmania and Western Australia with a replacement ratio of 93 per cent, Victoria and Queensland with 85 per cent, and New South Wales with 80 per cent. Under the bill, the South Australian replacement ratio would fall to 95 per cent.

When the period of incapacity covers 52 weeks, low income workers would have a replacement ratio of 100 per cent in four jurisdictions—New South Wales, Queensland, Western Australia and South Australia—although in South Australia's case, it would fall to 88 per cent if the bill is passed. In the other jurisdictions, the replacement ratio would range from 99 per cent for Australian government workers to 80 per cent for those in Victoria. As to middle income workers off work for 12 months, South Australia at 100 per cent currently provides the highest replacement ratio, followed closely by the Australian government's ComCare scheme at 97 per cent, with New South Wales bringing up the rear on 69 per cent. However, if the bill is passed, the South Australian ratio would drop from first place to fifth place.

So, you can see that when you look properly at the figures, the myth of South Australian workers being better off under this scheme is seen to be just that—a myth. If low income workers are unable to return to work 104 weeks after injury, only Western Australia, New South Wales and Queensland provide a replacement ratio of 100 per cent, followed by the ACT, ComCare and the Northern Territory. The replacement ratio in South Australia is 90 per cent but would fall to 84 per cent if the bill is passed—the second lowest after Victoria at 78 per cent.

For middle income workers, South Australia's replacement ratio of 90 per cent is the highest, followed by Western Australia, Tasmania and ComCare. Once again, New South Wales has the lowest replacement ratio for middle income workers. If the bill is passed, South Australia's replacement ratio would fall to 84 per cent. At 120 weeks of incapacity, Western Australia, New South Wales and Queensland still have a 100 per cent replacement ratio for low income workers whereas South Australia at 89 per cent has the second lowest. In the case of middle income workers, South Australia has the highest replacement ratio, followed closely by Western Australia and Tasmania. However, if the bill is passed, the South Australian replacement ratio will fall to 83 per cent and slip below those of Tasmania and Western Australia.

If we keep going through this analysis and we go beyond 120 weeks of incapacity, or even earlier in some jurisdictions, the picture changes yet again. In several jurisdictions, including New South Wales, Victoria and the Northern Territory, deeming arrangements exist whereby weekly payments to injured workers can be discontinued by means of work capacity reviews. To date, the harshest approach has been adopted in Victoria where work capacity reviews are applied. All injured workers other than those who are deemed to be totally incapacitated have the payments dramatically reduced or terminated. This includes most workers with indisputably serious injuries. For the small minority deemed totally incapacitated, weekly payments continue, usually to retirement age.

In other jurisdictions such as Western Australia, Queensland and Tasmania, work capacity reviews are not used to terminate the entitlement of workers to weekly payments. In Western Australia and Queensland payments continue until a maximum prescribed sum is reached. In Western Australia the maximum is currently $152,070 while in Queensland it is $218,400. For low income Western Australian workers with an ongoing incapacity, this is equivalent to receiving weekly payments for a period of up to 304 weeks, while for middle income workers it would be a maximum of 152 weeks. In Queensland, eligibility for weekly payments extends for up to 435 weeks in the case of low income workers and 218 weeks in the case of middle income workers. Tasmanian workers' weekly payments may continue, irrespective of income levels, for up to 504 weeks.

At present, South Australian workers with an ongoing incapacity for work are usually entitled to continuing weekly payments. Consequently, weekly payments for this category of workers compare more than favourably with their counterparts in other jurisdictions; however, under the government's proposals this would cease to be the case. All but the most severely injured would have substantial reductions or discontinuation of weekly payments, and would be considerably worse off than their counterparts in Western Australia, Queensland and Tasmania.

Weekly payments for South Australian injured workers unable to return to work beyond 120 weeks compare favourably with workers with similar injuries in other jurisdictions. For low income workers unable to return to work at 120 weeks following injury, Western Australia, New South Wales and Queensland provide the highest replacement ratios. They are joined by South Australia, where the time off work is 52 weeks. For periods less than this, all but two of the state and territory schemes provide a replacement ratio of 100 per cent.

For middle income workers, South Australia currently has the highest replacement ratio over all five incapacity periods followed by ComCare, Western Australia and Tasmania, with New South Wales, Queensland and Victoria having the lowest. With the cuts proposed by this legislation, the position of most categories of injured workers in South Australia deteriorates, both in absolute terms and in comparison with interstate counterparts.

I now turn to a consideration of payment for non-economic loss. The WorkCover article referred to earlier also contains a number of statements and claims in relation to non-economic loss payments for personal injury or death. It states:

> All workers compensation schemes provide for one-off 'lump sum' payments to injured workers who have suffered permanent injury or illness, called non-economic loss. The lump sum payment is in addition to the weekly payments made to an injured worker. The proposed legislation aims to replicate the Victorian provisions for non-economic loss payments, but with a significant increase in the maximum amount payable to workers who suffer a permanent injury or illness—from the current SA maximum of $230,982 to $400,000...
>
> The introduction of a threshold for non-economic loss—5 per cent for physical injury, below which there is no entitlement to payment is also included. This means that those workers who suffer minor permanent injuries will be entitled to lesser or no payment for non-economic loss, but those workers who suffer a moderate to serious permanent injury will receive much more generous compensation. In addition, the Vic scheme's provisions for payments in the event of death—considered by the reviewer as the 'most comprehensive of any Australian jurisdiction'—are proposed with a maximum entitlement of $400,000.

In relation to non-economic loss for permanent injury, the government's proposal is, on paper, a significant increase. However, it is also apparent that the number of workers who will be eligible for the $400,000 maximum will be minuscule. Moreover, the government's proposed threshold will have the effect, year in year out, of denying hundreds of injured workers who would otherwise be entitled to lump sum payments for permanent impairment. Most significantly, the proposals currently in this bill are actually designed to cut the amount of compensation available for permanent injury—which is in line with the Clayton Walsh recommendations.

Claims surrounding the proposed increase in lump sum payments to the families of injured workers, in the event of death, are also misleading. While the Greens welcome the proposed increase in compensation to workers' families (where they are killed as a result of their employment), it should be noted that the scheme with the highest payment in this area is New South Wales—not Victoria or South Australia—where workers' families receive a lump sum of $425,000.

Any discussion on workers compensation entitlements also needs to consider the issue of common law—as I have said; that right for people to get more compensation by taking their negligent employers to court. All Australian states, except South Australia, provide workers with access in one form or another to common law damages where the injuries are the result of negligence by their employers. The importance of common law can be seen from another table that was provided to me by the Public Service Association, and I seek leave to have this additional table inserted in *Hansard* without my reading it.

Leave granted.

Common Law Payments 2006-07					
	NSW[1]	Vic	Qld	WA	Tas
Common Law Payments ($)	$190.0 million	$372.3 million	$270.3 million	$65.6 million	$5.2 million
Common Law	11.4	28.4	41.4	13.7	5.2

Payments (%)					

The latest NSW data is only available for 2005-06

The Hon. M. PARNELL: The first row of the table shows the amounts paid out by interstate schemes in common law damages. At the top end of the range is the Victorian WorkCover Authority, which paid out $372.3 million for common law claims in 2007; whereas, at the lower end, WorkCover Tasmania paid out only $5.2 million. The second row of the table presents common law damages as a proportion of total claims costs as an indicator that captures the overall significance of common law in each of the different schemes. The higher the proportion, the more crucial is the role of common law as a scheme-designed feature.

As will be apparent when members see the table, common law plays only a minor role in the Tasmanian scheme, a moderate role in the New South Wales and Western Australian schemes, and a prominent role in those of Queensland and Victoria. In policy terms, much of the current bill before the South Australian parliament, as I have said, is based on the 1992 Victorian legislation introduced by Jeff Kennett. This is in line with the views expressed by both the Clayton Walsh review and the Labor government here, that South Australia's WorkCover scheme needs to be realigned with its Victorian counterpart.

In doing so, however, the government has conspicuously avoided any overtures that would enable South Australian workers to seek damages where their injuries are attributable to the negligence of their employers. This only serves to further undermine any pretence that this legislation is concerned with fairness.

What are we to make of the government's claims that the WorkCover bill currently before this council will ensure that South Australian workers compensation schemes will remain the fairest in the country? I think it is clear that the detailed comparisons, which I have read out and which will appear in *Hansard* when the tables are published, show that we are not. What I say on behalf of the Greens is that we agree with the trade union movement and other community organisations whose views are adequately summarised, I think, in some comments from the Public Service Association. It states:

> When considered in context, claims by the Premier and his Minister for Industrial Relations, that the passage of Labor's workers compensation bill would leave South Australia's WorkCover scheme as the fairest in the country are untenable. These claims lack substance and they are not supported by the evidence. Such claims may be best regarded as a cynical exercise in political spin designed to obscure what, in reality, is a draconian assault on the entitlement of injured workers in this state.
>
> Instead of having arguably one of Australia's best schemes of weekly payments for injured workers, the government's legislation, if passed, would ensure that most South Australians seriously injured at work would have their payments dramatically reduced or discontinued should they have the misfortune of being unable to return to work within 130 weeks. The fact that all other this state workers compensation schemes in Australia provide injured workers with access to common law damages reinforces the lack of fairness that is at the heart of the government's bill. Instead of being one of the country's best schemes, WorkCover looks like it could end up as Clayton's scheme.

I think that that summarises why the scheme will not be the fairest scheme. In launching this attack on injured workers, I think that Premier Rann is doing his best to be a carbon copy of a Liberal. He is copying ex-prime minister Howard's attack on working families but, in the context of this bill, Premier Rann is paying tribute to ex-Victorian premier Jeff Kennett. He has taken Jeff Kennett's WorkCover legislation to the photocopier, run off a few copies and done a couple of quick edits and, here we are; we have the Jeff Kennett/Hon. Mike Rann WorkCover plan.

Of course, in Victoria, the Labor government there seems to have some Labor principles and some interest in what happens to the sick and injured and, in the context here, workers who are made sick or injured in trying to earn a living. In Victoria, on its election the Labor government reintroduced serious employer negligence rights. It changed the Kennett plan so that it delivered more for injured workers—but not here.

If you can bear with me for a couple of seconds, Mr President, I will take a sip of water. I think there may be some material I can defer to the committee stage.

The Hon. D.W. Ridgway: Drinking on the job.

The Hon. M. PARNELL: The Hon. David Ridgway says that I am drinking on the job.

An honourable member: Breath test him!

The Hon. M. PARNELL: I would be more than delighted to meet any member of the constabulary with a breath testing machine, as has been suggested, and breathe into it.

I want to make sure that I get onto the record what I promised to a large number of injured workers, that is, their stories of their experience with WorkCover, and I think that I can get to them fairly briefly. What I will leave to the committee stage is a consideration of the question of retrospectivity. It is an important issue, but we will deal with it in committee.

I have also received a large number of additional submissions in which people have said, 'Can you tell the parliament what we think about WorkCover?' and asked me to go through it all. I do not propose to do so. I want to acknowledge these submissions, but I will not read them all into *Hansard*.

The Local Government Association has written to me with a prepared a submission; in fact, it has faxed it to all honourable members and, as they have it available to them, I will not read it out. I have also received a submission from Mediation and Employment Relations Services, which raises an issue I have not yet mentioned (but perhaps we will get to it at the committee stage) concerning its frustration in dealing with the decision of the WorkCover board in 2004 to cease funding mediation services. It is keen to see those sensible improvements, as they see them, reintroduced.

I have received submissions (as perhaps other members have) from Group Training Australia (SA) Inc. It has written to me in relation to a concern about the impact of levies in respect of so-called third parties in particular, because the group training scheme is a complex arrangement that involves some direct employment and some indirect employment. We will agitate those issues when we get to the committee stage.

I have received a submission from Self-Insurers of South Australia. Its issue is fairly simple, but complex. It is unhappy at not having been consulted about the legislation, but it is not Robinson Crusoe there. It joins a long list of people who were not consulted. It is keen to see this legislation remove exit fees for people who want to be removed from the WorkCover scheme and go to a self-insurance scheme. That is its issue, which we will have to look at when we get to the committee stage.

One correspondent with whom we all are familiar is a frequent flyer when it comes to correspondence; he is one of the most prolific I have come across. Phil Moir has sent me many emails. I will not read them all because that would severely test the patience of this council. He has developed a couple of themes to which I would like to refer. His perspective was mentioned by the member for Morphett in the other place in his lengthy contribution on the bill. Phil Moir said:

> Bruce Carter and his WorkCover media liaison unit have consistently sought to reject claims that in early 2000 WorkCover developed a pilot policy of minimising the amount of redemptions paid, which had the effect of trapping more permanently injured workers on benefits, in turn creating the massive liability we now face. Bruce Carter's denials are despite the pilot strategy being openly discussed in some detail in the 2001-02 annual report. In that 2001-02 financial year management developed and piloted a strategy to proactively achieve higher return-to-work outcomes in the first six months of a claim, thereby reducing the emphasis on redemptions. The effect of non-redemption discontinuance was reflected in the actuary's assumptions for that year.

That is one of the themes that Phil Moir has raised; other correspondents have raised the appropriate role of redemptions in the scheme, as well. I will not go through all this, but certainly he is a person who has some in-depth knowledge as a result of his own experiences and his research into the WorkCover scheme. One of his pieces of correspondence states:

> The solution is equally simple. If WorkCover were to draw a line in the sand and assess as a capital loss on the 179 annually 36-month plus figure the liability would stop increasing immediately, but for the indexation on the $2.3 billion group. If they were also to take $500 million out of their $1.5 billion bank account, they could take the $2.3 billion outstanding claims liability down by at least a billion even more. It isn't rocket science: it is accounting. The trouble is that it has become a battle to defend [meaning WorkCover's poor decisions], well aware that admitting they got it wrong and ignoring the actuary in 2003 should cost them their jobs.

I will work on the assumption that most members have access to his correspondence, so I will not go into it.

I now want to touch briefly on the question of who are the claimants. Who is it we are talking about in terms of WorkCover? I refer members, who want a detailed analysis of which industries feature in WorkCover claims and the types of claims, to the Australian Safety and Compensation Council's 2006 report entitled 'Estimating the number of work-related traumatic industry fatalities in Australia 2003-04'.

To summarise that report, it will not surprise members to know that the people who work in industries involving physical work were at higher risk of experiencing a work-related injury. In 2005-06, the industries recording the highest injury rates were agriculture, forestry and fishing. Those groups represented 109 per 1,000 employed, so just over 10 per cent. Manufacturing represented 87 per 1,000 employed and construction, 86 per 1,000. These higher risk industries were typically male dominated.

As I have said, Industries with the highest work-related injury rates for men are agriculture, forestry and fishery, but then you also have personal and other services at 101 per 1,000 workers; manufacturing at 98 per 1,000 workers; and almost two-thirds (65 per cent) of men working in personal and other service industries worked for public order and safety services, including police services. They are the members of the Public Service Association who have been prominent in the campaign.

In relation to women, the main areas for work-related injuries were accommodation, cafes and restaurants at 98 per 1,000 employed women; health and community services, 71 per 1,000; and retail 70 per 1,000. In terms of occupation groups, the highest injury rates were intermediate production and transport workers at 108 per 1,000 employed; tradesperson and related workers at 107 per 1,000 employed; and labourers and related workers, 106 per 1,000 employed. These three occupations accounted for more than two-fifths of all injured workers, yet represented only 29 per cent of all employed persons.

I will not go through other figures. The take-home message is the people involved in manual handling were particularly at risk, and we all know of lower back and neck injuries that are common in those areas. I will refer to a couple of specific categories, in particular hospital workers. Members may have seen an article in *The Advertiser* last year that said that the number of hospital workers injured at work has more than quadrupled in the past three years. What an outrageous statistic that is. The article states:

> The latest WorkCover figures show 305 claims were made in 2003-04 but that surged to 1,475 claims in the year 2006-07.

That made it the industry with the most claims. I will not read the rest of the article but it refers to lower back injuries as being the most common, making up 15 per cent of claims, and that the most common cause of injuries was handling, lifting, carrying or putting down objects. There are various reactions to these appalling figures from the Nurses Federation and others.

If we look at a group like teachers, then we can also see that the figures have increased. I refer to a report by Michael Owen in *The Advertiser* last year (10 January 2007) titled 'Stress toll mounts for teachers'. It states:

> Private school teachers are lodging compensation claims at an increasing rate, with a teachers union warning that mental stress claims due to bullying and work pressure are at record levels. WorkCover SA documents obtained by *The Advertiser* under Freedom of Information laws show that during the first six months of last year, there were 71 claims lodged, including six involving mental disorders.

The data also shows that the number of claims has increased in recent years, with 76 claims in 2002, 74 claims in 2003, and up to 92 claims in 2005. Again, I will not go through that whole article, but members can see that, whilst teachers might not be in the same risk categories in terms of the manual lifting that they have to do, they are still vulnerable to what are clearly work related conditions that relate to their mental health.

I also refer to a couple of examples that come out of the public education sector, in particular, the Department of Education and Children's Services (DECS) and the Department of Further Education, Employment, Science and Technology (DFEEST). These examples that I will read are real examples, but to protect their identity, a few details such as age and gender have been changed. The first one, a broken back. A 50 year old female teacher suffered a broken back after falling down stairs while trying to stop two male students from fighting. She was assessed as having a 30 per cent permanent disability to her lower back. She has endured two operations and has significant scarring. She is currently only able to return to work part time and lives with constant pain. She has developed depression, and who wouldn't.

Another case is one of post traumatic stress disorder. A 45 year old female teacher who worked in a tough school—in fact, she worked in many tough schools for many years—suffered post traumatic stress disorder after being punched in the face by a male high school student. She was unable to return to the school where she was attacked. Effective rehabilitation and return to work was hampered by the Department of Education and Children's Services being unable to find her anything other than temporary replacement in schools. As a temporarily placed teacher, she

was unable to develop the professional support networks that she needed to rebuild her confidence and, after four years of temporary placements and continuous frustrations, she quit teaching.

Another example is a case of golden staph infection in a school services officer, an SS0. A 40 year old male SSO, who works with special needs students, suffered a leg injury in the course of employment. After surgery he contracted golden staph infection which spread throughout his body. He was unable to return to pre-injury duties and was only able to return—

The Hon. A. BRESSINGTON: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. M. PARNELL: I will not go through any more of those examples, but I reiterate that they are real people and I thank the PSA or the Australian Education Union which provided them to my office.

In January 2007, *The Advertiser* reported that road and workplace injury claims were already dropping. The article states:

> The number of road and workplace injury claims has fallen in South Australia, a newly-released state government report shows. TRACsa, the government's new centre of excellence for trauma and injury management, commissioned the social health atlas of compensable injury in South Australia to help identify factors that potentially impact on recovery from road and workplace trauma. While more road injury claims are made each year by females, the average cost per claim is higher for men, while almost three-quarters of workers compensation claims are made by men.

So we can see that some trends are emerging here. What we know, if we want to look at some comparison between the road trauma and its impact on society and workplace trauma, is that about 10,000 people in South Australia are injured on our roads, while another 46,500 will experience a work-related injury or illness. Minister Wright claimed in 2007:

> Australia currently ranks in the top five countries for reducing work-related deaths, with a 36 per cent decrease in compensated fatalities since 1996.

He also said:

> Australia is also making progress in reducing work-related injuries and diseases, with a 13 per cent decrease in accepted compensation claims since 1996.

The reason for quoting those statistics is that, if we are, indeed, doing better when it comes to workplace injuries, why is the current debate over the state of WorkCover being framed as the fault of workers? It is counter-intuitive if, in fact, these claims are dropping.

I said earlier that I wanted to ensure that I got into *Hansard* some of the stories that people have come to me saying they want their elected members to be aware of, and I will go through some of those. However, before I do that, I would like to acknowledge one organisation in particular, and that is the organisation known as VOID, which stands for the Voice of Industrial Death. For the benefit of the community, they have put a lot of their stories on their website.

I was also very pleased to discuss this legislation and this issue with Andrea Madeley, who is the chief spokesperson for that group. I was very pleased to join her and a number of members of parliament, and others, at the International Workers Memorial Day service just a week or two ago. My first contact with Andrea Madeley was when she made her speech on the steps of Parliament House during the CMFEU rally, and no-one who heard her words on that day could fail to have been moved by the passion which was borne out of her personal tragic circumstances in relation to her son. The Voice of Industrial Death website states, in relation to this legislation and this issue:

> Irrespective of the degree of negligence or the culpability of the employer, WorkCover remains the only source of compensation for family. That compensation is only available to those completely dependent on the deceased and, even then, the organisation will do its mighty best to get out of paying.

These are people who have lost a loved one to an industrial accident or illness. The website continues:

> I suspect most South Australians would have no idea what the widows of killed workers are put through in order to get some assistance from WorkCover. Try to imagine what it must feel like to suddenly be faced with the shock of losing a loved one, then add to this the realisation that the safety net you thought was there isn't really there at all. The mind and body go through major trauma as the shock of death sinks in. The capacity to think in a straight line is severely disabled. The ability to prioritise and organise becomes increasingly perplexed, and none of this disappears in a hurry. In fact, it can gather some momentum as the weeks turn into months—enter WorkCover eventually. The organisation is not concerned with such frivolous issues as grief, hardship or despair. Their primary

goal is to reduce liability, not to feel sorry for people. We wish more South Australians were aware of how grieving family members are treated by WorkCover and Employers Mutual. At a time when people are least equipped to cope they are most abused. At VOID we have yet to find a positive word said about WorkCover. Widows are retraumatised over and over again, having to hunt down lawyers just so they can access what should be rightfully theirs. Few would walk into something like this with any understanding of how the claims process works. The only thing we can do here is try to prepare people a little better.

To illustrate that general point, the VOID website includes a series of what it calls 'shame files'. I will not read them out, but there is story after story with a single common theme, that is, the poor practice and administration of WorkCover. It is a theme which I have touched on already but which we will go into in much more detail when we get to the committee stage. I would now like to include some of the personal stories, and I do this to keep faith with those injured workers who took the trouble to write to me as they have written to other members. Their stories cannot be told any other way that will influence this legislation if we do not do it in this place. Most of the people would prefer me not to use their names, so I will honour that. One letter states:

I am a 33 year old father of one beautiful four year old and have a great partner. Well, where do I start? I will try to tell my story so that it does not take forever. My lower back was injured 2½ years ago lifting 20-kilogram plus buckets of product to shoulder height and doing that some 500 times a day. The rest of the time I could be lifting seven to 10 tonnes a day, doing 10 to 12 hours a day five to six days a week, and I was full-time. Now I don't even have a job and I'm flat out doing three to four hours manual labour. On the day I hurt my back I reported it to my supervisor, as you should, and continued to work. I continued working for about two weeks trying not to hurt it bad enough to avoid ending up the doctors and on the WorkCover system, but failed. I got up for work one day and tried to put on my work boots and it completely went on me.

I went to work and I walked in with my torso at nearly a 45 degree angle sideways and barely able to walk. They sent me home and told me to get to a doctor. There were weeks after that where I could not even get out of bed because the pain was immense and kept me awake for nights on end. I only had mild pain killers because I am normally one that tries not to take medication, and I believe that I would like to know where my limits are and not to mask them. This went on for months and I had some hands-off physio with very little success. I ended up doing hands-on physio and a Pilates program with what I feel has had limited effect.

I have in my time on WorkCover found myself sliding towards alcoholism for a few months but managed to pull away from that demon. Ending up on anti-depressants and seeing a psychologist was what I considered to be the lowest part of being on WorkCover. I have been abused by bosses, workers and rehab consultants. Then all the crap started to happen about a year into being on WorkCover. My co-workers started to treat me differently. My bosses made my life hell, putting me into any position they could, and if I had problems they would just put me further down onto weaker duties, which you can sort of understand. After a while they started to give me just paperwork.

I went along with this until I could get the work done in half an hour or so when they were saying it would take a few hours. I would then go and see the manager to see what he would like me do and he would say, 'Oh, go and have a cup of tea and I will come up and get you.'

I would then sit there for hours, and when I would try to find him he was nowhere to be found. This happened a few times, and this is when I nearly lost it and ended up seeing the psychologist. I had a number of weeks off work because I was immensely depressed and upset.

When I went back to work they said it would be different, but it was not. It happened all over again. So I rang EML and they told me to get out of there and they would try and sort it out. This was around February/March 2007. At this point I lawyered up. The next thing I know, my employer was bought out by another company and they gave everyone a document saying it was to be signed and handed back. The document said that we were resigning from the previous employment and to undergo a medical to be taken on by the new company.

My lawyer told me not to sign it, so I didn't, as I was effectively resigning and that would put everything in jeopardy. I told the new employer that I would not pass a medical in my current condition, and they said that they were not in a position to employ me. WorkCover tried to do something about it, but on April 1 2007 they took over the company and I and four others were told that we no longer had a job. That was the first time I was unemployed in over 10 years. I was told by WorkCover that I should receive a severance pay, but got nothing.

I sat around doing nothing until I found a job being the SA sales rep for a company selling products to students and clients in South Australia. I put myself through the training and now I am an accredited artist [he was a salesman and an artist]. I paid for this training, not WorkCover. As a result, I have become a big part of this industry. Everyone was stoked—me, my family, the doc, psychologist and so on.

This was a commission only based job and I got paid at the end of the month. I told EML and kept them up-to-date with everything, but it seemed to be just too hard for them to keep up with the paperwork and they told me to quit the job, as they could not handle it. When I told them that I had earned a couple of hundred dollars for the month, they took it out of my pay, which was cool, but they stuffed my pay up for three weeks that bad that I even defaulted on my loan and was charged for it even though they said that they would pay it back. But they never did.

After four months I got a job through the rehab I was now with. EML and WorkCover now had me on a program called RISE, where the employer got incentives in wage subsidies, bonuses and aid to keep me employed. I had some problems with my back but did not miss a day and was working long days just to try and keep the job. I was made full-time after about four weeks and thought things were going well. Then things started to get a little quiet at work and WorkCover was not yet paying them the incentives.

After about eight weeks the employer said that they could not afford to keep me on as they were not getting paid, so they let me go. I rang EML the next day and told them what was going on. In reply, EML said that they had paid my employer on the day they sacked me and I would have a strong case for wrongful dismissal. EML also said that I would be put on a fast track employment scheme, and that was in October 2007. They started to do something in February 2008. I told my lawyer, and that is as far as it went.

I have tried everything in the last 12 months to get my case across to whoever would listen—radio, *Today Tonight*, *A Current Affair*, newspapers, members of parliament, doctors and my lawyer. You name it, I've tried it. Sitting around with a bad back and not being able to do much, I have put on a lot of weight, which does not help. But EML don't want me to do anything about it. They are, however, content to call me morbidly obese.

I have had heated exchanges with rehab consultants to the point where they have threatened to cut me off WorkCover. I have seen a number of specialists and had an MRI, and I still do not have a definite answer as to what is wrong. They say there are some lesions in the MRI, and a lot seemed to point to facet joint damage. I still have pain every day and cannot sleep properly.

I have had so many case managers it's not funny—some okay, some can't even get my appointments right. I have tried to claim for fuel and other expenses and they just send back the paperwork and ask me to get everything signed. It's been bad enough in the past. I don't want to know what the future holds for me and my family. I really want to see a great future for my family but who is going to compensate them for all the crap they have had to put up with?

I don't want anyone to feel sorry for me. I just want to have a normal life again, one where we don't live in fear and darkness. I mean, hell, I have not had a super payment since October 2006.

There are many little things not said but the bigger things are what I wanted to get out there. I hope this is not the end for us and that we can fight the injustice of the government, EML and WorkCover. I am here to speak out and I will stand up for all if I have to.

That is a person who has struggled under the current system, but as a long-term recipient of WorkCover I would be very fearful for his future under the new regime.

One of the things that I think is common in all the stakeholders to whom I have spoken, whether it is WorkCover itself, the unions, or workers, is a very common theme of injuries to the body quickly migrating to illnesses of the mind, especially depression. WorkCover's response is to say, 'Well, that's why we need to get people straight back to work, because if we get them back to work then their minds will be okay.' But, if you are getting people back to work prematurely, if they are going back to inappropriate jobs, and if they go back and hurt themselves again, then the impact on their mental condition is even more compounded.

There is one other story that I think is important. That last person said that they were treated very differently after having been on compo for a while. I think that by differently the person means with some suspicion. I can recall John Camillo, union secretary of the AMWU talking to me about one of his union members who had a problem with a knee. It was just a knee, and knees are supposed to get better. This person kept saying, 'But, it's still sore. I can't walk; I can't go to work', and was starting to get sideways glances: 'Is this person a bludger? X-rays didn't show anything wrong; they probably are a bludger.' Fellow workers were thinking that this person was probably just having a compo holiday.

Eventually, about a year after the event, as I remember John telling it, he had an arthroscopy, where they get inside and have a look. They found a fragment of bone in amongst the joint. Not that I am a medical person, but a ball and socket type joint with a loose piece of bone floating around in there would cause unbearable pain. This worker insisted on recovering that fragment, putting it in a jar, and parading it around the workplace as proof that they were not a bludger or a malingerer, because that is an assumption that many people made. Another person who wrote to me and wanted me to tell their story states:

I was a full-time sales employee being unfairly criticised and repeatedly victimised by my manager. Because of my employer's actions, including repetitive bullying, I became ill and was unable to work for several months. My GP raised a WorkCover claim which, after a thorough investigation, was approved by Employers Mutual and WorkCover. I attended some very helpful rehabilitation counselling and mediation. In July 2007 I returned to work for my employer. On my return to work my manager immediately recommenced his campaign of harassment towards me. My manager also failed to comply with certain agreements reached through mediation. I continued with all my set conditions in returning to work. During the first two months of my return to work program my employer sacked me. In a letter from EML to me, EML states:

'Employers Mutual Ltd has fully investigated your employer's termination/redundancy of your employment in accordance with section 58C of the act, and we have determined that your employment should not have been terminated. However, based on the circumstances surrounding your claim and the termination/redundancy, Employers Mutual Ltd has determined that our rehabilitation efforts will now focus on locating and maintaining suitable employment with an alternative employer.'

Continuing the letter:

Unfortunately, it took me 85 job applications and many interviews to secure alternative employment. However, I now have a new job, and I look forward to rebuilding my career. As my new employment pays less than my pre-injury employment, EML supplements my average weekly earnings. I do not know if this will continue with the proposed changes.

I am conscious that members of the Statutory Authorities Review Committee have also been inundated with similar stories. I imagine that the Hon. Ann Bressington will probably want to refer to some of those in her contribution. I will refer briefly to a few of them. In one case a man was not able to write to me; so he dictated his story to one of my staff. The notes to me state:

He was threatened at the workplace; forced to do unsafe work; faced with the prospect of unemployment if he didn't do the work. Went to supervisor at the beginning of his shift and complained about the seating in the mining vehicle.

So, clearly, this is a mining case. It continues:

His supervisor told him to operate it or eff off. Supervisor then drove away from site. He felt he had no option but to drive the vehicle, otherwise he would face the possibility of unemployment. It was a 27-tonne Caterpillar mining truck. The seat inside the truck had no suspension. The truck drove over a ditch, which forced this person to be thrown into the air, hitting the steel roof and then slam back down on the seat with force, causing compression through his spine. He felt crushing from the tip of his buttocks right through to his head and suffered instant headaches and pain.

He was taken to the company GP, who tried to tell him it was just a lumbar muscle strain and sent him back to work to perform light duties, without any investigation. He then lodged a WorkCover claim and a rehabilitation provider was made available. Because of his claim he was subsequently sent to a specialist, who performed MRI scans of his spine, which showed spinal compression. The insurance specialist said that he shouldn't be sent to work until investigations were complete. His GP ignored this and he was sent back to work, where he had to perform duties that were inappropriate for his physical and mental state. Contrary to specialist recommendations of 12 to 18 months rehab, he was told to keep working and was never given the opportunity of rehab.

He found working very hard. He couldn't even bend over to tie up his steel cap boots, and his manager would attack him, telling him to do his boots up. He suffered further injury while doing light work, an ankle injury due to his employer, again, not providing safe working conditions. He had four days off after this second injury and when he returned to work he was being verbally attacked by the employer and other employees turned on him. The employer destroyed any chance of rehabilitation. They were unaccepting of the situation and didn't want him to have a day off work as it meant their lost time injury record would be affected, which relates to their insurance premiums. When he returned to work, after the four days off, a quarry manager met him at the front gate and said, 'Good on you, mate, you've effed up our seven-year lost time injury record.' He was made to feel guilty.

He is currently being advised by the tribunal, saying if he doesn't accept what they are offering then he can be left with nothing. He should take the redemption package or risk the new legislation, as it involves a review panel of three doctors who review claims, and there is no right of appeal of the decision, or no reviewing. He feels the redemption package they are offering is just a very sad attempt at pushing him out the door. He has been left below the poverty line, without any assistance. WorkCover will not recognise medical experts' recommendations, instead they drag it out and spend money on achieving nothing for the injured worker. After 3¼ years fighting this, he has just come out with more troubles, including hip and knee pain.

I thank my staff for taking that. He rang back again with a couple more sentences. He said:

Insurers have signed rehabilitations programs with the objective of restoring a person back into the community and the workforce and then when they get the reports from the medical specialists and they don't like what they see they sack the rehab provider and dishonour the signed rehab program, instead of sending everything to court.

He says that he has had $100,000 in legal fees, and $22,000 in expenses. He just wants the problem solved so that he can stop the pain and suffering and get back to work. There is a very lengthy email that I will not read in full but, in deference to the person who has sent it to me, I will read just a couple of sentences, as follows:

One of the things that I cannot comprehend and I am annoyed about the most is the 'bumping up of accounts' that occurs from companies providing services to injured workers. purely because they are dealing with the WorkCover Corporation.

So, the injured workers are not just looking at it from their point of view. They are also looking at the bigger picture, and seeing what they regard as abuses of the process through providers to the system. This person who wrote to me—and I said I would not read it all out—has been on the WorkCover system for 10 years. Just to put it in context, this person says:

I initially suffered an injury whilst working and have now gone on to more extensive long-term and permanent medical problems after a doctor who was working as an agent for WorkCover prescribed contra-indicating medications. Every medical review that I have undergone whether through my own private medical consultants or those specialists nominated by WorkCover now state that I have no capacity to work and it is unlikely in their opinions that I will ever have capacity to return to any form of employment.

The bulk of the letter goes on to describe that person's experiences. It may be, if that is the case, that they will be okay under the system if they are so seriously injured, but the level of anxiety in the community, the level of uncertainty and especially the fact that, with these medical panels, a second opinion might be contrary to that—it might be, 'Well, you do have some capacity to work'—causes great uncertainty and great unfairness.

The PRESIDENT: Is the honourable member going to be much longer? I would like to know whether we can give the chamber staff a short break.

The Hon. M. PARNELL: I think the chamber staff being given a short break now would be appropriate. I do not imagine that I will take more than another hour or so. A break now would be appropriate, if I seek leave to continue.

The Hon. P. HOLLOWAY: That's seven hours. This is the longest speech the Legislative Council has ever heard.

The Hon. M. PARNELL: The minister says 'the longest speech the Legislative Council has ever heard.'

There being a disturbance in the gallery:

The PRESIDENT: Order!

The Hon. M. PARNELL: This government is proposing to take $1 billion out of the pockets of injured workers and give it to the employers with this myth of reducing the unfunded liability to keep the AAA credit rating. I am being told that, as an elected member, I am inappropriate—

The PRESIDENT: Order! I asked the honourable member how much longer he thought he would be. I think the chamber staff deserve a break for 10 minutes.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: That is why I asked him how much longer he would be.

The Hon. M. PARNELL: I think I might be another hour. One of the advantages of taking a brief break now is that I can reflect on the notes that I have, and I might be more able to reduce the content. It will not increase over that time, I can tell you, Mr President. I think it is appropriate to take a brief break now and I will spend that time looking at whether I can reduce my contribution.

[Sitting suspended from 22:09 to 22:20]

The Hon. M. PARNELL: As I suggested before the break, I have taken the opportunity to go through much of the material that I intended to put on the record and have made substantial cuts to that material. Much of it will come out in the committee stage, but I think the break has saved us some time. I do not make any apology for the length of time that this is taking, but I am conscious that it is late. We are doing what the government asked us to do: we are debating the WorkCover legislation.

There are only three or four more themes that I want to continue, but I want to just go through a few more personal experiences that were sent to me. I will then move on to look at the unfunded liability, then some concluding remarks and some questions.

The Hon. D.W. Ridgway: Don't rush it.

The Hon. M. PARNELL: The Hon. Mr Ridgway says: don't rush it. I assure the honourable member that I will be as thorough as I can but conscious of the time that we are taking. One person wrote to me—and, again, I will not name them—in an email just last week as follows:

> Dear Mr Parnell
>
> Thank goodness there is still someone in parliament who is prepared to fight for the 'underdog'. I agree that WorkCover needs fixing but cannot believe the Labor Party is even considering making it harder for those on WorkCover. This appears to be a financial fix for business and government with no input from the injured workers and no investigation into the appalling WorkCover system.

This person goes on to explain the cuts, which we are all now well aware of. The email goes on:

> I cannot return to work for my previous employer and many employers do not want to employ someone new who is on WorkCover. I was offered a job last year but due to WorkCover laws this did not eventuate because the organisation is self insured.

Employer covered by WorkCover is provided with two year protection, this is at no cost to the employer if the previously injured worker has a relapse. A self-insured employer does not get this protection even if they are prepared to give a person on WorkCover a fair go. I have not had any work since the end of October last year because my rehabilitation officer informed me that I had had enough money spent on me and therefore they would not be doing any more for me unless I phoned to say that I had an interview and felt it absolutely necessary to have someone with me. If someone was available from their office that person would meet me at the interview office. WorkCover have not confirmed this decision with me.

After contacting WorkCover, via my union, we are still waiting on a written reply from my then case manager. Have also contacted the WorkCover Complaints Department and other than one brief phone call in February have not heard any more. I was threatened by the above case manager that my payments would be ceased and accused of causing someone problems by sending an anonymous written complaint (do not know who this complaint was about or where the written complaint was sent).

Some lawyers do not want to take on new WorkCover clients due to the impending new laws that Mr Rann and his party want to implement. At least John Howard did offer workers $3,000 for legal fees with his WorkChoices laws, which I did not agree with either.

No-one asks to get injured at work and no-one deserves to become a multimillionaire as a result of an injury. However, injured workers do deserve fair pay and, if necessary, fair payouts—not $50,000 to $100,000 for the rest of their lives. These people will have to pay for medical treatment and medications out of this money probably for the rest of their lives and for the time that they are on WorkCover they do not get any superannuation payments, neither are they able to save on their reduced incomes.

My case has been going on for well over four years and I am now not sure if I can manage a return to work but certainly cannot afford to live on what I am being paid at present with the increase in the cost of living and certainly wouldn't manage on the above payout for the rest of my life. Instead, I would lose my home, I would need public housing, reduction in my gas, electricity, water rates, council rates etc. all of which would be coming out of the state government's finances. One debt being decreased whilst there will be many more requiring financial assistance from another government department.

WorkCover is all dealt with by EML, and it doesn't appear to have improved, but surely they could keep a closer watch on employers and reward those with a low claim record and, if necessary, introduce fines to those who continue to have high claim record. Perhaps some injuries could be lessened if the injury occurred was a result of bullying/harassment. The culprits could be forced to attend a course relevant to this type of behaviour and/or counselling at their own expense.

I do not agree with bullying/harassment in any situation but note that in the case of workers it is rarely dealt with effectively and adults are expected to 'get over it', whereas children can be paid huge amounts of compensation, which they will probably need to live a relatively normal life, and which they certainly deserve. I know this by talking to victims of this behaviour in the workplace. Workers cannot sue their employer. They cannot take any action against WorkCover if they fail in their obligations and leave people in limbo. I would appreciate it if you do not reveal my identity as I do not want my claim jeopardised.

I would normally go to my local member, who was helpful in the past, but, as he is the industrial minister, I do not think he would now be as helpful. I also spoke to Jay Weatherill about these issues at a 'corner meeting' prior to the last federal election, plus gave him a written copy of my concerns and suggestions, but I have never heard back from him.

I sincerely hope you can get your points of view across and, if not, have the bill defeated, at least manage some amendments and help protect the injured, who appear to have no real say.

There is a generosity that comes through in these letters, where people who have suffered under the system as it is are thinking as much about the people who follow and the people who will be impacted by the new system.

As members of parliament, we are very used to people writing about their own personal situation from a position of self-interest or selfishness, not that that is always a bad thing. However, what I have found reflected in these WorkCover letters is a genuine desire to try to help fix the system from whatever position they have—ordinary members in the community suggesting alternatives. If we had had a proper debate in the community on WorkCover, these ideas could have come out.

Also, as I have said before, if we were to send this bill to a standing committee or a select committee of this parliament, those types of stories could be put on the record and a report could come up with recommendations that would deal with those suggestions. Some of them might be worthwhile, others of them might be impossible to implement but, good grief, if we had a proper process, we could get all of these ideas on the table. Another letter states:

Dear Hon. Mark Parnell,

In regards to workers that have sustained psychological injuries in the workplace, where the employer has failed to provide a safe workplace, besides having contributed to the injury, where the worker was deemed unfit to return to original duties and been retrained to a different type of work but unlikely to earn the same level of income, thus receiving a top-up payment, how will the new legislation treat such individuals? I am specifically thinking of

people like myself that have lost their homes as a result of the financial hardship endured beside other stresses that resulted from the original injury and now possibly stand to have to sell their existing home [once again].

As I will not be able to afford to pay my mortgage without the top-up, despite being back at work full time. WorkCover tells me that, according to their proposals, I stand to lose the top-up payment. How does one justify such treatment in the circumstances? Can you please explain to me and my family why psychological injuries that excludes lump sum payments, unlike other physical injuries, should be subjected to the added stress when such victims suffer enough without it? Why should families have to suffer in such circumstances?

Also, to what extent is the discrimination experienced (and lack of supported work environments) by such victims seeking suitable work recognised by the WorkCover Corporation and legislative authorities? Why implement new legislation and make it apply retrospectively? Is it legal? Can you help explain these issues to me?

I cannot answer all those questions. They are questions for the government to answer, and we will explore them in the committee stage.

Another one reads:

I am on WorkCover suffering from workplace stress due to being bullied and nagged by my employer and his wife. He has now left and he has defamed my character and left me unable to continue with my preferred employment as a nurse. All this happened in five years. Surely he should be held accountable for what he has done to me. No-one wants to be held accountable. I have been told by a CEO that he would not employ me because I am on WorkCover.

Again, it is a similar sort of story. I will leave the stories there and move on to the question of the unfunded liability, because the government tells us that this is at the heart of its reasons for introducing this legislation. In relation to the unfunded liability, I think we have to remember that even though that might be the rhetoric that is not really what it is about. As I have said before, we are talking about a cash transfer from sick and injured South Australians to business, and this is happening at a time when business is hardly doing it tough. On 8 April treasurer Foley told parliament:

The reality is that...any smart-minded, objective person is telling us that our economy is booming.

In fact, the Treasurer went on to say that 'KPMG has already said in its business costs benchmarking study that we are the lowest business cost jurisdiction in all of Australia.' Treasurer Foley talks about high business confidence levels and growing employment. All of these things are under our existing WorkCover system, with an average levy rate that has not moved since the 2003-04 financial year. So, when South Australia is already the cheapest place in Australia to do business, why is the Premier picking the pockets of sick and injured workers and their families and handing the compensation over to business? That is the fundamental question.

In many ways this bill is the Rann government's version of WorkChoices and, just like ex prime minister Howard did, our Premier is attacking vulnerable workers and their families. And just like the ex prime minister, it is all about short-changing working families in order to keep business happy—and this in an environment where South Australia is already the cheapest place in which to do business.

The best analysis I have seen of the unfunded liability and the truth behind what it is and the range of ways it could be reduced is the submission that many members have. I have avoided reading from these submissions in my contribution to date, but this is the best summary I have seen in relation to the unfunded liability. It is a discussion paper prepared for SA Unions by Dr Kevin Purse, Adjunct Research Fellow at the Hawke Research Institute at the University of South Australia, entitled 'Getting WorkCover Back on Track'. Under the heading 'WorkCover's Unfunded Liability' Dr Purse says:

WorkCover is again in the firing line over its finances. The current debate though, has become increasingly distorted as a result of a simplistic preoccupation with the scheme's 'unfunded liability'. Perversely, the criticisms have come at a time when WorkCover's bottom line is trending upwards. Of even greater significance, if WorkCover's continuing strong investment results were taken into account the scheme's financial position would be better off by $300 million.

So, if that is the margin for error—$300 million—then I think we need to look very carefully at every financial figure that is put to us in relation to WorkCover, but particularly in relation to the unfunded liability. Dr Purse goes on:

An unfunded liability is the gap between a scheme's *estimated* liabilities and its assets. As workers' compensation is a long-tail form of insurance, where claims liabilities may extend over several decades, it is very difficult to accurately predict these long-term liabilities.

For this reason, unfunded liability estimates should not be taken at face value. An unfunded liability is not a debt in the conventional sense but, rather, an estimate of the amount that WorkCover might or might not need to pay

out over the next 40 to 50 years for existing claims, depending on how well the scheme is managed over this period. It is not an amount that needs to be paid out at any one point in time.

It is also important to note that WorkCover is more than capable of meeting its current obligations to injured workers and service providers as they fall due. The problem with the unfunded liability concept, as a measure of financial performance, is that it only looks at one side of the equation. WorkCover's estimated liabilities may have increased but so, too, have its assets from $1.12 billion in 2004-05 to $1.288 billion in 2005-06, an increase of $168 million. As the increase in is assets was greater than the increase in its estimated liabilities, WorkCover's financial position actually improved last financial year. This improvement has largely been ignored, though, because of the fixation with the headline 'Unfunded Liability Figure'.

A more useful tool to assess WorkCover's financial position is its funding ratio: the value of total assets as a percentage of total estimated liabilities since this provides a measure of the extent to which the scheme is fully funded. On this basis WorkCover was 65 per cent funded in 2005-06, compared with 63.4 per cent the previous year. Although not a large improvement, it was certainly a step in the right direction. This upward trend has continued and, as at February 2007, the scheme—with assets of $1.445 billion, estimated liabilities of $2.153 billion and an unfunded liability of $708 million—was 67.1 per cent funded.

The larger reality, of course, is that the workers compensation liability estimates are crucially dependent on the economic assumptions used. Even minor changes can result in dramatic variations in the bottom line. The two critical assumptions that underpin liability estimates are the claims inflation rate and the discount rate. The first is used to estimate the extent of WorkCover's outstanding liability for existing claims over the next 40 to 50 years; the second is used to discount that amount so that is expressed in today's dollar terms—its net present value.

The discount rate represents an assumed rate of return on WorkCover's investment portfolio. This variable is very sensitive. According to the fine print in WorkCover's annual report, a 1 per cent change in the discount rate can increase or reduce WorkCover's outstanding liability by $75 million.

That is $75 million for each 1 per cent variation or change in the discount rate. Dr Purse continues:

Since its inception in 1987, WorkCover's investment performance has been excellent, resulting in an annual 10.6 per cent rate of return. However, the rate of return currently used to discount the outstanding liability estimate is only 6 per cent. This is the so-called risk-free rate of return. If the discount rate was adjusted to 10 per cent it would more accurately reflect WorkCover's actual performance and reduce its liabilities by $300 million.

This approach, incidentally, would also maintain a healthy prudential margin. More generally, the discount rate should be based on a rolling average of WorkCover's investment returns which now covers almost 20 years. In operational terms, the discount rate would increase whenever WorkCover's investment performance improves and vice versa. As both increases and decreases in performance would be cushioned by the averaging process, this approach has the advantage of combining a greater realism while avoiding the volatile fluctuations in discount rates that could otherwise arise from short-term variations in investment returns. Its adoption would be a win-win outcome for South Australian employers and workers.

This performance-based approach contrasts with the current methodology where WorkCover's outstanding liabilities are estimated on an ultra-conservative basis. This ultra-conservatism results from the adoption of new accounting standards and, more particularly, the imposition of tougher prudential requirements on private insurance companies following the spectacular collapse of HIH in 2001. These new obligations are not binding on WorkCover but were designed to curb the excesses that have been a feature of private insurance markets over the last decade.

What that says to us is that the headlined figure of the unfunded liability is very much a function of the assumptions that are made and the discount and other rates that are applied. If those figures are themselves the subject of guesswork and speculation so, too, is the final product, the actual unfunded liability. What we need to consider in relation to the unfunded liabilities are what ways there are to reduce them without just cutting injured workers' entitlements. I note that the 2005 Statutory Authorities Review Committee report states:

Noting that the corporation does have cash flow through investment returns and assets to pay for day-to-day administrative expenses and claims costs, the committee has identified that multiple factors were involved in the deteriorating financial position of WorkCover—

Multiple factors, not just injured workers being paid too much money. That is one factor, but there were multiple factors, one of which was the reduction in the annual levy rate, that is, the amount collected from employers by way of a levy.

The rebate of $25 million to non-exempt employers and the non-increase of the annual levy rate when appropriate are pretty fundamental to this debate because the principle the government is working on is that the average levy rate has to go down from 3 per cent to the target range of between 2.25 and 2.75 per cent.

Other factors are: increasing outstanding claims liability, worsening investment returns globally, the collapse of world investments due to the September 11 terrorist attacks on the United States, the underperformance of investment income, the number of claimants continuing on the workers compensation system, increasing claims costs, increasing discontinuance rates, the termination of the contract of the scheme actuary, the application of the 65 per cent prudential margin, the appointment of the new actuary, outsourcing to claims agents, the agent contract

renewal in 1998 and subsequent reduction in agent numbers, and the higher redemption payments.

In fact, that is a list of all the things that go to make up the financial position: some relate to money in and some relate to money out; some relate to investment returns and others relate to the payments made to injured workers. The formula is simple: money in, money out. However, there is a complex range of factors, and I urge members to look at the 2005 Statutory Authorities Review Committee report.

I will leave most of the remainder of my material to the appropriate point in the committee stage. Members will be pleased to know that I am drawing to the end of my remarks. By way of conclusion, I want to place on notice four questions for the minister to answer. Of course, there will be more questions at the committee stage, and we look at those in the context in which they arise, but these are four questions to start with.

First, will the minister table his actuarial advice? If that actuarial advice is at the heart of the government's assessment that the unfunded liability can be reduced only by cutting workers' entitlements, we need to see that advice. Secondly, will he release the WorkCover guidelines on non-economic loss? As legislators, we do not have the ability to know what people will get unless we see those guidelines. Thirdly, I want to know what will be the estimated cost to the commonwealth of the shift of workers from WorkCover onto taxpayer funded benefits—basically Centrelink? What economic analysis has been done? Do we have an estimate of what the cost will be?

The Hon. S.G. Wade interjecting:

The Hon. M. PARNELL: The honourable member says that it is a commonwealth cost but, if our state government is about to impose on the commonwealth an obligation to pay people out of commonwealth funds, I imagine they have done a detailed analysis. If I was the commonwealth, I would be cross with the state government for not having done that work. It is a valid question for the minister.

Fourthly, how does the government reconcile its changes to the workers compensation scheme through this bill to its own strategic plan target? Strategic plan target 6.5 is to 'reduce the percentage of South Australians receiving government benefits, excluding age pensions, as their major income source to below the Australian average by the year 2014'. The South Australian Strategic Plan is fewer people on Centrelink, yet it seems to me—and I will await eagerly the minister's response—that this is a recipe for putting more people onto Centrelink benefits.

I thank the council for its forbearance. Debates such as this are not easy. The corridors of this place buzz with all sorts of rumours. People were saying that the government would not give the crossbench the right to speak, and that has proved to be untrue. I have delivered the material that I wanted to deliver, and I will have more opportunities later in the committee stage. I thank all members for their forbearance.

We are sitting later than we would normally. We do not normally sit this late on a Thursday night. Again, I make no apology for the fact that, as a fairly new member of parliament, I think this is the most important piece of legislation we have seen. I thought the climate change legislation was important. I think that topic was incredibly important but, in relation to the legislation, not so much. In terms of actual legislation which does real work and real damage this is the biggest bill we have debated. I make no apology for taking a long time to deal with it.

I have got over being cross about the attacks levelled at us for taking too long with this bill and for taking too long with the organised crime bill, when over the past few weeks of sitting we have been sent home early. I have been ready to debate the crimes legislation—which has now passed this council—and I have worked heaven and earth to get ready for this bill, as well. I want to thank, in particular, my staff Kate and Craig for helping me to put this together.

I said before that I have dropped a lot of things that were on my agenda—on the Greens agenda—things which my party wanted me to pursue in the parliament. I have dropped them to respond to the government's agenda. I look forward to the committee stage but, before that, I look forward to the contribution of other members. No doubt we will hear from Labor on the second reading before this debate is closed. I am particularly interested to hear the remarks of the Hon. Ann Bressington, my crossbench colleague. I note that the first tranche of my amendments has been tabled, and I thank parliamentary counsel for getting those to us in this timely manner. There will be more to come, and I look forward to the committee stage of the debate.

The Hon. A. BRESSINGTON (22:55): Obviously I rise to speak to the bill as well—not because I have any inclination to believe that our injured workers will benefit at all from these so-called reforms but to ensure that the public record shows the views of both major parties, minor parties and Independents in this place, and the justifications used to use injured workers as scapegoats for the performance of a failing organisation that has not only lost focus but has lost all sense of morality and decency. The views will be publicly recorded for the sake of posterity, and perhaps governments in the future can look back (as I have done) to the 1995 legislation passed in this place; and, hopefully, hindsight will be used to learn from rather than being ignored to condemn this parliament to do more harm than we would care to admit even to ourselves.

This is not a matter of politics for me: it is a matter of taking the responsibility of legislating seriously. The government's attitude to the democratic process has been one of contempt, so much so that, over the past few days, the Premier (Hon. Mr Rann) has been referred to by South Australian constituents who have nothing to do with the issue of WorkCover at all as the benevolent dictator. Our Treasurer (Hon. Kevin Foley—and I use that term lightly), on the other hand, disclosed what can only be described as desperate bullyboy tactics. I am sure that his disruptive presence in this chamber on Wednesday 7 May will be remembered as his claim to fame for quite some time.

It seems that the chaos theory could easily be applied to the recent weeks of this state's politics; that is, if we look closely enough into it, chaos patterns do emerge. This government's pattern, when all is not going its way, is to verbally abuse, bully and intimidate, even when it is to its own detriment. Who would ever have thought that any government of the day would be so keen to inflict pain and suffering on our injured workers? As a looker-on of this for some weeks, the analogy that came to my mind was that this is like a pack of hyenas circling around dying and injured animals waiting to feed from them. It has absolutely made me ill.

Mr President, since coming to this place, I have joined in the prayers led by you that express our intent to do what we have been elected by the people of this state to do. A majority of members ensure their presence in this chamber for those prayers, and I believe right now, with this legislation before us, we must think carefully about that intent that we set each sitting day in this place, and I quote:

> Almighty God, we humbly beseech Thee to vouchsafe Thy blessing upon this Parliament. We pray Thee to direct and prosper our deliberations to the advancement of Thy Glory and the true welfare of the people of this State.

I repeat: the true welfare of the people of this state. This bill is not in the true welfare of the people of this state, and I think that most members in this place do recognise that on a level.

Surely, we cannot be so stupid in this place to believe that the financial aspect of any problem is the only solution to which we need to come. I will demonstrate over the course of this speech that the slashing of injured workers' entitlements has become a bad habit for both major parties and that, when the workers compensation scheme flounders because of poor governance and management, injured workers are the first resort rather than the absolute last.

The unfunded liability has been used to cast fear and dread into the hearts and minds of people of this state and, as such, the debate quickly loses the human tragedy that is created by government caring more about business than about those who actually make business of any size or shape possible. Aussie battlers, they are the ones, they are the backbone of this country. They are the backbone of industry, and they work hard to put food on the table and a roof over their head. Aussie battlers work to live, and they also work to provide their children with a decent start in life and an education.

The rights of injured workers is one of the sacred cows of the Labor Party and I wonder what other cows may be on the market headed for the slaughterhouse in the not too distant future. Just how do the unions feel about this kick in the guts, after working hard to get this government re-elected? I also wonder how those members in this place can sit in their own skin, knowing they have sold out to their own members with a silent vote for this legislation. How sad it must be for the unions to finally get it, that this is no longer their Labor Party—no longer a government of the working-class people of this state. We now have a government, to paraphrase Lincoln, that is a government of the party by the party and for the party.

Calculating or predicting an unfunded liability is a very inexact science and the $1 billion future debt cannot and should not be misrepresented as the next State Bank disaster in order to convince people, the people of this state, that the survival of injured workers must be sacrificed for the greater good—and that is exactly what has happened. Just what rides on this legislation

passing, especially for the Treasurer, is an absolute puzzle, but like all puzzles eventually the big picture does start to take form.

There is much about this bill that angers me, but for the most part it is the fact that the failure of the WorkCover Corporation can be attributed to poor governance, poor administration, very questionable practice, lack of regard for the objectives of the bill and most certainly—and most disturbingly—a lack of will, a lack of political will and a lack of corporate will to ensure that this scheme delivered on the promises originally made to the working-class people of this state and to the unions which compromised a basic right of natural justice based on those promises.

They surrendered their right to access common law in exchange for a seemingly fair and just bill that would ensure that injured workers on the job would be cared for, not taken care of, or shaken down in the cruellest of systems. The matters relating to the systematic failure and poor practices of the corporation are well out of the reach and control of the injured workers, yet they are the people who will be paying for the mistakes of the many over the past two decades.

I have been provided with information collected over more than a decade: press releases, letters from members, media reports of both parties from back in the days when *The Advertiser* actually undertook a level of investigative reporting, and submissions trying to expose the shortcomings of the WorkCover system and the absolute disregard for how the game-playing impacts on the lives of everyday people, everyday South Australians.

I have a speech that was delivered on the National Day of Protest by Greg Combet, ACTU secretary, on 15 November 2005. It was delivered against the WorkChoices legislation introduced by the Howard government. To quote Mr Combet:

> Today, by rallying in such huge numbers, we declare that working people will not be denied a central place in Australia's future. Working families built this country. They fought and died for it. They do not deserve to have their rights at work taken away. The government's laws are motivated by ideology—the articles of the Liberal Party faith—the prejudices of the prime minister.

Talking about ideology, I point out that Dr Kevin Purse commented on the ideology driving this legislation when he wrote in his discussion paper 'Getting WorkCover back on track':

> The idea that workers compensation premiums in one state must be competitive with those in other jurisdictions is part of the ideological armoury of Australia's major employer groups. It is also a view embraced by many scheme administrators and state governments.

Mr Combet is very clear that working families built this country and that the anti-family sentiments of the Howard Liberal government showed Howard's prejudice against working families. What an embarrassment it must be for the Labor Party faithful to be able to apply Mr Combet's anti-WorkChoices, anti-Liberal government arguments to what is happening right here, right now in South Australia. Mr Combet continues:

> We face these laws simply because the government has won control of the senate and has the power to do what it wants, and in the next couple of weeks the government will abuse that power and ram these laws through.

We saw these laws rammed through the lower house simply because the government could. We are seeing the upper house pressured into an absolutely disgraceful situation to rush it through here also. Again, what an embarrassment it is for those who occupy seats in this place under the banner of the Labor Party—the party of the working class people of this state. Worse still, the Liberal Party has made the decision not to loyally oppose. Their reasons are their own, and I am afraid that, no matter how I view this, all I can see is that people's lives are being ruined for the political and financial gain of both major parties. Mr Combet goes on:

> When it does so [that is, ram these laws home] it will not signal any setback for our campaign. Rather, it will signal the start of a determined, relentless effort to overturn these laws and put in their place decent rights for the working people of this country. That is our goal. You have already heard the main ways in which the laws attack workers' rights...I want the Prime Minister to know something right now. We will hold the government to account for the human cost of these laws. Just as we supported the maritime workers when they were targeted, we will support...workers and their families...These are scandalous abuses of democratic rights.
>
> But we will not be intimidated. Unions must continue to stand up for people...On such a fundamental issue we must look the government in the eye and stare them down. I will be asking other union leaders to do the same. We must be disciplined and responsible. There is no place for foolhardy or reckless behaviour. But we must also be firm in our resolve to stand up for people.
>
> It is true that it will take time for some people to be affected by the laws [of the Howard government]. But the rights of every person will be diminished. And for many the change will come quickly—particularly the most vulnerable...We all know what that means—take what's on offer or get lost. No negotiation. No choice. John Howard should have the guts to come out and say what he's really up to—to argue his case.

These laws will also effect change for our most vulnerable, very quickly. And the Hon. Mr Wright and the Hon. Mr Rann are saying to our injured workers: take what is on offer, no negotiation, no choice. Where is the Premier? Where is the Treasurer? Do they have the guts to come out and say what they are really up to and to argue their case with something other than the platitude that, 'We still have the most generous scheme in the country', or the other one, 'The unfunded liability must be reined in'?

It is clear that this legislation is not necessary. What is necessary is for the senior ministers of the Labor Party, and the Premier, to take charge and demand that WorkCover Corporation enforce the existing act. If it were enforced to the letter of the law, we would not be debating legislation that will affect our most vulnerable workers now. No negotiation, no choice: take what is on offer or get lost. Mr Combet goes on to say:

> A decent democracy should be improving opportunities for people, reaching out to those who need a hand, and ensuring that basic rights are protected—making Australia more fair than less. Unions believe in fairness and justice, in prosperity for all, not just the few, in people having a say...We believe these are democratic rights—rights that are worth fighting for. And fight we will. We will fight until we win. We will campaign for as long and as hard as it takes to overturn these laws. Anyone who thinks our campaign will fade away had better think again...After the government rams these laws through parliament we will work right up to the next election to hold them to account for what they have done...Help build a wall of opposition to laws that place business interests above family and community. Because Australia needs to change.

South Australia needs to change. As Mr Combet said:

> We need to reward effort, not exploitation; to encourage cooperation, not division; to build a sense of community, not isolation; compassion, not intolerance; to inspire hope, not fear. I believe that the values for which we stand beat as strongly in the hearts of Australians today as they have done for generations. United by these values we will not be defeated. We will see off bad laws and bad governments. We will deliver justice for working people.

These are words of war, spoken with passion and commitment. We all saw just how powerful the union movement can be when it takes issue with stripping workers of their rights—rights that have been cemented in legislation after decades of negotiations and industrial actions that were necessary at the time to give Aussie families a fair go. This speech by Greg Combet was delivered to start a rebellion against the Howard government's WorkChoices legislation, and here we are, just two years and five months later, being able to transpose this speech to what a Labor government in this state is also prepared to do to compromise workers' rights in South Australia.

It is apparent from a historical perspective that the rights of injured workers are lower on the priority list of both the Labor and Liberal parties, and perhaps these two major parties should just make the not so distant leap and combine, because these days there is little distance in the social justice issues. Perhaps the 'Laberal' party will one day be a reality! We will see that the original legislation, introduced in this place in 1987, took only three years to come under question; and, with a sequence of amendments, slowly but surely the intent seemingly shifted from compensating injured workers to punishing them.

Injured workers became an economic burden that governments were not prepared to carry. Story after story follows, with the first news of slashing injured workers' entitlements coming in 1990, and from then on almost every year until 1998 there were dramatic headlines with changes to the legislation that converted this bill into nothing more than a battering ram—a blunt instrument to beat injured workers over the head.

And God forbid they should ever try to take on the corporation in the legal arena. That in itself earned them a life sentence of intimidation, harassment, bullying, being spied upon, having their entitlements threatened (sometimes discontinued) and the stress and trauma delaying their recovery and rehabilitation—if they were lucky enough to experience either, that is, recovery or rehabilitation. We will also hear about how the corporation itself is set up very differently from any other statutory authority and the problems that this has caused. I am still not certain that the structure and authority given to the corporation was a safety valve for ministers who have been able to claim a level of plausible deniability when the corporation was caught out, if you like, literally applying its own interpretation of the act in a dubious manner.

The loss of the earning capacity scheme and the scheme critical list are just two examples of abhorrent practice that not only stripped injured workers of any hope of a fair deal but also ensured that they would be financially, emotionally and even psychologically ruined in the process. Poor governance? Absolutely. The why? Well, this will be explored further on, and conclusions can be drawn by members in this place. I only hope that others will not simply vote against this bill with the frame of mind that they cannot make a difference and that it would be politically unsuitable for them to vote any other way.

This will almost certainly not be the last time we will debate this bill. It is the responsibility of all of us in here to be well informed, because our decisions do affect the existence of so many. We cannot afford to become bored or disinterested with the plight of injured workers because our short-sightedness would have us believe we are powerless to change the outcome this time around. In fact, I believe these defeatist attitudes are the reason why this is being allowed to happen again. We will also see how the abolition of common law was the trigger for the misconduct of insurance claims managers, not just in the here and now but way back in the 1990s; and, of course, there is the corporation's own misconduct by turning a blind eye, like the ministers have done over the past decade, and simply just letting it happen—'it' being the reckless destruction of the lives of those affected by our deliberations in 2008 in this place.

The WorkCover scheme in South Australia has been highly dysfunctional—as matter of fact, it has been a total failure in the area of human service. Unlike the Queensland government, as one example, which made the decision to do away with a litigious and adversarial system in order to bring some semblance of justice to the injured workers of that state, we appear destined to work with stagnant, narrow views and, for some reason, are reluctant to learn from history.

We have two successful schemes in this country: the Queensland scheme and the Tasmanian scheme—and, a little less appealing, I guess, the Victorian scheme. Have any of our ministers, their advisers, the actuaries—or anyone—gone to speak to those people to see how those systems have been set up and how they have come to work so well for so long?

It was interesting to see the unions on the steps of Parliament House demonstrating about this bill on the same day as we attended a briefing on the Queensland scheme. One hoop for injured workers to jump through. There is common law, but the corporation does not wear those common law payments; 41 per cent of injured workers' payments are paid through common law and the most severely injured have to prove negligence. What is the resistance to common law in South Australia, when in other jurisdictions it is working in the best interests of business and also injured workers and their families?

Bad legislation piled on top of bad legislation has made the original intent of the scheme nothing more than a pipedream. The original intention was to care for injured workers; to make sure that they were looked after. That is not happening. As the Hon. Mark Parnell said, I have not heard one happy story. With all the publicity that has been taking place in the past few weeks, if there was a happy story, if there had been a happy ending for anyone, would they not be writing and saying, 'Guess what? I was on WorkCover and it worked for me.' But there has not been one.

The Hon. P. Holloway: Then why do you want to keep it like it is?

The Hon. A. BRESSINGTON: I do not want to keep it like it is. I have 40-odd amendments that I will be tabling, along with those of the Hon. Mark Parnell, but we know very well that neither your government nor the opposition will even consider those amendments.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member will direct her remarks through the chair.

The Hon. A. BRESSINGTON: Mr Acting President, you are so right. I am terribly sorry. We also see the similarities in the amendments to this bill and how we have simply reverted back to tactics that have given the supposed short-term benefit of reducing the unfunded liability. However, the problem of the blow-out is never fixed permanently, which should indicate that the true solution must be still waiting to be discovered, or perhaps we could take a trip to Queensland or Tasmania and find out what they are doing in those places and why they do not have a long tail to their system.

If after 22 years neither party is able to think this through clearly enough to solve the problem, perhaps we need to recruit accountants into politics rather than lawyers. Henry Louis (or H.L.) Mencken, American journalist, essayist, magazine editor and satirist, who is regarded as one the most influential American writers and prose stylists of the first half of the 20th century, once said:

> Firmness of decision is often merely a form of stupidity. It indicates an inability to think the same thing through twice.

That is a state of being that seems to have been endemic in this parliament over the years with respect to workers compensation and rehabilitation. Not only are we seeing a lack of imagination but we are also witnessing the attempts of this government to rush this legislation through, as I have already mentioned. The Premier's WorkChoices/WorkCover bill will still be rammed through in a typical Howard government style—and, I might add, with what is rumoured to be just as much

disapproval within the rank and file of the party. This was made widely known by newspaper articles in *The Advertiser* just a few weeks ago. I have also heard from the president of the AWU, who stated that there will be no second gear on the planned Rann campaign. I have seen no solid evidence that the plight of WorkCover Corporation has been progressed by the actions of injured workers except, of course, anecdotal remarks regarding poor return to work rates and those hanging around waiting for a redemption.

While these allegations fly fast and furious to defame and minimise the tragic situations that injured workers are forced to endure, we do not hear about the very poor, often nonexistent return to work plans, the never ending wait to access rehabilitation, or the redemption offers that make Mr Scrooge look very generous. There are two sides to every story, and both major parties need to take some responsibility for the fact that they are contributing to creating a new generation of poor and homeless citizens.

This bill will be rammed through because both the Labor Party and the Liberal Party have given their word to the business community, with the goal being to reduce employer levies. There is no goal to improve workplace safety, and no goal to heavily penalise any business that repeatedly puts its workers at risk, and all benefits and no cost arrangements are for business. Of course, the flip side of that is all costs and no benefits to injured workers. This in itself is a clear indication to me that this bill will be up for debate again in the future.

Access to common law is so repugnant to leaders of both parties in this state yet is undeniably part of the solution, as proven interstate, as I have already mentioned. Again, we have allowed business to escape completely from the responsibility to those whom they employ and to those who through no fault of their own join the long line of long-term injured.

But, where are the headlines of yesteryear and the condemnation of careless and thoughtless government, as outlined in the following articles? In *The Advertiser* dated 4 November 1992, just five years after the introduction of the Workers Compensation and Rehabilitation Act, the heading reads 'Lawyer's warning on WorkCover bill—benefit changes will hit hard'. The article, which was written by John Kiran, industrial reporter, states:

> Injured workers will lose thousands of dollars in lump-sum payments and employers will face some severe fines under provisions contained in the Peterson WorkCover Reform Bill, the state lawyers claim. Law Society of South Australia President Mr Rod Lindquist said the state's lawyers had taken the unusual step—

in those days it must have been unusual—

> of writing to members of the Legislative Council to express grave concerns at the amendments which would cause major problems for workers and employers. The measures in the bill, sponsored by House of Assembly Speaker Mr Norm Peterson, include plans to increase the maximum lump sum for the most severely injured workers. More injuries to WorkCover's maims table, effectively cutting some lump sums and limiting stress claims, are the consideration of superannuation from WorkCover.

The next article, which is entitled 'Few would qualify', states:

> The so-called 1.5 times carrot only applies to those with a disability of more than 55 per cent and where the sum awarded exceeds $51,150. Very few workers would qualify because of the cutting of payments for defined injuries on the third maims table.

There is another article entitled 'Cloud over future of WorkCover'. We are again seeing that we have an unfunded liability. The article states:

> The state government's WorkCover scheme could be axed and replaced by private insurers. Industrial Affairs Minister, Mr Ingerson, said yesterday this was one option being examined in a bid to bring down workers compensation costs. WorkCover has suffered another blow out in unfunded liabilities, and Mr Ingerson admitted yesterday it could be as high as $75 million.

There is a theme here. It continues:

> The opposition spokesman on industrial affairs, Mr Ralph Clarke, said there was no way that the government could cut workers compensation costs without further cuts in benefits. The WorkCover options paper proposals include: changing from average weekly earnings to award rates as the basis for paying weekly benefits; removing overtime allowances and non-cash elements from average weekly payments; statutory limits on total benefits; ceasing payments after statutory period for all workers below a specified level of capacity; limiting the payment of medical costs and the number of medical experts a worker may consult; setting an age limit at which weekly payments of compensation benefits cease, for example, 65 years of age; reducing the role of lawyers in the legal and claims process.

For everyone but WorkCover. It continues:

> The decision paper says the government has set WorkCover the objective of being cost effective with interstate schemes by 1996. This requires a reduction of at least $80 million a year in costs. The government's

objective is to be achieved by both reducing the number of accidents and reducing the average cost of claims, the paper says. At present SA workers on compensation are paid 100 per cent of average weekly earnings for the first 52 weeks.

Welfare payments. However, for partial incapacity the first 26 weeks would be paid at 95 per cent, reducing to 75 per cent and then 60 per cent after two years.

This is going back to 1997, or 1995. It goes on:

Mr Clarke said he was not prepared to see the economic revival of SA built on the backs of those who had been injured in the workplace. The legal officer for the SA Employers' Chamber, Mr Kim Porter, said it was obvious the level of payments to workers was going to be a key issue. Mr Nick Xenophon of the Australian Plaintiff Lawyers' Association said the government should first look at WorkCover's administration and inefficiencies before slashing benefits. The government has set the objective—

and I will just repeat this—

of being cost competitive with interstate schemes by 1996. This requires a reduction of at least $80 million a year in costs. This will be achieved by both reducing the number of accidents and reducing the average cost of claims.

Well, this time around we are not even talking about reducing the number of accidents. It is not even on the table. There is nothing about workplace safety in this bill that is of any significance at all. So, we have dropped that off now and now we are just going to reduce the average cost of claims. Then on 13.8.97, a headline, 'Charges for consultants top $15 million'. Déjà vu, I say. I ask members to keep in mind that during the course of the SARC inquiry of 2005, minister Wright himself stated that the corporation had lost focus and had literally wasted millions and millions and millions of dollars. Then from 1994—so we even go back further:

Crackdown on compo takes effect. Thousands of claims for workers compensation will no longer be accepted from today as the state's compensation system undergoes a major overhaul. New WorkCover laws which will come into effect today will save the state an estimated $20 million annually and reduce by more than 2,000 the number of claims which can be compensated.

I wonder how they did that. I wonder how they reduced the 2,000 claims. They claim, I think, further on in this that it is through reducing the number of workplace injuries, but it is very difficult to find stats that actually support that. Moreover, it is reported to me that people just basically do not report their injuries as much any more because, as the Hon. Mark Parnell read out in one of his stories, people are afraid. They are afraid to report their injuries in case they are judged, in case they are named a bludger or in case their bosses give them a hard time and intimidate and bully them at work. I will quote again from that article:

These changes will create greater fairness between employers and employees, minimise rorts and abuses and make WorkCover a competitive and affordable scheme, the industrial affairs minister Mr Ingerson said yesterday.

So, there we have it again. The government says that it will make this an affordable scheme, and that it is all going to be done by a certain period of time. That was in 1994, and the previous one I read was 1996. So, between 1994 and 1996, obviously things did not improve. We cut injured workers' entitlements and we saved the state $20 million annually, but we still did not fix the problem.

I think it is estimated that, through these changes that we are proposing here and now, we will save $20 million a year—on $980 million. It will probably be a billion dollars by tomorrow, depending on how the Treasurer is feeling. How long will it take to get that unfunded liability down at the rate of $20 million a year? Would it not be just a little more efficient to move our long-term injured workers off the scheme with a reasonable redemption, and give them access to common law so they can sue the negligent employers who absolutely deserve it? But, no. They linger; they languish. These are the mugs hanging around for a big payout, for a redemption. That is what we are being told.

Then we have another one: 'Move to axe long-term WorkCover payments'. Then there is another one: 'Workers compo debt up by $90 million'. That is 1995. So in 1994 we were told these great reforms were going to save the state $20 million a year with this great, you-beaut plan to cut injured workers' entitlements (all the things that we are proposing right here and now in this parliament in 2008), yet in the next year, on 24 November 1995, we were told, 'Workers compo debt up by $90 million' in six months. It did not work. What we did back then did not work. What we are proposing now is the same as we proposed back then. It did not work. What do we do? We do it again. The definition of insanity is to repeat the same mistake over and over and expect a different outcome.

Then we have another one, 'Outrage at savage compo cut' from December 1995. Members may think this is irrelevant because it is back then, but we have already heard the Hon. Mark Parnell share his 'now' stories, so between 1994 and 2008 nothing has changed. Injured workers are still being screwed to the wall and denied their entitlements by the WorkCover Corporation and the insurance agents. We have watched this for over a decade. Have we taken the corporation to task on their performance? No. Have we taken EML to task? Have we prosecuted them for criminal behaviour? Most of what is being alleged is bullying and intimidation: it is illegal behaviour. What happens? Injured workers—we will slash their entitlements, because they are easier to handle.

This article showed a poor gentleman holding an X-ray of his disabled elbow and explained that he had his benefits cut off just before Christmas. That is still happening now: just before Christmas or just before Easter, they get notice that their entitlements have been stopped. I know a man who has been on the scheme for 18 years and whose payments were stopped in 2000. We have submitted his information to a SafeWork SA person who handles claims. He has read court transcripts. He has looked at doctors' certificates and doctors' reports. He has estimated that WorkCover owes this man $93,600 without any interest, without anything else. That is just the payments that were cut off in 2000 by a person from SafeWork SA whose job it is to estimate these things. How dare they!

Mr Ingerson's response to the plea from this man, who had gone out and bought his kids some Christmas presents and whatever else, having had his entitlements cut, was: 'The corporation is not a social security system.' What a compassionate response! Keep pushing the impression that injured workers are bludgers and cheats; never, ever address the fact that many remain on the scheme because the redemptions offered would condemn them to a life of poverty, just the same as what is happening now.

If the scheme was not meant to be a social security system, why is it operated as one? Why do we allow it to be operated as one? Why don't we put a stop to it? Why don't we calculate what those 36 months-plus people on the WorkCover scheme are costing us and, if we do not have a decent provision and assessment process, why don't we have one? Why are we not demanding that? No—slash the workers, because that is easier. Most of those people cannot stick up for themselves. After this legislation goes through, no-one here will have to look at any one of them in the eye. None of us will have to see their children suffer. None of us will have to see that we are creating poor and homeless people with this legislation. None of us will want to face that fact.

Workers compensation schemes were never meant to be long-term weekly payment schemes. In other states, injured workers who are unable to return to work have access to common law, as I said. I will be pushing this issue of common law, because I want to know why this government will not even consider or discuss it.

As to the corporation not being a social security system, that in itself is a clue as to the cost shifting of long-term payments to injured workers. Palm them off onto Centrelink, onto either unemployment or the permanent disability pension. Of course, that is not so easy now, because the Howard government has tightened up that transition. Perhaps Mr Howard recognised that the federal government was inheriting the overflow of injured workers from poorly managed compensation schemes, most probably from South Australia. Here we go again—'Compo claims may be cut by $15,000' (25 October 1996):

> WorkCover is considering tightening its rules to take more control over lump-sum payouts to injured workers. The maximum amount its nine insurance agents can approve without WorkCover sanction may be cut from $50,000 to $35,000. Industrial lawyers and unions fear the change could slash the generally accepted maximum payout or redemption by $15,000.

We actually heard last week that EML is already having a fire sale on redemptions—so generous!—some between $10,000 and $15,000. And if anyone dared go to their union to get some advice about that, they were threatened that those redemptions would be revoked. Is that not illegal behaviour? Is that not standover behaviour? Is that not what we just debated in the Serious and Organised Crime (Control) Bill—intimidation, harassment, putting people's lives in danger? Make no mistake: this is putting people's lives in danger.

Maybe once the serious and organised crime legislation goes through, we can take a really close look at EML and the WorkCover Corporation to see whether there is anything at all that is not quite right. I am not making any accusations: I am saying that this deserves investigation. They claim that workers would have just as much difficulty getting more than $35,000 as they have currently getting over $50,000. It is unofficially acknowledged that $50,000 is the current maximum payout, apart from exceptional cases. The confidential WorkCover memo obtained by *The Advertiser* indicates that the corporation's policy on redemptions will be reviewed at the end of the

year. Keep in mind that this is 1996. The memo from the acting chief executive officer, Mr Stan Coulter, was sent to all nine agents last month. It states:

> One of the potential adjustments is the lowering of the $50,000 ceiling to $35,000, for which the corporation's approval will be required. The fears of slashed payouts have been raised only two days after industrial lawyers and unions accused WorkCover of attempting to block long-term injured workers from making future injury claims. The state branch of the Australian Plaintiff Lawyers Association has called for a parliamentary working party to be established to ensure these claims are true or false.

So, that is 1994, 1995, 1996. I have already done 1997, but I am sure we will revisit that.

What an absolute mongrel act this workers compensation scheme is. Rather than it being a scheme to support injured workers, it is like an axe over their head, and it is used as a blunt instrument every time the government of the day feels the need to rein in the unfunded liability of that particular electoral cycle. Perhaps governments simply do not like going to an election with an unfunded liability, because people think it is equivalent to a State Bank, which it is not, as Dr Kevin Purse has described in the paper the Hon. Mark Parnell read into the record.

This misunderstanding in relation to the unfunded liability plays on the ignorance of everyday people. I have been quite amused to hear in the hallways of this plays people saying, 'Oh, yes; every day we muck around with this legislation, every day we delay it, the unfunded liability is ticking over and ticking over—it is getting bigger every day.' How do we know that? Every day are we getting another 35, 45, 55 workers on the scheme in the long term? It is those long-term workers—those on the scheme for 36 months-plus—who create the tail that feed into that unfunded liability; it is not the ones who are injured for two weeks or so and then go back to work. Mind you, they are few and far between, because the corporation seems to really like to keep people on long-term for some reasons—or maybe that has just been over the last 18 months, or two years or three years, or whatever, so that we can have this debate.

This ignorance about the unfunded liability is causing fear and concern to everyday people because they simply do not understand the concept. Of course, our Treasurer, who perhaps could be called the Hon. Chicken Little—

The PRESIDENT: Order!

The Hon. A. BRESSINGTON: —has now predicted that the sky is falling in yet again. Fearmongering, catastrophising, gloom and doom, threatening—all of this as well as the persecution, victimisation, harassment, intimidation and spying done by the corporation and claims managers of insurance companies. Some would try to have us believe that people who were once able-bodied and hard working would want to remain on this system rather than get a job, get back to work and get on with normal living.

On Tuesday 28 April 1998, in an article entitled 'Death lurks in the workplace', Mr Keith Brown, the then chief executive officer of WorkCover Corporation, said:

> Australians have every reason to mark today, Tuesday 28 April 1998, as the international day of mourning for those who have died from work-related injuries and disease. According to latest research by the National Occupational Health and Safety Commission, it is estimated that 2,900 Australians died from work-related accidents or illness in 1997, making it the country's No. 1 killer. Suicide in 1997, 2,367; road accidents, 2,029; and rating second and third homicides accounted for 333 deaths.
>
> In South Australia, since June 1991, about 160 people have died in reported workplace related accidents. The workplace also leads to a high level of serious injury. In SA every year about 2,250 people are permanently impaired due to illness or accidents caused by or at their workplace.

That was in 1998. I am sure Dr Kevin Purse's report on workplace injury and occupational health and safety, which was in about 2000 or 2005, reported that the number of people who were still injured at work every year was in the high 200,000s. So, from 1998 to 2008 we have seen very little reduction in the number of workplace deaths and injuries in South Australia. Queensland has managed to get it down quite well, because it has common law and employers are forced to be that little bit more careful. Even if it is just for the sake of money, it does not really matter if it saves lives.

So, this was written by Keith Brown, as I said chief executive officer of the WorkCover Corporation. He said:

> This highlights the need for the whole community to step up its commitment to improving occupational health and safety—

he does not mention slashing injured workers for this—

Nationally it is estimated that a 50 per cent reduction in workplace accidents and disease claims, which we have shown is possible through targeted industry strategies, could give a $13 billion ,or 3 per cent, boost to our GDP.

That is $13 billion for the country back in 1998, and South Australia's estimated share of that would be about 8 per cent. We would save more by putting occupational health and safety initiatives in place than the $20 million we claim we will save by slashing injured worker's entitlements. But do you know what? All this is just way too hard to do. If we actually wanted to improve occupational health and safety in this state we would have to have some inspectors; we would actually have to have enough to go around and inspect workplaces.

I know from SafeWork SA that it literally almost draw straws as to which inspector will go to what place. These should be random inspections, they should be random regular inspections; and employers who are known to be rogue, who are known to be careless with the lives of their employees, should be hit and hit hard. But what do we do? We slash entitlements. Way to go!

As I said, that article was written by the CEO of WorkCover, Keith Brown, and I believe he is trying to send us a message. Mr Brown stated, 'We estimate that for every dollar spent dealing with workplace accidents a business incurs indirect costs of at least $10.' So, if we were not to slash injured workers entitlements, if we were to force the issue of occupational health and safety, we would actually be doing business a favour. They may not think so at the time, but long term for every dollar spent they get 10 bucks back. It sounds like a good deal to me. There we have it: $10 for every $1 spent. However, we will not go down that road. Mr Keith Brown, the CEO of WorkCover, also said:

The workplace also leads to a high level of serious injury. In Australia every year about 2,250 people are permanently impaired due to illness or accidents caused by or at their workplace.

The number of people on 36 months plus is about three-quarters of this permanently injured number that he was talking about back in 1998. We have about 3,700 injured workers on the 36 months-plus list—oh, but I forgot, they are really just hanging around waiting for one of those big payouts!

It has been claimed that there has been a reduction in the number of workplace injuries over the past 10 years, and, again, that would require some serious investigation because we all know how statistics can be arranged to give us the answer we want. However, obviously we have not reduced them nearly enough because the number of people who remain on the scheme for 36 months is increasing and, by international standards, that would indicate that they are the people with only a 6 per cent chance of returning to work.

Are these the people that WorkCover refer to as those hanging around for a payout? Are these the people who have been offered redemptions of between $10,000 and $20,000 over the past couple of weeks and are being told that they cannot discuss it with their union reps?

Over the years have businesses incurred the costs that injured workers have every time poor and unethical practices see a blow-out in the unfunded liability? No—because news report after news report says, 'Cut entitlements and reduce levies.' Our first port of call is to cut entitlements; either stop entitlements or pay out pathetic redemptions just to get them off the system. Out of sight, out of mind! What a tribute to the efforts of Aussie battlers—those who spent years propping up the industry in this country! That sends a very clear message that if you get injured, get lost.

I have a 1998 article here entitled 'Prejudice, ignorance and myth'. I read with interest the article 'Death lurks at the workplace.' It states:

While I commend Mr Keith Brown, CEO of WorkCover, for his comments in regard to the community, social, economic and individual costs of workplace death and injury, this article raises many questions for our association.

That was the Communications and Liaison Office of Work Injured Resource Connection in Seaton. Ms Lorraine Baff tells us that insurance companies are absolutely running rampant with 'little regard for injured workers, employers or the WorkCover fund, in an endeavour to obtain productivity bonuses paid to them'. Are we not currently seeing this kind of behaviour by EML claims managers? So, if nothing changes, nothing changes. As I said, if you repeat the same mistake over and over again, that is the usual definition of insanity.

In this article Ms Baff perhaps did not expect that in 10 years' time all these practices would still be occurring, and if it was simply a 'business as usual' affair—what is more, it is a decade since this article was written—I wonder if she could foresee that nothing would be done legislatively or legally to put an end to these practices. It is almost as if the government needed a marginalised

group of people to target, so they established a workers compensation and rehabilitation scheme to corral them all into one vicinity for target practice. All the while, the negligent employers are there to do their dirty deeds for another day to another unsuspecting victim. This is backed up by a *Hansard* report of comments made in 1985 by Mr Gregory, the then member for Florey. He states:

> One matter that causes considerable problems within our community is the Workers Compensation Act. A number of people have not accepted that there is a need for change. At the moment the act provides very good compensation to people who are injured at work and who do not suffer any residual injury. There could not be any better form of compensation for those—the short-term injured.

It worked well in 1985. Continuing:

> However, problems arise in respect of those people who suffer an injury and for whom there is a residual disability. At the moment—

in 1985—

> in South Australia many people are finding themselves excluded from work, particularly if they have had an injury to their back, legs or arms. Employers are reluctant to employ them because insurance companies advise them that if they do, their premiums will be markedly increased. Yet, when one challenges companies and employers they deny all knowledge of that.

Again, a fairly blatant clue that, even in 1985, a return to work was not as successful as it should have been. So, nothing new: just the same old, same old! Mr Gregory clearly states that employers are reluctant to re-employ injured workers because their premiums, or levies (as we know them today), would markedly increase. We can only ask how this particular glitch in the system has been corrected, because we are hearing about low return-to-work rates. This is not a compassionate system. This is not a system that has ever appeared to care about the plight of injured workers at all. I believe that it is a system that has been crafted and designed to create a false and cruel crisis year after year and decade after decade. No-one can convince me that, after all this time, not one person in this chamber or in the other place cannot identify the core issue and fix it.

How many lawyers become politicians? How many lawyers who have been involved with the WorkCover scheme as lawyers have made their way here and to the other place? Not one has been able to identify that there is one aspect missing. Natural justice and the enforcement of well-drafted legislation would sort out some of this mess, or at least it would go some way to fixing the problem—at least enough to be able to see our way forward without battering injured workers time after time.

Take this out of the hands of those who have something to benefit, and that includes government, WorkCover and any other empire that has been built on this industry of human misery called workers compensation and rehabilitation. Fix the inequity with the stroke of a pen. The WorkCover tribunal has served many injured workers, yet what do we see in this legislation? The reintroduction of a panel of experts to pass judgment on whether injured workers should or should not return to work.

As far as I am concerned, this will completely neutralise the Workers Compensation Tribunal, and unqualified people will be making legal determinations based on their understanding of the legislation. Medical experts will be making legal determinations. What world are we living in? I do not go to my general practitioner if I want to sue somebody, because he does not know the legislation; he is not a lawyer. I would not go to my lawyer to get an antibiotic for the flu. But we will do that for an injured worker: we will send them to a medical practitioner for a legal judgment to be made. How brilliant we are!

Occupational health and safety lies at the foot of this monster, and no-one can deny that. It is the one thing that would guarantee a safe workplace. As to SafeWork SA, there is all this reluctance to have employers take responsibility for the workplace but, with this legislation, we let them off the hook yet again.

I was the CEO of a corporation for 12 years, and I cannot imagine running a workplace where my staff are at risk. We were dealing with drug-addicted people going through detox and rehab, and they could be pretty unpredictable when they were in detox. Every step and measure was taken to make sure that our workers were safe and, as a result, in 12 years we had only one claim. Drug treatment and rehab has to be a pretty high-risk type of industry because we cannot get even contents insurance for office equipment.

We have had one claim in 12 years, and that was a stress claim. The worker was having problems at home, and it was not actually workplace stress. In six months, she has not had an appointment with a psychologist or a psychiatrist. The managers have not been notified about what is going on. It is a very small organisation and runs on very tight government funding, but it has to

engage a temp admin officer week by week at an expense of about an extra $300 a week because we do not know whether or not our worker will come back, and we do not know whether or not we can replace her. Her contract will be up in June, but we do not know what we can do with her, and nobody will return our calls.

Neither EML nor WorkCover will return our calls to inform us what it is we need to do in order to make this better. We are ready to mediate. We offered reduced responsibilities and reduced hours until this worker was on her feet. We did all the right stuff by the manual that WorkCover Corporation put out—how to deal with stress in the workplace. We followed that to the letter and, guess what, it does not matter, it does not count—null and void! But there is no other document to take the place of that document.

What do employees do? The careful ones are left out in the dark. We are left blindfolded to fiddle around and to try to work it out for ourselves. However, negligent employers shove their workers onto the WorkCover scheme and they leave them there indefinitely, and they do not have to care any more. They do not have to do one single thing for those workers to get them back to work. What do we do? We reward the employers—we lower levies.

It would have been easier for other members to see how the workers compensation scheme could actually work in the best interests of injured workers, if they had attended the presentation I mentioned earlier after the demonstration on the steps of Parliament House, where union members and workers were chanting, 'Can the plan Rann and restore common law'. They know what they need. They know where the system is failing them.

I know that the Attorney-General and the Treasurer are among those who vehemently oppose the restoration of common law, and I imagine that, again, it is because business will choose not to invest in South Australia. Why has that not been the case in Queensland? Why has it not been the case in Victoria or Tasmania? If the Tasmanian economy can support common law, then I am sure South Australia's economy can. If it cannot, then we are not being told the truth about the economic situation in this state.

The following is an outline of the commitment in Queensland to enforce legislation for occupational health and safety in a genuine attempt to reduce workplace injury. I believe that it is vital that this goes on the record. The Queensland enforcement of the occupational health and safety scheme shows up what we are not doing here, where it is all going wrong. They have managed to reduce workplace injury.

I imagine that this is also rigorously enforced because the flow-over effect is common law if they do not play well. If employers do not play well and they do not protect their workers they will be sued. For example, if employees of the Occupational Health and Safety Commission in Queensland did not do their job of education, training and inspections, and an accident occurred—in particular a workplace accident—the employees in question may be sued for not meeting the responsibilities of their employment.

I have just received a note that someone is trying to work out how they will be able to end this speech very soon. There you go: freedom of speech is not alive and well in this parliament, obviously.

In relation to policy and legislation, in Queensland in May 2007 the Industrial Relations Act and Other Legislation Amendment Act 2007 amended the Workers Compensation and Rehabilitation Act 2003 and the Workplace Health and Safety Act 1995 with the aim of advancing greater national consistency. The message from the minister is that the Queensland Workplace Health and Safety Strategy 2004-12—so in Queensland they have a long-term vision—is part of the government's commitment to reduce the human and financial cost of work-related injury and illness.

Each year in Queensland work-related injury and illness is estimated to cost the community more than $5 billion and claim around 100 lives. The Queensland strategy follows a number of other safety initiatives such as reform of the Workplace, Health and Safety Act 1995 and the Electrical Safety Act 2002. It is a blueprint for what Queensland aims to achieve over the next decade. New penalties and responsibilities applying in workplaces have come into effect over the past 12 months. Some changes have brought new and tougher penalties, other changes provide better protection for workers. They have more inspectors to enforce the laws and have increased education and training for the industry.

The cooperation and support offered by the community, particularly unions and employer groups, has shown what can be achieved when everyone works together to prevent work-related

injury and illness. The Queensland strategy developed by the Workplace Health and Safety Board in partnership with Workplace Health and Safety Queensland builds on this spirit of cooperation—cooperation in Queensland; long-term vision in Queensland. It unites industry, unions and the government in the battle to make workplace health and safety a priority for all Queenslanders, city and country, across small and large workplaces. The Queensland strategy adopts the principles of the National Occupational Health and Safety Commission's strategy 2002 to 2012.

I now refer to highlighting priorities and goals to reduce work-related death, injury and illness. Five priority industries will be targeted to cut workplace accident: manufacturing, construction, transport and storage, health and community service, and rural. Three mechanisms of injury: musculoskeletal disorders; falls, trips, slips; and being hit by moving objects, or hitting objects with a part of the body, are also targeted. The Queensland strategy continues the partnership of government, industry and unions working together to minimise the risk of workplace incidents. It is just a dream, isn't it?

The long-term vision for Queensland's occupational health and safety and workers compensation scheme is to be free from death, injury and disease. It is not to reduce it, minimise it or identify it: it is actually to do away with it completely—to have workplaces free of death, injury and disease. The Queensland strategy has set targets as a step towards achieving its vision of Queensland workplaces free from death, injury and disease. These targets were also reflected in the national strategy. The initial targets are to sustain a significant continual reduction in the incidence of work-related fatalities, with a reduction of at least 20 per cent by 30 June; and to reduce the incidence of workplace injury by at least 40 per cent by 30 June 2012; with a reduction of 20 per cent being achieved by June 2007.

Individual industries are encouraged to set their own targets. This cooperation between industry, unions and government works somewhere else. They have achieved their targets in Queensland, and it is an ongoing initiative. I tried to find something like this on SafeWork SA, and I could not. There was nothing this comprehensive. They have an entire strategy, a 10-year strategy, to reduce workplace injury. We know that Queensland is the best performing scheme in the country. We know that, 10 years prior to the day of our march to the steps of Parliament House, they were having the same demonstration about the same issues.

The Hon. M. Parnell interjecting:

The Hon. A. BRESSINGTON: The same place and the same legislation. The Hon. Mark Parnell has interjected that he believes I am on the right track with that, with the Queensland statistics. So, it has taken them only 10 years in Queensland, with these sorts of initiatives, to get back on track, to reduce the tail to their long tail scheme, to get them out of trouble, and to get rid of the arbitration and the litigation stuff. That is one hoop for a worker to jump through to be able to get on with their life. Either get a redemption, sue through common law for negligence, or get the rehab and treatment that you need. However, the trick is that they are assessed and then they are referred. So, there is a follow through. Why is that not happening in South Australia? And why are we reducing and slashing injured workers' entitlements when they have had absolutely no responsibility to bear for the fact that we have a $900-odd million unfunded liability?

We need to know what other states are doing. Queensland priorities have been identified to guide the activities. So their priorities are to reduce high incidence severity risks, develop the capacity of business operators and workers to manage workplace health and safety effectively, prevent occupational disease more effectively, eliminate hazards at the design stage, and strengthen the capacity of government to influence workplace health and safety outcomes. So this cooperation thing—unions and industry—it could only work with those three prongs: the cooperation of government, unions and industry.

I have heard from the unions that they have been shut out of negotiations over this legislation. They cannot get through to speak. So, without cooperation, without having a 10-year, long-term vision plan on something other than slashing workers' entitlements, I guarantee before our time here is up we will be debating this legislation again.

Four industry groups have been nominated as initial national priorities for intervention commencing in 2004. So, they have got the targets that they need to work with, and they are manufacturing, construction, transport and storage, and health and community services. Queensland also identified the rural industry as a specific Queensland priority to commence back in 2004. I do have the results so far, but I will save that until last because it is very good news.

In complying with these occupational health and safety standards in Queensland, enforcement and compliance activities play a key role in achieving the outcomes of reducing

workplace death, injury and disease. Inspectors investigated—get this—25,741 workplaces and issued 17,603 notices. I would like to know from the minister how many inspectors we have in South Australia. How many workplaces were inspected in the past four years? And how many notices were issued to unscrupulous employers? If we could get those sorts of figures—and it is all good news—then maybe this need to slash workers' entitlements could be justified. However, yet again, we have limited information available as to why we have had to take these absolutely drastic steps in 2008.

In addition, a total of 2,966 investigations were conducted and 2,079 of those investigations were into incidents that caused grievous bodily harm or bodily harm. The majority of these incidents involved slips, trips and falls and objects colliding with parts of the body.

This is the key, and they say that the use of prosecutions as an effective compliance and deterrence measure continued with 120 prosecutions finalised, resulting in fines totalling over $2.9 million for 2006-07.

In addition, 12 enforceable undertakings were accepted in that same period. These undertakings, which are legal agreements under which an organisation agrees to carry out specific activities to improve worker health and safety and deliver benefits to industry and the broader community, contributed over $3.128 million in 2006-07 towards improving the health and safety in Queensland workplaces.

Occupational health and safety is not a separate issue to workers compensation, because if we were dealing well with injured people, we would do the prevention thing and also have the next stage where people are referred to services, and they are actually assisted to get well. In Queensland they have a psycho-social initiative, and as part of that initiative the department continued to provide hands-on assistance to employers in implementing risk management strategies for psychological hazards.

As I said, I come from the drug and alcohol sector and, when we have had occupational health and safety inspections, they walk through and do a check list and say, for example, 'You have to improve this, and increase the size of your computer screen, and put non-slip mats on the floor.' We do not have anything like this in South Australia when we have an inspection of the workplace to help management develop these strategies to reduce the risk to their employees. So maybe some employers are rogue and maybe others just simply do not know, and it is very difficult to access this kind of information.

The reduction in the workplace in the construction industry in 2003-04 was 17.1 per cent per 1,000 workers. The fatality rate was 9.7 per cent per 1,000 workers in the same year. Overall employment in Queensland grew by 8 per cent between 2003-04 and 2005-06. During this same period of employment, the construction industry grew at an even higher rate of 21 per cent. Workplace Health and Safety Queensland launched its construction Industry Initiative in response to its growth and the fact that construction had been identified as an industry requiring attention. If I remember rightly, a lot of those workers demonstrating on the steps of Parliament House were construction workers, and they were saying that when they get injured at work they do not go home in one piece. They do not get up and brush themselves off and walk away from it: they suffer serious injury.

So, how did this initiative work? By 2005-06 the fatality rate had dropped to 6.1 per cent per 1,000 workers, a reduction of 38 per cent—that is in two years—and fatalities in 2003-04 were 9.7 per cent. Serious injuries dropped by 4 per cent, and the lesser injuries also had a drop of around 4 to 5 per cent.

So, this is pretty impressive for one year of a two-year initiative and, as I said, we should be amending the occupational health and safety act rather than the workers compensation act. We could be amending the workers compensation act, but in a different way, because those two acts are supposed to link together and work hand in hand; and, right now, all reports show that is actually not working well for us. As Dr Phil would say, 'How's it working for you? And if it's not, what are you going to do about it?' I will move off Queensland, because I will probably be told that it is irrelevant.

How does South Australia compare with these statistics? The minister will need to provide detailed information about the outcomes. I would like him to address the issues that I have mentioned in the detail on Queensland before we move into committee, because this is information we need to know. In April 1998 Stephanie Key MP (then shadow minister for industrial affairs), put out a media release which was entitled 'Workplace accidents are high—prosecutions are down' in which she said:

> More than 54,000 South Australian workers were injured last year [which would have been in 1997].That is more than 1,000 workers every week of the year. When combined with the 80 per cent drop in prosecutions for safety offences in recent years, these latest figures show the Olsen government is more interested in protecting employers than workers.

What have we heard about this legislation? The Hon. Mr Rann, our Premier, seems more interested in protecting employers, and the Liberal Party has gone along with it. As I said earlier, it has forgone its right to loyally oppose. The press release further states:

> If it is to salvage any credibility in this area, it must start treating workers' health and safety as a priority and stop cosseting employers who break the law. As a start, industrial relations minister, Michael Armitage, should launch an enforcement campaign to ensure that employers' provide workers with training on the hazards they face in the workplace.

That was back in 1998. Then, of course, there was that article by Mr Keith Brown, the then CEO of WorkCover Corporation's Workplace Danger Zone. Mr Brown said:

> The number of fatalities in the workplace highlighted the need for the whole community to improve occupational health and safety.

That was a former CEO of WorkCover promoting occupational health and safety initiatives. For the benefit of members, I repeat that Queensland's attitude towards this was:

> The use of prosecutions is an effective compliance and deterrent measure, with 122 prosecutions finalised resulting in fines of over $2.9 million.

I want members in this place to concentrate on the words 'effective, 'compliance' and 'deterrent measure'. It works—consequences for actions. It works. I firmly believe that Mr Keith Brown, the former CEO of the WorkCover Corporation, was trying to send us a loud and clear message. I think that we failed to pick it up, and we are still not hearing it. We know that the corporation is not functioning well, we know it is not meeting the needs of injured workers, but we have done nothing to rein in that corporation. We have done nothing to rein in the claims manager, EML, either.

A little bit of pressure from government to comply with the legislation probably would not go astray at all. I imagine that, rather than debating legislation in this place now, I am making life even more unbearable for injured workers in that we should be focusing on raising our expectations of employers to do their bit—improved standards and practices, and, of course, more random inspections in the workplace. In fact, I would like to put some questions to the minister (Hon. Michael Wright) on these matters. How many workplace injuries have occurred in South Australia in the past six years? How many inspections occurred as a result of those injuries? How many prosecutions occurred as a result of the inspections that were undertaken? What was the amount in fines imposed when negligence and poor conditions were identified?

I believe that the worst thing ever done for ensuring that occupational health and safety standards were adhered to was the abolition of common law, and I will repeat that through this contribution because it is the common thread. That is backed up by Tony Kerin from the Australian Lawyers Alliance, who was interviewed by Leon Byner this morning with respect to the WorkCover issue. Mr Byner said:

> While I've got you there, the state government in other precincts is allowing people to sue under common law for negligence and on behalf of bosses who really get it wrong, and do it in a way that is just so bad and blatant. But we don't go down that path. What's the rationale, Mr Kerin?

Mr Kerin said:

> It's difficult to piece together any comprehensive rationale. The Clayton Walsh review simply said at the end of the day, in a page and a half, that common law was not something that could be advocated and WorkCover Corporation don't want it and, accordingly, the government haven't gone with it. It's interesting though that both the unions, the Australian Lawyers Alliance, didn't really advocate it strongly initially, but we certainly do now—now that other people have picked it up, and of course it is part of the New South Wales, Victorian and Queensland schemes, which have said in the Clayton Walsh review he relied heavily on them by way of comparison.

So, when we rely on information and evidence from other states to form a report that is going towards moulding legislation that we would be passing in this parliament (in such a rushed way, I might add), why is it that we are only taking the bits that the government is interested in? Why are we leaving bits out? Maybe Labor and Liberal just simply do not want common law. I believe that we deserve to have an answer to that question.

To say that it will be a lawyers' feast and mouth all those platitudes is not good enough. In the debate with respect to this legislation that answer is not good enough, because we are moving to slash injured workers' entitlements and reduce redemptions and bring in medical boards to make legal determinations, and we are doing all those sorts of things based on the dollar. So, if it is going

to cost this government—not business—money to have common law, we could probably sit down and get our heads around the fact that maybe it is not a good idea. However, if it is going to cost employers who do not care whether their workers go home from work in the same state as they were in when they left home in the morning, we have a serious problem; a serious imbalance. Mr Kerin went on to say:

> The right to sue in common law in Queensland has meant Queensland has the best performing workers compensation scheme in Australia. It's an unfettered access to full common law rights. There is certain limitations in Victoria and New South Wales but nonetheless they are still used for the very purpose that we advocate, which is to bring finalisation to a claim so that people can get on with their lives.

So, the Australian Lawyers Alliance in 2008 still supports common law and I think that, back in 1995, the Law Society and the equivalent of the Australian Lawyers Alliance also believed that common law would have been an appropriate measure to take. However, for 10 years we have resisted it.

In all the articles on the woes of WorkCover have we ever heard about this? Has it ever come onto the event horizon that we would even debate common law? No, it has not. It is the one act that would ensure that injured workers had recourse and were not left at the mercy of a corporation whose main concern is to incur no losses. That is its duty and responsibility as a statutory authority: to incur no losses. It would also force employers responsible for negligence in the workplace to take care, even if done by stealth. It is better than allowing this fiasco to continue for yet another decade or more.

I wish to refer to an article written way back when by Patrick Boylen of Duncan Basheer Hannon. As I said earlier, I am doing the past staff. I am doing the history, because the Hon. Mark Parnell did the here and now. We are getting a glimpse of a 10-year trip down memory lane. It is an historical trip down memory lane so that, as I said, we can look back and say, 'If nothing changes, nothing changes'. We introduced this legislation way back then to deal with these exact same problems, and here we are doing it again. Nothing has changed, so it will not be fixed.

The news release is entitled 'One minute silence for death of injured workers rights' and states:

> 'A hundred years of changes to the rights of injured workers in South Australia will see injured workers leave the century hardly better off than they were at the beginning', leading Adelaide industrial lawyer Patrick Boylan from Duncan and Hannon said yesterday. 'We are heading towards the end of the century, and the way we are going the rights of workers will be the same at the end of the century as at the beginning in 1900 when the first compensation legislation came in,' Patrick Boylan said.

This was 10 years ago. It continues:

> 'The Worker's Compensation Act, 10 years old today, Tuesday, has now declined to the stage where it is failing to provide fair compensation for people injured while at work.' Patrick Boylan said, 'This decline will continue unless we act now. It is time for a high ranking committee of unions, employers, insurers, and those representing injured workers to be formed to report without delay.' Patrick said, 'Workers throughout the state should observe one-minute silence at 4 p.m., the anniversary of the introduction of WorkCover. The minute of silence would mark the death of injured workers' rights, and while we see this as a solemn occasion, we hear at the WorkCover Corporation they are having a party,' said Duncan and Hannon partner.
>
> 'They eat cake if they like, but it is no birthday party for SA's injured workers who have their rights eroded. Unions were sold the scheme on the basis that it would be a pension for working life scheme and on the promise of improved rehabilitation. But while we have seen a boom in the rehabilitation industry, there is no significant increase in the number of workers returning to their pre-injury employment.'

As I said, if nothing changes, nothing changes. We have done nothing to address this. This is still happening today; we heard that from the Hon. Mark Parnell. Nothing in the legislation is forcing any of these changes that were identified as necessary 10 years ago.

I believe that in Queensland and Tasmania, unlike Victoria, the scheme does not wear the cost of common law compensation, and in those states the boom is worn by employers. In South Australia, though, as I said, this government has decided that it is a no-go zone for some reason, and I really do want an answer to that question. It appears that the government has been preparing this strike against injured workers for some time, and to carry it off would require some pretext to provide a fig leaf cover, if you like.

I wonder: is the subprime crisis and its fallout seen by the Treasurer as a suitable vehicle to use for his purposes? For some time, the news has been full of what has become known as the subprime crisis. What is meant by that title is becoming widely understood. In short, a lot of money was lent to folk to buy houses. People who often did not have the actual capacity to service the home loans are now left in trouble. When a rising proportion of the borrowers began to default, this

put the lenders into a serious bind. They could not recoup the payments from the lenders and thus had to place an increasing number of houses onto the property market. With fewer people now able to access credit for loans and an increasing supply of property on the market, a sharp downturn in house prices commenced. It is not known at this point when supply and demand will again reach equilibrium.

What can be said with certainty is that there is terrible pain ahead for many people. As the decline continues we will have a situation where some people will have negative equity in their homes. What will happen to these people? It could be said that the subprime market was the match, if you like, and the gunpowder was created by years of forgetting basic economic principles.

This economic crisis is just the latest in a long line, reaching back over a century. All of them have at their core a pattern of overhauling assets and/or unreasonable expectations of sustained growth. In the late 1920s it was a gross over-valuation of stock values, and it was repeated in the 1980s in what became known as the 'Wall Street meltdown', and again in the 1990s in what was called the 'dot com boom'.

It is interesting to note that for a century the percentage of average income required to purchase an average house remained fairly constant, being approximately three times one's yearly income. In the 1990s this began to change as the percentage of income required kept rising and is now well over five times average earnings. There were occasional small retreats from this pattern but generally the trend was steadily upwards.

That this occurred in a land-rich country like Australia may be fairly laid at the door of government, as it is largely a result of misguided land policies. The South Australian government has raised this incompetence to truly dizzying heights.

With this problem of his own making looming, the Treasurer seems to fear that the capital markets will decide that South Australia is looking like a risky place to put their money. Well, he has to do something dramatic, so why not try to deflect scrutiny from poor management and show how a largely mythical $1 billion can be removed from future liabilities. The Treasurer has staked a large part of his credentials on the fact that he can keep the state's AAA credit rating.

I believe that the current changes proposed to WorkCover are driven directly by the Treasurer, and minister Wright has been given the task of selling it to the public. It is not that the Treasurer believes that the capital markets will be fooled by the mythical $1 billion liability, but more, I believe, it is about showing them that you are hairy-chested enough to make tough economic choices when they may genuinely be needed.

Economic conservatism, though, is something that the Labor Party needs to sell. Yet talk as it may, deprivation is not good economic management. I fear that the economic situation on the world stage is much worse than this government is ready to admit. I believe that this bill is driven by the Treasurer and it is about positioning for the near future when capital may be a little bit harder to obtain, or may be a lot harder to obtain.

That injured workers and their families are to be among the first sacrifices that a Labor government is ready to make in this situation is truly appalling. If they are buying a home, how will they be able to maintain that position under this new legislation, and where and how will they live?

The government should remember that at the end of the day the people of this country have a core of fairness and decency. When the real costs of this legislation are released, they will demand and get decent treatment for the victims of this cruel legislation. So, in the long run it may well cost the people a great deal to correct its effects. Perhaps the Treasurer believes that that task will fall to some future government to address.

It seems worker-friendly governments are few and far between. An article dated 26 November 1997 entitled 'Injured workers being forced back to work too early', states:

> Some injured workers are being forced to return to work too early, against doctor's advice, an advocate for injured workers claims.

We heard that it is still happening today from the story the Hon. Mark Parnell told about the man with the sore back, who had to go back to work early, was further damaged and then was intimidated and bullied at the workplace. As I said: if nothing changes, nothing changes.

So, here we are again debating changes to a bill that was developed supposedly to protect the rights of injured workers, with nothing to address the practices in the workplace that return them to work too soon—in fact, we are now saying that it is a necessity. Nor do we debate the workplace practices that lead to injury in the first place.

How hard could it be, really, to get this right? How much longer will injured workers be kicked around in the political football game so that some can play their power games, others can have one minute of glory and others dare not say too much because they just want to get re-elected.

In 1997, lawyers rushed to argue against changes that would further injure injured workers. I will not read all of this out, but it is interesting that Duncan and Hannon wrote a discussion paper on the introduction to the 1986 act. In that paper in August 1985 it was proposed that:

> ...a new central authority be established; compensation be primarily in the form of weekly payments, getting away from lump sum schemes under the 1971 act; a three-tiered appeal system; rehabilitation was to be emphasised; common-law remedies against workers were to be abolished; and the first week of compensation was to be paid by the employer.

Duncan and Hannon in 1995 or 1996—this is an undated document but I would actually like to have this submitted to *Hansard,* if I could, without me reading all of it—predicted:

> ...the continued reduction of injured workers rights; injured workers will be paid weekly payments on a reducing scale; after one or two years there will be a payout of the claim based on the lump sum with little regard for age, circumstances, education and skills; this payment will probably be somewhere in the region of $20,000 to $30,000 and will be the same for all workers regardless of the injury or circumstances.

That was $20,000 to $30,000 back then. Last week our injured workers were offered $10,000 to $20,000, so in dollar equivalent we have gone back a century. It stated:

> With respect to lump sum loss of function claims a higher threshold assessment will be set at 15 per cent—

well, we did not get that one—

> based on physical injuries and assessed in accordance with the criteria set out by the WorkCover Corporation and being very limited, that the assessment of workers' disabilities will be carried out exclusively by a panel of doctors appointed by the WorkCover Corporation; and that the WorkCover Corporation will be given increased powers to direct how the treatment of injured workers by doctors, physiotherapists, chiropractors and the like will be carried out.

Has anything good come out of the Workers Rehabilitation and Compensation Act, they ask? The answer is yes. The only real improvement has occurred in 1996 with the introduction of the Workers Compensation Tribunal, yet in 2008 we will be neutralising that. It is the only good thing to come out of the workers compensation scheme and we are going to do away with it, basically. So, where are we with this? Why are we doing what we are doing?

Four out of five predictions 10 years ago was not too bad, really, based on the priorities of government, and that is what those predictions were based on—government priorities of a then Liberal government, and now we have a Labor government ensuring that these predictions will absolutely be met. I wonder how the Hon. Bernie Finnigan and the Hon. Russell Wortley feel about their silent endorsement of this legislation now, knowing that this Labor government is adopting holus-bolus Liberal Party policy on workers compensation and rehabilitation. It is all good now, I hope.

Do our Premier and his cabinet have that vision for the future now? Perhaps we should put less attention on what the business community can do for us and more attention on what we could do for the working-class people. At election time, if their needs were met, every government would be re-elected without a problem, if the constituents' needs were actually met.

Perhaps we should be asking what we can do for business and community to force them to step up to the plate and take responsibility for those they employ. I have also heard rumours that many within the business community are not pleased with this legislation either, and they are actually not in line with Business SA, but they have elected to stay silent—just as the members of the Labor Party have done on this matter—and let Business SA do the talking. I also understand that 36 per cent of businesses in the state are not insured through the WorkCover scheme. In fact, Business SA is representing just over 50 per cent. I am told that some of them do not support even the $1 million campaign to back this government and to help it sell this to the people.

So, we must ask the question: who is the big winner out of this legislation? It is not the injured workers; it is not businesses in the self-insured sector; it is not small business; it is not NGOs; and it is not the group training organisations that are disabled and disadvantaged through the levies they pay. In a meeting I had with them, they told me that they are paying enormous levies and are therefore unable to help their members train apprentices. We need to consider the skills shortage that we all talk about so vigorously and the training programs that are needed. We need more tradesmen—more carpenters, more plumbers.

Right now, small businesses—plumbers, carpenters, or whatever—cannot take on apprentices because they are charged an enormous levy way out of whack with what the business community is paying. How does that work? Who does the maths on that? Where is the actuary to explain how we can reconcile the fact that this WorkCover legislation is also going to reduce the number of apprentices year after year to offset this? And what are we doing? We are slashing entitlements. We are not fixing any of these problems. As a matter of fact, in four, five or six years' time, we might have to send away to Queensland to get a tap fixed. This is absolutely ridiculous.

Perhaps we should question just how ethical it is for the CEO of Business SA to hold a position on the board of the WorkCover Corporation and how these relationships, which under normal situations could run pretty close to the wind of a conflict, have influenced this bill, and whether the Treasurer is not using this legislation for his own future benefit and purpose. There is something not right about this. The urgency of this is not right.

We were told at the beginning that we had until 30 June to debate this legislation. We barely have time to go through the legislation to see any little loopholes that may exist, as with the serious and organised crime legislation. It was that intense scrutiny that found those loopholes for which, I believe, the Hon. Paul Holloway was most grateful. Will we have that benefit with this legislation? Will we have the time to do this before we get to the committee stage so that we can be very clear about what needs to be fixed and to make these amendments properly and not just adopt the amendments put forward in the lower house, because they might have missed something? But do we have time to do that? No, we do not.

So, perhaps we should be questioning those ethical practices and our favour towards business. I would like people to ponder this for a moment. I wonder how many CEOs will go out on election day and hand out how-to-vote cards. I wonder how many CEOs will go out and walk around the streets at midnight hanging election posters on Stobie poles. I wonder how many CEOs will give their time to volunteer at polling booths. My guess is: not too many, because business provides the donations.

How useful would it be if there were no working-class people, no Aussie battlers manning the booths and doing the legwork? Perhaps after this legislation is passed, that will be a reality to the parties, because almost everyone knows someone on WorkCover, and most would expect that the reforms that we are debating would have advanced past the perspectives of the mid to late 1990s.

Surely we have evolved as a parliament, and surely the people of this state will recognise that this has been done before and it did nothing to improve the lot of injured workers or permanently solve the problem of the unfunded liability. That may or may not be an accurate estimate. We are certainly revisiting the same problem now with this unfunded liability blow-out.

As I have said, if the government wants to reduce entitlements, it should restore common law. This is the balance that I am sure the working class of this state would settle for, and I am sure the unions would be more than happy for that one amendment—that one amendment that would start to set this right. As a matter of fact, representatives of injured workers—the unions—in this state, and those lawyers who also represent them, have remained firm on the need for this since their realisation that workers were short-changed in 1992.

They have been steadfast in their appeals for workplace health and safety to be the focus, and all the studies and research show that, if this was addressed, the number of workplace injuries would reduce, common law would not be such a threat to employers because they would be forced to be careful, and we would not have the unfunded liability we have now. This is not rocket science.

I know that there are a lot of intricacies to go in there and a few things to be tweaked, but can't that be the foundation for this? Can't that basis be where we start, and work and negotiate from there towards a solution for this, with the cooperation of unions, industry and government working together from that basis? We are not doing that; we are not consulting; we are not debating these matters; and we are not using the cooperation that we could be. We are not pulling this state together. As Greg Combet has said, we have to work towards uniting people and work towards a fairer and more tolerant Australia, not a less fair Australia.

As the Hon. Mark Parnell said, the way in which the government has handled this matter has prevented any form or any level of cooperation from being nurtured, where people actually sit around the table and nut out real solutions. That is why I think there is something we are not being told. In April 1998, Mr Keith Brown, CEO of WorkCover Corporation, said:

The number of fatalities in the workplace highlighted the need for the whole community to improve occupational health and safety.

This bill is not based on a consideration of the true welfare of the people of this state, and that is what this debate should be based on. How dare we play this game again. How dare we put the wellbeing of injured workers on the line to gain points, or at the cost of the other side losing points? How dare we play with the lives of the vulnerable, sick and injured in South Australia.

Again, back when we were debating this 10 years ago, an article, under the heading 'UTLC WorkCover alert to all unions', stated:

The UTLC calls for an in-depth inquiry to ensure the purpose of the scheme, namely, income and job security and rehabilitation and back to work. The aim is not to support the profits of employers with unsafe workplaces. Employees under the Liberals' plan could otherwise be entering the new millennium with the same limited rights as they entered last century. The Liberal changes will occur in a number of areas.

The article continues:

Lump sum payments, first year reviews, overtime, panels, lowest common denominator of interstate compensation systems will be introduced with regard to lump sum loss of function—

It is all the same old, same old. I do not know how many times I can say it. Here is another one: 'Further decline of workers compensation under Olsen; injured employees to suffer.' A further one refers to a 'nurse with serious back injuries from lifting who, after operations and treatment, tragically will not be able to work again', and it continues:

Under the Liberals, after two years she will have her benefits cut out and be reduced to poverty level.

Another report states:

Brown's backward moves on workplace health and safety threaten workers.

We are having that same debate again. So, it seems that some things never change. A further quote from back then states:

The fate of injured workers rests with the Legislative Council.

So, it seems that the dominance of this council was an issue then as it is now. Perhaps it is time to go back to the days when Independents were responsible for legislative review in the house of checks and balances. I know the Liberal Party will claim that it successfully managed the fund, and that its claim to fame was to reduce the unfunded liability—but at what cost? Success can be managed in a number of ways and it can be measured in a number of ways—financially, statistically and socially. Surely all three are relevant to outcomes achieved by governments of any persuasion.

It cannot be denied that the social impact of both Liberal and now Labor Party policy on the Aussie battlers of this state has been overlooked, if not completely ignored. In a recent briefing from Business SA it was stated that many of the problems are administrative, and that the bill prior to this has been compromised because of administrative issues and, of course, the role that EML and some members of the legal profession have played. This came from a representative of Business SA, who also stated that this bill is not ideal but that we have to start somewhere and this bill can be a sign that we are moving forward. In fact, I found it quite peculiar that this particular representative of Business SA unashamedly promoted a bill that would benefit business yet, when asked face-to-face, was unable to identify that injured workers gained anything at all from this bill. Yet 'We must appear to move forward' he said.

It is more than evident that this legislation is not a move forward but a move backwards of more than a decade in time, when things were more than grim for injured workers either trying to receive justice or taking on a corporation that had unlimited resources. If any worker dared stand up for themselves their entitlements would be cut back then, just as is being proposed now. Denying injured workers access to appeal is not democratic, it is not just, it is certainly unAustralian, it is employer friendly and, most important, it is anti-family.

Moving forward is an unrealistic expectation when we are willing to sacrifice one sector, injured workers, for another, which is business; moving forward by slashing entitlements to injured workers because of administrative issues and because the bill has been compromised due to adversarial and litigious behaviours—again, circumstances out of the control of injured workers. What an odd position for any reasonable person to take, to seek to pass flawed legislation in order to address poor administrative systems that, by his own admission, would not be addressed in this legislation anyway. He said there needs to be a cultural change, and that cannot be done legislatively.

What insight can be gained from being lobbied when the lobbyers themselves validate the concerns of the unions and of many of the crossbenchers in this place? Perhaps the culture change needed is getting back to accepting only tried and proven policy in the best interests of everyone. The fact is that someone from the big business end of town is prepared to accept flawed legislation—and that is what he said: that this bill is not ideal and it is not going to fix the problems because they are mainly administrative and it is mainly behavioural stuff, unprofessional conduct. But you know what? We will do it anyway, we have to appear to be moving forward.

And, damn it, we will do it, because this government needs to be seen to be moving forward, to be doing something, anything, for goodness' sake, whether it works or not. Chances are that after 2010 this government will not be here to clean up the mess, because I do not think it is going to be forgiven as easily as it thinks it will be. I do not think the unions can go through the Howard government debacle and go through this two years and five months later and not put two and two together and come up with four.

Of course the question to be asked is: is this moving forward? This parliament simply continues to go around and around in circles. We are like idiots with one foot nailed to the floor, going around in circles—yet, by God, we are fit and proper persons to decide the fate of this state and the people who elected us.

It seems that Mr Rann believes that, by 2010, this will all be forgotten. I had a conversation with one of the backbenchers (whose name I will not mention) who said, 'We are hoping that we will be able to do some good stuff in the next 18 months and they will forget what we did with WorkCover because it will all be better.' Well, I do not think so.

I have also heard a rumour that the unions and the Labor Party will kiss and make up because of loyalty to the party. If that were to happen then it would be a big ask to expect any independent person, any crossbenchers, any party, to take this issue seriously in the future. As the Hon. Mark Parnell said, we have devoted weeks to be ready for this debate. Our staff have volunteered to work their fingers to the bone to make sure that we could present both an historic and a future picture of this WorkCover fiasco.

Whatever the unions do in the future is entirely up to them, as long as we are all—from this point on—working together to benefit the lot of injured workers. That has to be our priority; it has to be. This issue became of concern to me not long after I came to this place and, at that time, WorkCover issues were like an enormous mountain to climb; an issue that, for me, was quite formidable. We started to gather information from a number of sources and, over months, I waded my way through this quagmire, learning what I could and asking questions about what I simply could not get my head around.

The main points of confusion for me were the conduct of the claims managers; the rulings of some magistrates—reading court transcripts leads one to wonder what processes they use to arrive at their conclusions; and the bully force that seemed to use any and every tactic under the sun to intimidate, harass and literally break the spirit of claimants. Being new to this place, I asked myself over and over again: why would they do this and, even more importantly, who would allow it to happen? Who would give permission for this to continue?

I remind members in this place that, last year, I moved a motion in this very chamber condemning Premier Mike Rann for not following through with a royal commission, and the WorkCover Corporation for its conduct and maltreatment of injured workers. That was last October. I remember the Hon. Mark Parnell made the comment that he was sure that I could not see this coming when I had drawn up that motion, but it is a pressure cooker and it was coming up to this unfunded liability. I was not taken by surprise when this legislation was put forward—not at all; because history said it was going to happen, and it did.

The grapevine of injured workers is as extensive as it is desperate and, as soon as there is a hint that someone else is taking a look at this issue, emails and letters literally flood in. I saw no value in running public meetings because, to tell you the truth, public meetings have been done and done and done with no new outcomes. The difficulty that injured workers have in getting to those meetings to tell their stories and to sit in those chairs hour after hour is really quite depressing. I have been working behind the scenes, gathering knowledge and gathering momentum in the hope that part of this speech would go towards finalising the motion that I moved last year.

If there is one thing that people expect of their elected members (perhaps naively so) it is to have solutions to the most basic of human concerns. In my view, part of the solution is clear: get back to the original intention of workers compensation and rehabilitation; protect injured workers in

whatever way is necessary; support them in whatever way is necessary; and demand quality service provision and management.

As I have said many times in this place, I come from a non-government organisation background and from a most difficult area of drug treatment. I know that client-focused services are a good bang for your buck.

Government gets good bang for its buck when you are focusing on the needs of the clients and the consumers in this area. Right now, the reason that everything is going belly up is that our focus is on the wrong thing. Our focus is on corporations, and on the almighty dollar. As the Hon. Gail Gago said yesterday, this is an economic rationalist perspective and, in relation to plastic bags, she said, 'How much is the life of a dolphin worth?' I asked her: 'How much is the life of an injured worker worth? Is it $1, $2? What are we prepared to spend on them?'

Our AAA rating is of little use if it is not used to create stability and security for our citizens. After all, it is their hard-earned dollars that fill the coffers of Treasury. Treatment and rehabilitation are labour intensive initially, and effective service providers will ensure return to work and fewer people remaining on the scheme longer, which is the cause of the long-tail system we have in South Australia and is the major contributor to the recurring blow-outs in the unfunded liability.

I have received a communication from a small non-government organisation that is experiencing almost exactly the same situation with a stress-related claim to the organisation I founded and mentioned earlier. It says that it has not heard a word in five months. This is not efficient. EML is not efficient in what it is doing, but that is not necessarily all its fault. We should have claims managers, case managers and rehabilitation providers, and it should refer on and flow on, but none of that is happening. We are stalling at the claims stage, and no-one is able to move forward. Why can't we address that?

Why can't we make provisions in legislation that state that EML must refer and must consult with the case managers? They are not the case managers: they are the claims managers. Let us put in definitive descriptions of their role because we cannot rely on them to do it in their own policy. If they need us to play Big Brother over them for 12 months, two years, or whatever it takes to pull them into line, it is our job to do that. Somewhere along the line somebody believes that they are above the law. They are behaving as though they are above the law, and we are allowing them to behave like that. That is the responsibility of this place.

Where else would it be dealt with if it is not dealt with by legislation? If the law is not dealing with it, who else can do it but us? This is a statutory authority, and it has been set up like no other statutory authority. Why? What is so special about WorkCover that it is not administered in the same way as any other statutory authority that SARC can look into? It has been the case for a very long time. It is contained in the 2003 Treasury and Finance report, and I will get to that a little later.

We should not lose sight of the actions behind the word 'rehabilitation', involving the most important role of human caring, interaction and support. 'Rehabilitation' means to return someone to the state of wellbeing they experienced prior to injury or illness. That is the definition, so it should be what our rehab providers are working towards. It should be what our claims managers are seeking to achieve by the referrals they make. But what point of reality are we working with right now with EML and the WorkCover Corporation? Incur no losses! The focus is not there to provide a reasonable compensation and rehabilitation scheme. Clearly, most cases that go wrong do so in the case management process.

I have received a submission from a rehab provider. It is interesting that they did not want to be named because they fear retribution; they fear that if this was read out they would not get any more referrals. Is that how the system works? Is it the bully force? If we all worked well together we would achieve the outcomes we need, but the following is a list of the issues which have been going wrong.

In their submission, the rehab provider suggests that most of the cases that go wrong do so, clearly, in the case management process. In relation to the reasons for this, they suggest mismanagement and ineptitude at employer level, delays and mismanaged paperwork, errors in managing reimbursements and wages, harassment and devaluation of an employee, failure to remedy issues which contribute to work injuries, expecting injured workers to return to work in the same unsafe conditions as pre-injury (which gets back to occupational health and safety), and harassment and snide comments from peers who resent having to take on a higher workload as a result of investigations into propriety. Cases should be targeted for audit at all levels of all stakeholders yet they are simply ignored or only done by cursory examination.

Some cases are managed inadequately and individual cases are a nightmare. They are largely governed by the competence, or otherwise, of individual case managers. These are cases which are four years old. The rehab provider says that 'we have had no rehabilitation for three years, not even an attempt to return to the community'. People who feel abandoned by the system are placed into the too-hard basket because, when no attempt has been made to return them to work, they have actually declined physically, psychologically and emotionally. Poor case management produces depression which delays a return to work.

Delays in payment cause medical and health professionals to charge higher fees in order to compensate and they are reluctant to treat injured workers. The irony is that the most qualified people in the rehabilitation injury management system have to go cap in hand to the least qualified people in the system in order to get permission to provide anything more than basic treatment and, if the least qualified do not think it is necessary or appropriate, they refuse to authorise it. In many cases 'least qualified' should read 'unqualified'.

An in-service training program was established for rehabilitation providers and launched in 2006. The provider companies refused to cooperate so the program was abandoned, despite at least one training organisation spending a lot of money tooling up for this program. The initial program and assessment package was outsourced to Business SA which, whilst being a registered organisation, was not qualified to write the program. It did not go to tender and the only RTO qualified to assess the units was not consulted. Numerous changes were required because of errors.

All previous investigations into WorkCover have failed to examine process and relied almost exclusively on anecdotal accounts and opinion. No process audits were undertaken, particularly at the case level, nor were there any investigations into propriety.

The PRESIDENT: I wonder whether the Leader of the Opposition might want to conduct his conversation a little away from the member who is on her feet.

The Hon. A. BRESSINGTON: Further, in relation to solutions, they suggest the following: establish an independent authority with powers to audit, examine and investigate any and all aspects of WorkCover and its cases, including conflicts of interest, propriety and all cases which proceed longer than one standard deviation past typical recovery time. After speaking with Mr Robin Shaw from the Self-Insurers of South Australia, we learnt that that system has an adequate assessment process to prevent people from being on the fund for 36 months or 24 months. If their workers are not back to work, I think he said in the first six weeks, then a full assessment is done.

They determine right there and then where that case will go. Is this worker able or unable to be rehabilitated? If not, they are redeemed and they are allowed to go through their rehabilitation, get on with their life and get another job somewhere, otherwise there is a return-to-work plan. How many times have I heard in this whole process that people wait months, sometimes years, to even get a sniff of rehabilitation? This is not a workers compensation and rehabilitation scheme at all, and it is not functioning like one either.

For this to have slipped past us for so long, we should hang our heads in shame, I believe, because we know that we are not rehabilitating injured workers. We know the reason that they are not getting a high return-to-work rate is that they are not rehabilitated. However, WorkCover is now using that as an excuse to slash their entitlements and lower levies because return-to-rates are low. How could that ever be the responsibility of an injured worker? If WorkCover does not have the critical assessment that it needs to determine whether or not someone is able to return to work or whether they are injured permanently, then what are they doing hanging on to these people for 36 months—18 years in some cases?

The submission also says that all stakeholders must be subject to this process, including employers, injured workers—and we are now getting back to establishing this independent authority, a bit like an ICAC—rehabilitation professionals, case managers, medical and health professionals, and so on. The service provider also says that an independent order with power to impose penalty is the only effective tool to fix the current system without falling into victim blaming and penalty, and order investigators must be professionally qualified people. Well, yes—and did we not know that? Did we not know that if we have order investigators that they should be professionally qualified? Obviously not, or this service provider would not have included that in this submission. Obviously there is an issue there. Some other rehabilitation providers have used the term WorkCover 'police'.

The submission further recommends that we empower this authority to respond to and investigate complaints from all stakeholders and the public; remove conflicts of interest on the board, including Business SA and De Poi Rehabilitation; and eliminate the current practice of punitive and obstructive behaviour by WorkCover and EML staff based on personal issues of dislike. Personal issues are now determining how work and staff perform in an area that provides compensation and rehabilitation to workers.

Another solution is to remove the current and possibly illegal preferential practice for designated health and rehabilitation providers, which disregards WorkCover accreditation in favour of private sweetheart deals and with which WorkCover has stated they will not interfere. These are just some of the solutions that this rehabilitation facility has offered. Is it any different from what we heard from the Hon. Mark Parnell and what all members hear day in and day out from people who contact us—I think not.

So, when you have half a dozen people reading from the same song book and singing the same song, chances are—as the Hon. Paul Holloway put it so well last night—if it looks like a duck, if it walks like a duck, if it quacks like a duck, then the chances are it is a duck and, in this case, this is a pretty lame duck.

I have here the core competencies of the members of the Australian Society of Rehabilitation Counsellors of New South Wales Industry Advisory Group. This is a peak body's list of competencies for rehabilitation. We sent this around to injured workers on our database. We asked them, 'Does this even come anywhere near close to what you received from the beginning of your time on WorkCover to your now' (some of them) 'five, six, 10 years on WorkCover? We would like you to tell us whether this standard applied to your care.' All—100 per cent of them—replied no, so we would have to say that we need to be looking at standardising this. These competencies were not met, not because some of the rehab providers were not qualified to do it but because they never got there. These injured workers never got to rehab, so they could not make any comment on the standard of rehab that they had received because they simply did not get any—and that, in itself, is a major question that needs to be asked.

The profession of rehabilitation is grounded in human rights, the value of work and a partnership with persons with disabilities or workplace injuries. Its focus is on individuals and their potential. How refreshing! We could go to Queensland and we could get occupational health and safety and then we can go to New South Wales and we can have decent rehab. Why are we not doing this? Why are we not consulting?

The philosophical approach is a belief in and active promotion of a society in which persons with disabilities or disadvantages share equally in all the opportunities and benefits. The profession has existed in Australia since the early 1970s, and the initial focus of the profession was rehabilitation. Organisations at that time called their rehabilitation counsellors either vocational counsellors or vocational rehabilitation counsellors. That is interesting, because I have a document here from a mediation provider—which will be cut, by the way, under this legislation. Mediation services obviously help injured workers and their employers to reach common ground and maybe work out a return to work plan. How novel! We are not going to have those anymore with this new legislation.

While I am on that topic, I will read this—and by the way, this person does not want to be identified either, for fear of retribution. How endemic is this, this intimidation and retribution if you dare speak up, if you dare tell the truth about what is going on out there? This is the second or third service provider document that I have read out where they say, 'Please don't identify me.' Much like the Hon. Mark Parnell's injured workers saying, 'Please don't identify us, because our claims or our entitlements might be at risk.' What sort of a system is this? The document states:

> We are aware of your interest...We sponsored the WIRC forum recently when Alan Clayton spoke to the attendees and noted your attendance and participation.

Also, it was interesting that neither the Hon. Mr Foley nor the Hon. Mr Wright chose to go to that injured workers forum. It was probably too painful for them to have to look them in the eye, I would say. It continues:

> We have sponsored several of these forums and we are convinced that a truly fair workers compensation scheme not only assists injured workers but has impacts on the community and our society at large. The forum provides a good opportunity to give injured workers and members of the community an opportunity to interact on their WorkCover experiences. We have experienced frustrations in dealing with the board's decision to cease funding mediation services in 2004.

So, we have ceased that already in 2004. It continues:

In many instances injured workers return to work much earlier after mediation.

That is why we have done away with it, obviously. It continues:

Between 2002 and 2004 we conducted mediations and a return to work was achieved on an average of about five weeks at an average cost of less than two weeks' notional weekly earnings, and over 70 per cent agreed to return to work following mediation.

And it has gone. We do not do this any more. But that is probably why Alan Clayton could say in his report that we are showing poor return to work rates, because in 2004 we stopped a service that was actually achieving return to work. It continues:

We are concerned that the bill singles out injured workers as having been solely responsible to bear the cost and consequences of the unfunded liability. We are writing to you as practitioners involved in workplace conflict resolution, specialising in mediations which quite often involve workers compensation claims both in WorkCover and the self-insurers of South Australia environments, and in both the private and public sectors. Our clientele ranges from large national companies to small businesses in a wide cross-section of industries. We wish to share with you some of our frustrations in dealing with the board's decision to cease funding mediation services in 2004. In many instances injured workers return to work much earlier after mediation. This minimises the risks of reduced benefits for the injured workers, increased penalties for the employers—

well, there you go—

and contributing to the ever-growing unfunded liability. Withdrawal of these services was solely the board's decision and not the result of action by injured workers. So, why reduce workers' entitlements?

In respect of the overview of mediation services in South Australian workers compensation since 2002, it states:

By way of background, between 2002 and 2004 we conducted mediations as an early intervention strategy which involved claims for harassment, bullying, stress and injury. We were engaged by all four agents and the self-insurers and in the case of proactive workplaces our services were used to minimise the risk of workers compensation claims by giving the participants the opportunity to nip disputes in the bud. A return to work was achieved on an average of about five weeks at an average cost of less than two weeks' notional weekly earnings. About three quarters of injured workers agreed to return to work following mediation. In 2002 the WorkCover Corporation approached us about the feasibility of providing mediation services in workers compensation for stress and harassment claims and to restore the possibility of using mediation as an early intervention strategy.

The corporation required mediators to possess the following. A degree of postgraduate qualification in at least one of the following areas of study, rehabilitation and counselling—psychology, social work, law or industrial relations—and a minimum of three years recent employment experience full-time equivalent relating to the qualification. Mediators were also required to be a member or meet the membership and accreditation criteria of recognised bodies such as the Institute of Arbitrators and Mediators of Australia, and the Australian Psychological Society or Australian Association of Social Workers, and must be able to demonstrate ongoing professional development to ensure that their skills and knowledge and the delivery of mediation services remain current.

Members interjecting:

The Hon. A. BRESSINGTON: Don't you want information about return to work? The quote continues:

In the review of the corporation's vocational rehabilitation service provider's application and registration package, it was brought to our attention for the first time in July 2004 that mediation services were being considered for withdrawal from the scheme. In October 2004 we were advised that the board decided that stand-alone mediation services would no longer be funded by the corporation. This resulted in either employers paying for the service or the service would be provided only by the rehabilitation consultants and psychologists.

Between the inception of these services and withdrawal in late 2004, we conducted about 300 mediations dealing with allegations of harassment, bullying, workplace stress, anxiety, depression and injury, and as a result of the board's decision in late 2004 there was no requirement for accreditation or specialised mediation qualifications. We suggest that psychologists treating an injured worker in conflict with another worker have a conflict of interest in providing a neutral and independent mediation service, and the provider may not be qualified or accredited in mediation in any event.

Furthermore, a rehabilitation consultant is not trained in mediation skills and may well have a conflict of interest between an injured worker and an employer. A survey by the South Australian Rehabilitation Providers Association on 12 April 2005 found that the overwhelming majority of its members did not feel confident or capable of providing mediation services in matters involving their clients. The board did not provide reasons at the time for this decision. We made numerous attempts in late 2004 up to mid 2005 to establish why the board had concluded what they called 'stand-alone mediation services' and why they should cease.

Mediation services in our view, when used as an early intervention strategy provided by a qualified, accredited and independent mediator, is the only forum in the whole WorkCover system which will assist injured workers to return to work when they are experiencing anxieties about inappropriate behaviour in the workplace. Other professionals, such as psychologists and rehabilitation consultants, are of enormous assistance to independent mediators in assisting the injured workers but should not be mediating. Whilst we continue to provide mediation services, the costs when borne by employers has resulted in some difficulties for us. As independent

providers, we have to gain the confidence of the workers that he who pays the piper does not select the tune, and when WorkCover paid for our services this perception was not there.

Furthermore, we are concerned employers are paying for a mediation service over and above the cost of their nation-high levies. We concur wholeheartedly with Associate Professor Alexander's draft report (which we refer to later in this submission) that small employers shy away from mediation because of the additional financial burden.

I remind members that they said a 75 per cent return-to-work rate, that it was costing about five weeks' pay to have these people mediated and returned to work and that, in 2004, these services were cancelled. The quote continues:

There appears to be confusion in our view by the corporation as to what is the definition of 'mediation'. It is defined as a confidential process where an independent and neutral third party assists a dispute to negotiate and reach a decision about their dispute. The Working Women's Centre definition is: 'mediation that involves bringing both parties together to resolve the issue should only occur once the process has been explained and where both parties have agreed there is a problem. For example, not when the person is denying their behaviour has caused the problem and when both have agreed to participate in mediation.' Only a skilled mediator external to the organisation will conduct mediation; for example, a mediator from OCAR.

In our view, and in particular, it is important to draw a distinction between mediation, arbitration and conciliation. Mediation empowers the parties to find their own resolution, whereas in other forms a decision is imposed upon them. Mediation is also helpful for retaining ongoing relationships—for example, achieve a durable outcome for a return to work—whereas arbitration is more likely to sever those relationships. The mediator cannot impose a decision upon the parties. It is likely to be quicker and more cost-effective than the more formal process of arbitration or litigation. Mediation should be considered as early as possible after a dispute has arisen.

They are talking about disputes when a worker is trying to go back to work after an injury or when a worker is being bullied or harassed in the workplace and has gone off on stress leave. Quite a lot of stress leave claimants are on WorkCover and, as I said, my organisation is experiencing one such claim as we speak. The document further states:

Mediation fills a vacuum in the system whereby injured workers who are unable to return to work because of inappropriate behaviour are able to negotiate on a mutual basis with their colleagues an agreed outcome. The agreement that such behaviour will cease upon a return to work on their terms enhances the prospects of durability of their return to work, because the parties will have mutually agreed what is acceptable workplace behaviour.

I have received a number of complaints from people in different professions. The office of the Public Trustee is one of the places where there is a culture of workplace bullying. Quite often when people are caught up in that culture they do not view it as such, and the perpetrators continue with this pattern of behaviour. They keep creating victims, and no-one recognises that this cycle is occurring until mediation is entered into. They go off on stress leave and need to be medicated for depression or anxiety, and so on, and when they go to a mediator they find out that they have been abused in the workplace.

If these services can work with employers to identify that sort of behaviour and work with employees to help deal with that behaviour, surely that is a positive thing for any workplace: it would reduce workplace stress and those sorts of claims. However, the corporation decided that in 2004 it would just cancel the whole service. The document continues:

Where privacy and confidentiality are important, mediation enables parties to preserve these rights without public disclosure. This is more conducive to a more satisfactory outcome for both parties. To strengthen the commitment to confidentiality we conduct mediation at our rooms, which are designed for and have appropriate facilities for mediation, rather than at the workplace. In rural areas we seek private rooms.

Mediation can be implemented prior to or in conjunction with other forms of dispute resolution, such as arbitration or court proceedings. For example, disputes regarding entitlements are dealt with by the WorkCover Appeals Tribunal and not at private mediation. Arbitration and conciliation are used in the workers compensation system through the WorkCover Appeals Tribunal, which deals with issues involving entitlements and judicial review. Conciliation and arbitration do not provide remedies for inappropriate workplace behaviour and therefore do not address the concerns of an injured worker or assist in early return to work.

So, mediation is the only pathway to deal with a bullying workplace culture or stress, because that is not the role of conciliation and arbitration. Therefore, one has to ask why the corporation would do away with a program that is working well, is achieving outcomes and achieving return to work. The document continues:

Previous WorkCover reports regarding mediation. There have been reports prior to the latest Clayton review, which addressed mediation in workers compensation matters.

We have attached a copy of relevant sections of the draft report by Associate Professor Kathy Alexander of a review of health-care infrastructure, SA Workers Compensation Corporation, and draw your attention to her observation that industrial relation issues which impact on conflict in the workplace and stigmatisation are serious obstacles in returning an injured worker to work.

Associate Professor Alexander concludes that despite this the current criteria for compensation do not include payments for mediation services or expanded retraining services. In subclause (4.2.2.6) of the same report, Associate Professor Alexander stated that there is limited access to services which could improve return to work rates. She states that, 'All provider consultants identified that industrial relations issues, including conflict in the workplace and stigmatisation following an injury, exist yet there is no access to mediation services which could support both the worker and the employer to develop strategies to address and work through the conflict unless the employer is prepared to pay.'

Associate Professor Alexander then concluded that when conflict is recognised as a major cause of secondary depression hindering a return to work and when there is no willingness by the employer to pay for mediation, WorkCover's compensation costs increase. It would be more cost-effective to provide mediation. We underline this statement to emphasise the benefit.

It continues:

Our experience is consistent with this conclusion. It is a very high percentage of the mediations we have conducted that show that unresolved industrial relations issues existed prior to and formed part of stress. The mediator must therefore be able to distinguish the difference in facilitating an outcome.

Mr President, you will recall two non-government organisations which have administration officers on stress claims from work, and in four to six months neither has had an appointment with a psychologist, and the management of those organisations have not yet been contacted to ascertain what they are supposed to do.

When we read in the Clayton Walsh report about these poor return to work rates, we really do need to go further into that, and we need to ask ourselves why that is so. Here is one example, and I am sure that the rehabilitation providers are another; there is a conflict of interest and favouritism in the rehab sector, and people are not getting referred in a manner that utilises all the rehab providers. It stands to reason that we would have poor return to work rates, but the answer is not to slash injured workers' entitlements, by the way; it is to fix the system. The report continues:

The Working Women's Centre was also engaged to provide a report to WorkCover entitled, 'Workplace bullying: Making a difference'. That report is available on SafeWork SA's website and has a strong emphasis on the use of mediation in the workplace. The Working Women's Centre has identified that mediation should be conducted only by a skilled mediator external to the organisation.

We were previously told that WorkCover encouraged mediators from the actual workplace without the proper training. It continues:

We wish to draw your attention to a previous Clayton report of 2005. We have provided a copy for your information and draw your attention particularly to recommendation 21. That recommendation states inter alia that the WorkCover rehabilitation department reports to the workers compensation committee of the WorkCover Board about the impact of the decision concerning mediation services and whether there is a need to review and revise that decision.

We are unaware if that department ever did report back to the board and, indeed, we note that in the latest Clayton review there is no mention of that issue or the provision of mediation services at all. We understand that the peak professional bodies have not been contacted and our views were not sought in any meaningful way at all for the Clayton Walsh report.

So, how thorough was that report? The mediators—who achieve return to work—were not consulted, yet they had been asked to do a report and they had an analysis done. They went through assessment and none of that was taken into consideration, yet the WorkCover board cancelled their services in 2004. So, forgive me for making the assumption that perhaps return to work is not a high priority for WorkCover these days. The document continues:

Workplace mediation under SA legislation. The Occupational Health, Safety and Welfare Act 1986 makes provision to address the issues of inappropriate behaviour, but in our view the wrong model is used. The act provides that an investigation by SafeWork SA is to be undertaken first to establish if there are merits in allegations of inappropriate behaviour.

If SafeWork SA establishes there are merits to a claim then the matter is referred to the Industrial Relations Commission for mediation. Investigations focus on past events and attributing blame or causation, whereas mediation focuses on the future and the resolution. This seems a slow process and, in any event, our experience overwhelmingly shows investigations tend to polarise parties.

Now, with those two organisations that I have talked about, with those two admin officers who are off on stress and who have basically dropped off the face of the earth for the past four months, neither of those employers were visited by SafeWork SA. They were contacted directly by EML claims managers, and it has gone from there.

If this process was in place I have no doubt that at least one of those workers would be back at work by now. I know them; I know the worker; she would be back at work by now, but it has been six months and she has just disappeared into the ether. Nobody actually knows where she is.

She has not received any psychological assistance at all or any counselling or any assessment and she is now on the sixth month of WorkCover claims.

It seems a slow process and, in any event, their experience overwhelmingly shows investigations seem to polarise parties. Well, they are dead right because, until I was able to explain to the manager of this facility exactly what is probably going on, he was thinking that he was being taken for a ride and was agitated because he is paying nearly $300 a week more to engage someone through an agency to do an admin assistant's job. The document continues:

It is far better to have mediation prior to an investigation. We have found this to be far more successful in the workers compensation system, than to provide mediation services after an investigation. Mediation conducted in a court precinct may be more daunting for an injured worker than a less threatening location. It may inhibit an attempt to return to work and potentially discourage active participation because many workers can be overawed by courts. We can only speculate that most workers are more likely to find a court precinct to be part of a legal process and less friendly.

In section 26(3)(l) of the Workers Rehabilitation and Compensation Act 1994 it states that the corporation is to 'do anything else that may assist in the rehabilitation of workers'. We suggest that the mechanism to use mediation services currently exists under this provision and that the board should consider reinstating mediation services and to adopt similar guidelines as the previous provisions of the provider package.

Remember we are talking about ways to get workers back to work to get them off the scheme so that we can reduce that ugly little unfunded liability that just keeps popping up every two, three, four or 10 years. We never seem to be able to dispose of it completely. It continues:

Workplace Mediation under Federal Legislation. The provisions of the Workplace Relations Act 1996 makes provision for mediation in workplace disputes and encourages the parties to engage a private, independent mediator. The act also prescribes the Alternative Dispute Resolution Assistance Scheme (ADRAS) as a process in mediating workplace disputes that enables eligible employers and employees to access up to $1,500 GST inclusive assistance for ADRAS services per eligible dispute, and up to $500 GST inclusive to meet reasonable travelling expenses where an ADRAS provider is required to travel to assist parties located in regional or remote areas.

Any fees or costs in excess of these amounts will need to be paid by the parties or the employer to the dispute. These costs are likely to be considerably less than the overall cost to the WorkCover scheme if stand-alone mediation is not reinstated. To be eligible for assistance under ADRAS, parties to a dispute must meet a number of eligibility requirements. ADRAS providers must be registered on an approved professional organisations panel and the current panel includes peak ADRAS organisations.

For an ADRAS provider to be included on a panel maintained by a professional organisation they must meet two requirements: firstly, they must be a current member, a sessional provider, a sourced panel member, an employee, a legal practitioner or any other ADRAS provider of one of the professional organisations; secondly, they must agree to the ADRAS provider terms and conditions for participation in ADRAS through signing an undertaking.

Personal Credentials and Experience in the Provision of Mediation Services. Our clientele is made up of both employers and employees. Our other services include industrial relations services including unfair dismissal, underpayment of wages claims and agreement-making. We have deliberately maintained this broad client base so that when we are conducting mediations we are not seen as favouring either workers or employers.

I hold a graduate diploma in conflict management (University of SA), a registered agent in South Australian Industrial Relations Court and Commission, a member of the Institute of Arbitrators and Mediators of Australia, a member of the Industrial Relations Society and a member of SA Dispute Resolution Association. I have maintained my professional development and education in accordance with IAMAS's requirements. We are enclosing a brochure outlining our process—

and I will not go on. It concludes:

We have tried to provide you with an overview of the mediation services that we provide, and the frustrating experiences we have encountered in dealing with the board's decision in 2004. Our experience has shown that the decision to withdraw mediation services was unilateral and not meaningfully consultative with professional bodies and flew in the face of the Alexander report earlier in 2004. The board's decision inhibits an early return to work for a particular group of injured workers with the consequence of additional costs.

The board's chairman recently identified that the scheme has the nation's slowest return to work which is a significant concern and is contributing to increasing the unfunded liability. Yet the board withdrew stand-alone mediation services which clearly result in early return-to-work outcomes. He cites the slow return to work as good reason to return the scheme to reduce costs yet the decision to reinstate mediation has not even arisen. We note in the Business SA submission to the Clayton report that, in 2004-05, 12.6 per cent of disputes related to stress claims under section 30A of the act, that is, one claim in eight that can benefit from mediation service.

The recent Clayton review forecast that stress claims may increase as a result of the recommendations, particularly in the public sector. So, we can look for this just to continue to increase, and 12.6 per cent of these disputes are stress claims. From what I have seen from the two organisations so far regarding stress claims, they are no doubt turning into long-term claims. The document continues:

We are convinced that mediation services are both cost effective, beneficial to the worker and the employer and have positive ramifications for our community when workers return to work. Mediation does work. It increases the likelihood and durability of a return to work in psychological claims, particularly if used as an early intervention strategy. We are strongly of the view that stand-alone mediation needs to be reinstated as a matter of urgency and the board consider again the findings of Associate Professor Alexander, our experience or any other objective measurement as a tangible basis for doing so.

That the WorkCover rehabilitation department explore Recommendation 21 in the Clayton report of 2005 and, in doing so, use a more objective and consultative approach than exhibited by the board when it withdrew these services in 2004.

It is unfair for injured workers and employers to bear the consequences of decisions beyond their control. It is unfair for injured workers who go about their day-to-day work activities to be penalised. It is unfair for employers, particularly small employers, to face increased penalties because the board has decided to withdraw a service that will expedite a return to work. It is also unfair to make South Australian businesses less competitive because of the ever-increasing unfunded liability. The current review does not address the issue of reintroducing independent mediation services.

We have seen a pattern here in South Australia where, if something actually works and is effective, we tend to want to ignore it. We could go to Queensland to see how their system works, but we do not do that. We could go to Tasmania and see how their system works, but we do not do that. We have mediation services that had a 70 per cent return-to-work rate and it is defunded or cancelled through WorkCover.

They said they were not consulted in the Clayton review, yet they were in a previous one, and all that information was left out of the Clayton report. As I said, one could be forgiven for starting to see that third rule of politics: you never have an inquiry unless you know the outcome. Better still: keep having inquiries until you get the answer that you want, and that has actually been in play with this. That is why I earlier mentioned the Treasurer, the financial management of this state, and the AAA credit rating. Could it be that the AAA rating is more important to the Treasurer than the injured workers of this state?

I have here the competencies for the rehabilitation services that I started to discuss before going on to mediation. It is all tied in. I hope that members understand that I come from a rehabilitation background. I am not an accountant. I do not do figures and I do not do books. I have been a therapist for 12 years, so I am coming at this from the fact that I know treatment works. I know rehabilitation works, and my approach is a bit different to what most other members have put forward here. This has been my area of expertise for a very long time. If members were expecting me to go over the unfunded liability and all the financials of that, I apologise, because that is just not my forte. I turn now to rehabilitation.

The profession of rehabilitation counselling is grounded in human rights, the value of work and a partnership with persons with disabilities, and its focus is on individuals and their potential. The philosophical approach is a belief in and active promotion of a society in which persons with disabilities or disadvantages or injuries share equally in all the opportunities and benefits available.

The profession has existed in Australia since the early 1970s, and the initial focus of the profession was on vocational rehabilitation. Organisations at that time called their rehabilitation counsellors either vocational counsellors or vocational rehabilitation counsellors.

The purpose of the document that I am referring to is to outline the core competencies of the profession of rehabilitation counselling. This document reflects the true diversity of the rehabilitation counselling profession. It should serve as a model for employers in determining who they employ to perform the job within their service, and it should also provide a guide to educators in determining appropriate training curricula.

As to the framework for competencies, the competencies are broken down into 13 core areas which reflect the general areas of skill and knowledge deemed to be integral for the performance of rehabilitation counselling in settings dealing with disability and disadvantage and injury. Not all areas will be emphasised in every rehabilitation counselling position. However, it is the society's opinion that these competencies are the core of the profession and should be possessed by persons who wish to call themselves a rehabilitation provider.

It is also these competencies that education institutions, who purport to train rehabilitation providers, should include as essential rather than elective course work. Each general competency area is outlined. I am not going to read all of this document; I will have this submitted to *Hansard*, if I can, without my reading it.

The PRESIDENT: Are you seeking leave to do that?

The Hon. A. BRESSINGTON: I am seeking to do that, Mr President.

Leave granted.

The Hon. A. BRESSINGTON: Thank you very much. First of all, I will refer to the core areas, namely: professional attitudes and behaviour—not something we hear occurring a great deal in South Australia; psychosocial foundations of behaviour; rehabilitation theory and philosophy; disability and disadvantage knowledge; case and case load management; legal aspects of disability, disadvantage and rehabilitation; vocational assessment and vocational counselling; vocational training and job placement; counselling and interpersonal skills; community liaison and consultation; research and evaluation; independent living; and vocational counselling and placement. They are the 13 competencies, and if we had just two of those I think we would be doing well, and we would probably be getting far better return-to-work work rates than we are getting now.

From what I have been hearing from injured workers and from rehabilitation providers, we just do not have these competencies in this state. We do not have these competency levels. I believe that in this area even EML claims managers could do well to undergo this sort of training, which is outlined in one of the Clayton recommendations about training that needs to be done.

There are people who are obviously very confused, and we know about the mass exodus of claims managers from EML, and I am told it was about 30, either 30 in a month, or 30 so far this year, I am not quite sure which. But they are exiting that particular company in droves. That usually indicates that people are being required to do something above their competency, or it is a bullying workforce and they want out.

So, another question that we need to be asking is: why are these claims managers exiting? Is it, as some injured workers tell me, that only the meanest of mean people could possibly do that job because they are required to do the cruellest of cruel things to injured workers. Is that why we have this exodus of claims managers from EML? If it is, why is this parliament not asking these questions? Why is this parliament not scrutinising EML's practices? Why are we allowing this to continue to happen? Why is WorkCover Corporation, for that matter, which has engaged EML, not questioning these behaviours and practices? Why is this allowed to persist? Why is it holding onto injured workers for so long—almost like a possession—rather than rehabilitating or compensating them and letting them move on? These are all questions that are at the core of the failure of this corporation.

We seem to have a disposable society. If something is broken we replace it. We rarely bother to fix things any more, even to the point where if our children are not perfect we sometimes allow them to self-destruct as well. We can attach this ideology to any area of human service. Least is better. However, it cannot be sustained forever, because eventually most people will experience being sick, injured, disabled or addicted, or a combination of those things. Certainly, we heard the Hon. Mark Parnell's story of an injured worker who started to turn to alcohol for some sort of relief. These things are all connected, and if we continue to ignore these dynamics I think in five or 10 years we will be in big trouble, because we do not have a big population in South Australia. We cannot keep extracting injured workers at the present rate and expect to sustain any sort of population growth or industry when so many people are caught up in this WorkCover system.

In some way at some time each and every one of us runs the risk of our life changing forever—except, of course, those of us in this place (and the Hon. Mark Parnell brought this up in his speech, as well). Those of us in here will never be in the position of the Aussie battlers, and I guarantee that our WorkCover scheme would not be adjusted or reduced to the level this government is proposing for the people we are elected to serve. Why is the model used by us not adopted by WorkCover? As I understand it, the one we politicians are in, the self-insured sector, is actually running at a profit. Why are we not comparing them and taking what can work from the self-insured and what can work from WorkCover Corporation and seeing how they could be combined and the system restructured so that this corporation had some level of functionality in regard to its original role—a workers rehabilitation and compensation scheme.

That is what it is; it is a guarantee fund. It is an insurance enterprise whereby employers pay their money into a guarantee fund. Now employers are also being charged an excess if their workers are off work for two years. So some of them pay twice and get nothing for their money, while others pay once and dump their injured workers into the scheme, walk away and forget about them forever. It does not make sense. What do we do when there is no-one left to do the work; when no-one is left to care for the sick and the vulnerable; when no-one is left to pay the bills? Surely our citizens deserve a better and brighter future than this.

Is this an exaggeration? I do not think so, but we will see in another decade or so. We could see some serious social and economic problems down the track if we do not start to move away from the corporate, human disposable way of thinking and acting. Like it or not, that is what we are here to do, to prevent that tipping point of poverty, suffering and disadvantage. Let us see what use our precious AAA rating is to us then.

On Saturday I was speaking with a Business SA person and another who was recently retrenched from Le Cornu's, and both told a similar story to me: one is a businessman and one is a recently retrenched worker. They are seeing so many people now contemplating leaving this state because working-class people just cannot make ends meet any more. They are not coping and are not making ends meet and, when someone is injured in the workplace, it just compounds the whole survival issue.

When the Mitsubishi shutdown occurred we saw Anna Bligh basically saying, 'Come on over to Queensland, guys. We'll employ you. We'll give you better land tax rates and better house prices. Come on over here.' How long before many people start to see that that is the pot of gold at the end of the rainbow? Can we afford an exodus from South Australia? Will it be like New Zealand in the 1980s where, literally, the saying was, 'Last one to leave, turn the lights out.'

I was living in New Zealand at that time and I can tell you that what is going on here and now in South Australia bears a lot of similarities, with people struggling, low wages, high cost of living, lots of taxes and, of course, the WorkCover scheme, which is one out of five that is failing. It is not because of injured workers: it is because of corporate management. We are not going to address those issues, either.

God knows, Australian citizens are the most generous people in the world. We once had a unique culture of mateship in this country, a culture which was very special and which was made famous by movies like *Crocodile Dundee* and *The Castle*, where we could sit back and have a bit of a giggle while, underneath it all, we knew that there was an element of truth in it, because we are a bit bizarre sometimes.

We are a country of good people, and we do not mind the truth being told about us. We were brazen and we were bold but, at the end of the day, we could be counted on. We fought in the world wars and our heroes are remembered every year for the sacrifices they and their families had to make to keep the rest of us safe. That is the Aussie spirit, but it is being crushed—and for what? So governments can get up in pre-election years and boast about what they will do in four, five, six, maybe 10 years' time, build a monument or two and have a supreme leader of the day saying, 'What a good boy am I: look what I have left for you to remember me by'—and then work to get re-elected so the cycle starts all over again.

This is not what the people of this state want any more. We are seeing a rise in tension in this state and people are starting to say, 'Enough is enough.' WorkCover just may be the tipping point. We are seeing children (and I have seen them) who are being harmed physically, emotionally, psychologically and socially. I do not mean physically abused, but they are suffering because not enough money is coming into their house to live on, or their parents are losing their house.

The Hons Mr Foley and Mr Wright were invited to a forum where we heard stories about the tragedy of people having attempted suicide twice or three times because of the workers compensation scheme. A very large man who used to be in the construction business fell and hurt his back. He cannot sit down for more than 20 minutes at a time and he certainly cannot walk very far, but his return-to-work plan was to be put into a parking attendant's booth where he would have to sit for six to eight hours a day. He had injured his back and used a walking stick. This man was so large I doubt that he could have even fitted into the booth but, because he refused that job, he had to go back to be reassessed and is looking at losing his entitlement on the system that we currently have.

How can we live with ourselves knowing that some people will have their income—meagre as it is—cut yet again and knowing that they still have to pay the extra cost of food, electricity and all those other costs in the future? I do not think that petrol will get any cheaper, and food will continue to get dearer and dearer because of the cost of petrol, the freight charges, the high cost of staff wages and whatever else contributes to those.

With all those rising costs, including interest rate rises (and we have had three or four in the space of eight or nine months), how do people cope and have their income taken away when they are assessed as being unfit to return to work? Why can't those ministers go to those kinds of

meetings, look these people in the eye and get a human perspective on this? It is more than a dollar perspective.

I used to be a poli basher and think, 'How dare they get paid that money, drive those cars and get all those privileges?' To a point, I can understand why people are dissatisfied with what they see as the benefits we enjoy. We drive our cars and we take our wages. We work hard for them—everyone in here does—yet we fail to meet the needs of the people we have been elected to serve, and that is what causes the discontent.

If their needs were being met, they would not give a hoot about how much money we earned a week, what kind of car we drove or how many overseas trips or study trips we took. They would not care. However, as I said, there is deprivation on this scheme, and it is growing. All these systems, especially the WorkCover scheme, are failing to provide an adequate income and security for our most sick and vulnerable people.

In his speech on WorkCover, the Hon. John Dawkins stated that the Liberal Party would introduce new legislation, and I have no doubt that that is exactly what will be campaigned on at the next election, which is perhaps 18 months away. What about those injured workers who will be affected by this legislation right now? Do we believe that they can actually wait another 18 months or two years for another round of new legislation? Do we honestly believe that those who are on the edge now will be around in two or three years to benefit from any changes that could or should have been made right here and right now?

It has been stated that the suicide rate for those on WorkCover is eight times higher than in the general population. That in itself should speak bucket loads to the rest of us. People do not easily choose to commit suicide. It takes an awful lot to push a person to the point where they no longer see any reason for living. In the 2005 SARC inquiry, it was reported that over 5,000 people remained on a system of over 25,000 claimants. So, for that one year, from these rough figures we can guess that 100 people committed suicide.

This mess has been around for 10 years, so that means that at least 1,000 people who could and probably have decided that enough was enough. Who takes responsibility for those estimated 1,000 people? It is probably much higher than that. That is probably quite a conservative figure. Who takes responsibility for the fact that they just could not do this any more? Who should take responsibility for that?

Dr Kevin Purse in his paper entitled, 'The evolution of workers compensation policy in Australia' (dated August 2005) writes that in Australia over 2,000 people die each year from work-related causes and a further 477,800 are injured. More Australians die from work-related causes than from motor vehicle crashes, AIDS or drug overdoses. Our average on national statistics is calculated at 8 per cent, and my information is that this is the percentage on which federal government funding is calculated.

Some 8 per cent of 2,000 injured workers is 160 per annum. Our share of 477,800 injured workers is 33,224. Of course, we have suicides on top of that. That is 33,724 workers per annum out of our workforce in South Australia—not all at once and not for a long time, but for a given time. The effect on productivity in this state, based on that rough estimate, is enormous. It has an enormous impact on families and it has an enormous impact on business and the state in general.

We will not prevent that kind of loss by slashing the entitlements of workers. That is not how this will happen. The problem is that everyone now wants to talk in percentages because it has less of an impact. Some 100 people would not equate to 0.01 per cent of our population so we get used to thinking that is not too bad. A figure of 0.1 per cent or 0.01 per cent is not a bad figure, really—but it is 100 people.

When we want to minimise something we talk in percentages and when we want to beat our chest about our achievements we talk in real numbers because real numbers are bigger—and governments can then take the kudos. The sad thing is that those 33,000 people include someone's father, mother, sisters, brothers, daughters, sons, nieces, aunties, uncles, and even grandmothers and grandfathers—and I met some of them at the forum about which I was talking. Their story is very sad. They have worked hard, they have been injured and now, in the time of the their life when they should be enjoying themselves, they are losing their homes. They are becoming homeless.

The line to my door has been long on this issue, as I am sure it has been for many members. I bet there is not one member in here who has not heard sad stories from victims of WorkCover. When we speak to them, we all see the pain and the hurt, and that in itself is

something from which people find it very difficult to recover. A lot of people are suffering from post-traumatic stress disorder, which are can lead to far worse mental illness. They are not getting the assistance they need in the timeframe in which they should be getting it.

I make no apology for speaking emotively on this issue, because at some stage the human tragedy deserves to be put on the record. The human story, as well as the so-called financial disaster, needs to be told. This side of the story needs to be acknowledged, otherwise our denial in this place will prevent our acting in a manner that will advance the true welfare of the people of this state. We are not here to play with their lives or to use their pain and suffering for any sort of personal or political gain; most certainly, we are not here to use them or minimise this issue to get ourselves re-elected.

We are supposed to be the problem solvers, so let us solve this problem. Can we in our term work together collectively; that is, with the government, unions, employers, the opposition and crossbenchers, to find some sort of solution to this problem? Can we forget the agendas, the politics, the personal gain and the business lobbies (which most parties now serve in one way or another) and just get on with our job? If there is one issue that deserves our attention and our will to solve, it is this one. This bill must put families first. This bill must put the sick and injured first. This bill must put the true welfare of all the people of this state first. If in the next six years we cannot come to a collective agreement that this has to be tackled from another perspective as well, then I do not want to be here to debate the next WorkCover bill.

Tonight it was my intention to take members down memory lane to demonstrate that this is not a new problem. This has all happened before. I am sure that many of us in this place who bother to sit and listen know that things are happening over and over again, but we can never quite pin the beginning of it. This began in 1990.

The PRESIDENT: The document, which the honourable member sought leave to have included in *Hansard* without her reading it, is not a statistical document. Perhaps the honourable member would be better off tabling it.

The Hon. A. BRESSINGTON: Yes, Mr President, I will take your advice on that. I table the material. I will now discuss what I know about the scheme critical list. This is a topic which is rarely spoken about in circles at all. When I first found out about the existence of this list, I did not believe that it was happening and I thought that, in the early days, injured workers were having me on, pulling my leg, being over dramatic, but in actual fact, over time, I have come to believe that the scheme critical list does exist because I have read transcripts about it. I was also told by the Hon. Nick Xenophon when I first came to this place.

As I said, I knew nothing about WorkCover but I was receiving calls and letters. They were talking about being on this scheme critical list and explaining to me what it is like to try to go through the court process while they are on this list. People make it onto this list because they have an unusual claim. If EML or WorkCover were to settle this, it would set a precedent. At the moment, about 15 divers are on this scheme critical list because of unusual type injuries. It would open up the floodgates if they were to pay out one of these divers because then all 15 divers would be eligible. So, they set up this list which is called scheme critical.

You do not know you are on this list, you never know that you are on it. It is provided to the Workers Compensation Tribunal and the magistrate who is presiding over your case sees you on this list and knows that you do not settle; that WorkCover Corporation would prefer that you did not settle your claim. I did not believe that this was happening and then I was given a letter from the Hon. Michael Wright. It is undated, but it is on his letterhead. The letter is to the Hon. Iain Evans MP, member for Davenport:

> Dear Mr Evans, I refer to your letter to Mr Geoff Davey, Acting Chief Executive Officer of WorkCover Corporation, about the WorkCover Scheme Critical list. As this matter is within my portfolio responsibilities I am responding to your inquiry. The list was first created in 1994-95.

That was at about the same time that we were negotiating the amendments to the WorkCover legislation. The letter continues:

> I am advised that at an uncertain date in the past WorkCover Corporation began to provide this list to the Workers Compensation Tribunal. I understand that it was not past practice to advise workers and their representatives—

So, their legal representatives never knew that they were on the list; their doctors never knew that they were on the list—

> that the tribunal was in receipt—

and the tribunal was in receipt—

of the listing. I am advised that the provision of such a list to the Workers Compensation Tribunal no longer occurs. I trust that this information will be of assistance to your constituent.

How would the minister know if the scheme critical list is not still being given to the Workers Compensation Tribunal? We do not know and we do not seem to care too much about anything else that they are doing. I know during the SARC inquiry in 2005 it was pretty difficult to get them in to even give evidence and answer questions straight about financial issues. So, if they are doing something that is thought to be highly suspicious, why would they tell us? If we never investigate them and we never ask the questions and never go into the existence of a scheme critical list (and I am reluctant to ask the question in case it is true), how would we ever know?

The minister says in his letter that it is information that has been provided to him: I wonder by whom. If it is by WorkCover Corporation, then perhaps we should be asking the question. It has been claimed by WorkCover that the scheme critical list was originally developed as a guide to track cases before the courts; however, let us be very clear that it is, in fact, the loaded and still smoking gun, the tool by which the system has been able to work in a corrupted manner and which has well served its purpose. It is used as a tool to ensure that the claimant would spend years before the courts and tribunals, including all the way to the Supreme Court and the High Court, with no hope of winning on the merits of their case.

Of course, most scheme critical claimants never get to know this; they never get to know they are on the list, and they end up fighting for justice against the odds. Thousands of others whose names do not appear on the list are nonetheless affected by the adverse judgments that have been delivered, effectively eroding their benefits and entitlements to goods and services.

I have brought up the case in here before of one Mark Moore-McQuillan, and I know that many members in here know Mark Moore-McQuillan's history because he has been around for 20 years and is one of the belligerent litigants that we have in this state. He was in the paper not so long ago under that title, 'belligerent litigant'.

But no-one has ever bothered to read his court transcripts. No-one has ever bothered to examine his medical records to see the assessments and the medical judgments that have been made about him over that 18-year period to actually understand why he is belligerent. If it was me, I would have been belligerent long before this. I would not have lasted if my money was cut off in 2000 and I had to live on next to nothing for eight years because I was on a hit list of WorkCover Corporation, and I did not know it until I had gone all the way to the Supreme Court, almost lost everything, to find out that it does not matter whether or not I get a ruling all the way up to the Supreme Court, because I am never going to win. I am never going to get a payout and, if I take it that far, that corporation will persecute and intimidate me until there is nothing left or until I am suicidal.

This man was charged with assault with a deadly weapon for pointing his finger at a WorkCover lawyer, and the WorkCover lawyer said his life was threatened with a deadly weapon—he thought his finger was a gun—and it went to court. When he dared utter a statement in court about corruption, he was charged with contempt of court. He added a whole lot of other expletives, but the one word that got him charged with contempt of court was 'corrupt'. Don't dare utter that word in South Australia because we all know we do not have corruption in South Australia. If we never go looking for it we will never find it, therefore we never have it.

So these scheme critical lists, by the minister's own admission, have existed. We have seen how little scrutiny this corporation comes under. So, the minister is told that we do not give it to the workers compensation tribunal any more, so we will just accept that fact. I do not see any mention of scheme critical lists throughout the SARC inquiry, in the Clayton report, in the Stanley report, or the Mountford report. It is almost like it does not exist. So, if the minister is told that they no longer use it in an inappropriate way, how would we ever find out otherwise?

Of course, we have so many claimants on the WorkCover system who claim they are scheme critical, because it is the only thing that makes any sense. Judgments in courts go well for them, or they have the evidence and it does not go well for them. Usually you would expect in legal proceedings that whoever has the evidence wins, but that actually does not work for people on a scheme critical list, because if you have got the evidence and WorkCover Corporation does not have the evidence it does not exist. If the corporation cannot produce the evidence in these cases but you can, then it is automatically assumed that you have fabricated it or pulled it out of somewhere, and it is disregarded. It is not even taken into consideration in the matter being heard, all because your name is on the scheme critical list.

If it is even a possibility that this is true about scheme critical lists—and we have got it by a letter from the minister himself—and it is even a possibility that it is still continuing and these 'belligerent' litigants have had a legitimate case all these years, what are we going to do about it? The chances are: absolutely nothing, because we have done nothing about it for the past two decades.

Apologists for WorkCover should know the scheme critical list is not a hypothetical or imaginary list or one which has been taken out of any context, misunderstood or misinterpreted. It is not incumbent on the injured workers to prove that they have been disadvantaged by its secret manufacture and compilation anymore than it was on Rola McCabe to prove that Clayton Utz had wronged her when it concealed the destruction of material documents by its client British American Tobacco. Similarly, the scheme critical legal outcomes and perverse judgments speak for themselves if anyone should take the time to read them. This compilation of such a list is illegal because it clearly identifies individuals by name and claim type as being tagged for obstruction.

Moreover, the notion that a claim can ever be rejected or obstructed on the grounds that it holds a significant financial or legislative impact is contrary to any notion of social justice or statutory duty and obligation (as it attaches to any claim to additional secret criteria) which are not made known to the worker and which cannot be challenged as the Workers Rehabilitation and Compensation Act does not provide for any appeal on such criteria or grounds. That is right, there is no recall. These belligerent litigants have no legal pathway to right this and cannot be independently evaluated as such criteria are not governed by any publicly known guidelines.

For example, how might one demonstrate that a claim does not hold significant financial or legislative impact? How does one prove that? It is a little like the debate we had on the rape and sexual assault bill. It is almost impossible to prove a negative. Workers on this hit list and their legal representatives are never informed of the scheme critical or the nature of their claim and are often left to flounder in a justice system which is not permitted to rule according to the merits of their claim. Instead, for the most part, judges are ruling in favour of WorkCover.

If that happens, the corporation usually appeals. If it rules against them, the corporation appeals the decision (as its own memo shows) and uses the indemnity issue as leverage with which to win. This is because courts and tribunals have routinely sought to have workers indemnified from wearing the costs of an appeal, supposedly to protect workers from legal costs. However, WorkCover has seized on this practice to ensure that only appeals advantageous to its objectives proceed by refusing all other indemnity from legal costs. Thus merit worthy appeals are stopped dead in their tracks, especially those where the corporation's interpretation of legislation is the matter being challenged.

This practice also ensures that the corporation can set its own legal precedents in a forum it has already stitched to its advantage. The practice behind the scheme critical list was exposed on the SBS *Insight* program on 15 June 2000. The title of the program was 'Bullies at Work'. The scheme critical list is a hit list, issued by WorkCover and widely circulated to the judiciary across all courts, including the Supreme Court, the High Court and tribunals, as well as agents and legal representatives for the corporation. The cases that appear on the list are those which are deemed to hold a significant financial or legislative impact for the WorkCover Corporation.

In other words, they are cases which uniquely represent all other claims on which the corporation does not want to have to pay out. Could this be where our 36-month plus people are coming from? They are trapped on this scheme because they are scheme critical and because no-one is investigating, no-one is asking questions of this corporation and no-one is challenging its behaviour or that of EML. Everything is just cruising along under this cloud of deniability, and these 36-month plus workers (3,700 of them) are stuck. That is the long tail; that is the unfunded liability that we have to rein in. Perhaps this process has something to contribute to that. But I wonder whether we will do anything about that. Will we, through embarrassment maybe, change the legislation to accommodate this sort of thing?

This issue was exposed in 2000 on the *Insight* program: it went to air. So, the people involved were very sure that they had their legal facts very clear. Why have we not done anything about it? It remains, and those 3,700 plus workers remain in hell because we want to be the three monkeys: see no evil, hear no evil, speak no evil. This is government, for goodness sake. We have a responsibility to our constituents.

Transcripts of that program and the SBS program also corroborate its existence and the ensuing practices that resulted from it. The transcript reads:

But it's the case of Miss J whose story is the most disturbing. Miss J: The bullying that I experienced at the hands of my employer was only one small part. Now looking back on it, it was only one small part of a far greater bullying experience that I underwent once I engaged in the legal system and into the WorkCover process, and that was something that I was totally unprepared for. Miss J's case dates back to 1991, when she says a colleague started harassing her. Miss J worked in human services and until then had glowing performance reports. In 1993, she lodged a WorkCover claim for stress.

The mediation services were cancelled in 2004, and there was a 70 per cent return-to-work success rate with respect to these sorts of stress claims. The document continues:

Since then she's been in and out of the South Australian Workers Compensation Tribunal and the Supreme Court, with little success. WorkCover repeatedly contested her claim. This added to the trauma. Miss J says it would instil fear in most people, let alone anybody who comes in rather green and not knowing what to expect. There's no doubt that WorkCover needs to check out the validity of every claim it receives to make sure public funds aren't going into undeserving hands. It's the way that's done which has come under question.

Gary Collis [former employee ombudsman]: We are promised a system where claims would be dealt with quickly and non-legalistically and people wouldn't be put through this grind of having to go to specialists, having to wait months, if not years, for decisions to be made, because while people are at home waiting for these things the whole claim is taken out of their hands.

Reporter: Do you think that in some respects WorkCover is the final bully?'

Gary Collis: Yes. The whole system. Because you can't go into a process that really is a dispute time process because you are saying I'm injured through my work. The employer or the insurance companies are arguing that you're not. So, you're in dispute and justice isn't always at the end of the road.

Reporter: Ms J says the search for justice cost her $25,000 in legal fees. Worse though, it's the time she's missed being with her child. But a chance finding has convinced her that she's been right to pursue her case. It's a finding that has shaken members of the legal and employer rights fraternity around Australia. While another injured worker was researching his case at the tribunal library he asked for some scrap paper. When he turned it over he saw Miss J's name. He went back and asked for more paper and brought more copies of what was known as the scheme critical list. WorkCover has told *Insight* these details of cases, which it believes could have a significant financial or legislative impact on the corporation. The documents make it clear that WorkCover sends the scheme critical list to the Registrar of the South Australian Workers Compensation Tribunal, and it's not only the Registrar who sees them, it's the very judges hearing the cases detailed on the list. Both the tribunal and WorkCover concede the practice still continues.

This was in 2000. Remember, the minister told us—

The PRESIDENT: Do you have any idea how much longer you will be? I am just getting a bit concerned about the health of the staff and the fact that they have to come back in the morning.

The Hon. A. BRESSINGTON: Can I seek leave to conclude, Mr President? I've got quite a bit to go.

The PRESIDENT: Any rough idea of how long?

The Hon. A. BRESSINGTON: Five or six hours.

The PRESIDENT: Five or six hours! Carry on.

The Hon. A. BRESSINGTON: This is about now conceding that the practice still continues, but we have the letter from the minister (1994-95) saying that this practice does not continue, because he has been told it does not; but this is 2000. I continue:

It makes me very angry that I only found out about it after I lost my appeal and that I was never in a position to be able to first of all know that the judge had received that information or to be able to challenge that information.

Insight asked the president of the tribunal for comment. Senior Judge Jennings wrote in response: 'The list plays no part in the listing or hearing of any of the matters before this tribunal and the independence of this tribunal is in no way compromised by WorkCover issuing the lists nor our receiving it.'

Mr Stephen Lietschke, South Australian lawyer: Well, I think if a judge had received that information and is then hearing a case that is on the list, it would be incumbent on the judge to declare that in the court.

Mr Lietschke is a member of the South Australian Plaintiff Lawyers Association, who represent workers in WorkCover cases. He hasn't acted for Ms J but, like her, he's shocked by the discovery.

Reporter: I wonder if you've ever seen any of these sorts of lists and what you think of them.

Mr Lietschke: No, I haven't, and I can immediately see two of my clients on that page.

Reporter: What's the problem with that level of detail being provided to the Registrar or to others in the tribunal?

Mr Lietschke: If I was acting for that worker, I wouldn't know what is the extent of the private communication. I wouldn't know to what degree the judge may be influenced at some level by this document. The real risk is that the workers' individual rights are going to be consumed by policy considerations about what might be

in WorkCover's broad financial interest, and all of this is happening secretly, unknown to the worker, and that would be of concern. I've just looked at one of these that says 'records of the deputy president', which is a judge. A judge suggested to the workers' solicitor that they pursue a claim in a particular way. Now, not only do we have a description of the importance of the case but we have an assertion that the judge has made a suggestion to the workers' solicitor. Now, does that compromise the judge? Is that accurate? That's just a completely inappropriate comment.

The South Australian Minister for Government Enterprises declined *Insight's* request for an interview, saying he knew nothing of the lists. WorkCover also declined the invitation to appear in this story but wrote saying that 'any suggestion that such a list influences the independent tribunal in its decision making is ludicrous' and that it sent the list to the tribunal as 'a matter of courtesy'.

Ms J: What a nonsense to suggest that it is a matter of courtesy. If I was to write to a judge I would be very quickly either brought in for some sort of contempt charge or, alternately, the judge would simply return my correspondence telling me to refrain from sending any future correspondence of that type.

Mr Lietschke: For my clients, they would have a reasonable basis to fear that the tribunal is not judging the case just on the law and their own individual circumstances, but are taking into account what's in WorkCover's best financial interests.

So, we know that scheme critical is real. The minister has admitted that it is real. We know that people are trapped on this scheme via scheme critical, that they are taken through the courts for as long as need be, to break them financially, emotionally, physically and maybe even push them over the edge to suicide—and we have poor return to work rates and we need to slash injured workers' entitlements to solve these endemic systemic problems that we have.

The fact that the minister himself (the Hon. Michael Wright) knew that scheme critical was in existence and has done nothing to bring it to the attention of any of the tribunals or inquiries that we have had into WorkCover's failure must be a contributing factor. How many of those 3,700 36-month-plus people are scheme critical? Even if it is three-quarters of them, that is our unfunded liability, and what have they been put through in the process to be kept on that system for so long?

All the legal fees and medical fees are not being paid for them. They get those doctors' bills, etc., sent back to them. I have seen someone who has medical bills from 2006 that WorkCover has just stopped paying and, therefore, he cannot get access to his medical practitioner because that practitioner is sick and tired of not being paid, and this person does not have the money to pay. So, it is a vicious circle.

It is a terrible, adversarial, anti-citizen sort of set-up, and we keep going over these inquiries, investigations, reviews and goodness knows what else, but we seem to delicately tip-toe around where the systemic problem is coming from and what sort of a solution we would really need to fix this. I am sure that, if scheme critical still exists (it did up until 2000) and it is in play, those 3,700 workers on 36 months-plus would have a very good case for suing for damages, if we had common law, of course.

This government should be taking this corporation to task on that; it should be asking it to hand over all this information, and we should be looking at how we restructure the organisation so that it is more accountable to government, because that is obviously what we are here to do: to provide a level of accountability. If we cannot do that, then, as that mediation provider suggested, we need an independent tribunal to be looking over the function of WorkCover on a permanent basis. We would need to set up the WorkCover police.

So, we have touched on scheme critical, and for any members who did not know that scheme critical existed, I hope that they will take the time to find out for themselves about that particular list and its function. I hope they press minister Wright for some answers on that, as part and parcel of our job in debating this bill.

I will not ask a question on this in committee, but I will be very interested to see whether any other member shows any interest in exposing scheme critical and what the effects of that could be on our return-to-work rates, on our 36-month-plus number and also on our unfunded liability. If we took those 36-month-plus people off, then I imagine that our unfunded liability would disappear. Take them off and pay them out for the damages that they have suffered, as well as what they should have been paid out for their original injury. Some of those people have been on the 36-month list for way more than 36 months.

We are ultimately responsible for the fact that this has been allowed to slip under the radar. That is why I say this legislation that we are debating on slashing entitlements and cutting redemptions and doing all that stuff is not going to work, because it is the policies and the practices—the whole thing—that is just basically not working. The original act has never been enforced or respected, if you like, or enacted—I do not know what the word is.

WorkCover Corporation is able to determine how to interpret that legislation. It is able to go around legislation via its own policy. If scheme critical is still in existence, then that explains a lot. If it is not, how many of those 3,700 workers are there because there was a scheme critical list that was still active in 2000? These are important questions that need to be answered before we go slashing injured workers' entitlements and cutting out redemptions altogether.

I have some stories here, as did the Hon. Mark Parnell, and I am not going to read out many of them but enough, hopefully, to get the message that people are not happy with this. If we could be so arrogant as to believe that it is just one or two disgruntled people that are not going to vote Labor any more—maybe that is going to be the case, but maybe it is not. I have a letter here from a 74 year old man who has been a Labor man all his life, and he swears that he would be too ashamed even to hand out how-to-vote cards at the next election, and he has been doing that now for many years. He writes:

> Dear Mr Rann, I am 74 years old and have always regarded myself as one of the true believers. I have worked as a volunteer handing out how-to-vote cards going back as far as Geoff Virgo, Fred Birrell and as recently as the last state and federal elections. 14 years ago, I was visiting one of my sons in a high dependency unit at QEH. In the same unit was a man who had been knocked off his bike on the way to work early morning by a hit-and-run driver, and I can still remember his screams of pain as members of his family worked at sitting him up, trying to manipulate his arms and legs.
>
> This man was not going to be back to work again in two years' time and his family would be suffering hardship also. I can also remember the huge disgust I felt at that time, listening to the radio on the way to hospital, that the Liberal government of the time had abolished workers compensation for workers travelling to and from work, which was part of the workers compensation plan that Don had arranged in his best compensation awards in Australia.
>
> Since then, I am led to believe that South Australia has slipped to last, or close to last, when it comes to looking after injured workers. My disgust at the cutting of payments to injured workers surpasses even that of the to and fro work abolition clause.
>
> Many years ago, when compensation was run by private insurance companies, I had some experience with a work injury and, at that time, I became aware that all doctors charge more for their services for compensation patients, and all hospitals, including public, charge more than standard for patients. Lawyers charged whatever they liked and employees were persuaded to return to work at a lower rate of pay so that while undergoing further treatment they would be paid at a lower rate than originally.
>
> In the event of a total payout, it would be calculated at a reduced rate of average earnings. I do not know whether the system has changed but, at the time, everyone made a profit from a work injury except the workers and their families. Apparently, the only way to save the world is to take more money away from the workers. At this stage I would be ashamed to be seen handing out how to vote cards for this government.
>
> Yours truly

Do we honestly think that people will just forget about this? Do we think that, if we can do enough good things—warm and fuzzy things—in the next 18 months, people will forget that we have all contributed to ruining their lives, causing them more pain and suffering on top of the pain and suffering that they have already experienced through no fault of their own? I am sorry, but I do not think that people will forget. I think we need to get real about this. This is not the first time. This is not the first wave that has hit. This now to injured workers is like a tsunami. This is the last straw. How many times do we cut them back so that they cannot even keep up with the good old CPI? They are behind the eight ball all the time, and it just happens more and more. I do not think that our citizens will forget this in a hurry.

I would like to thank the Hon. John Darley for his contribution last night. It was the technical stuff, the accounting, the figures and all the information that I am not putting in my speech. The Hon. John Darley is the only man in this chamber who has sat through this entire debate. He is the only man who has listened to everything that every member in this place has had to say about WorkCover. I admire the fact that, for a relatively new person in this chamber, he shows such an intense interest in the issues discussed in this place that affect the people of this state so tragically sometimes. I would like to commend him for doing what he has done.

I would also like to thank the Hon. Mark Parnell for his huge effort today—seven hours, a bit more perhaps—and for the information contained in his speech.

The PRESIDENT: That is not relevant to the bill.

The Hon. A. BRESSINGTON: Well, it is, because we, the crossbenchers, actually are in unison on this bill. This bill is not good enough to pass, yet we still have both parties—Labor and Liberal—closed off to any amendments. We were told that it would be received in the lower house at 4pm on Monday. So, what hope do we have to amend this bill? We are now a little more educated than when we started, but will it change anybody's mind?

Is it going to persuade them that our job is to make sure that injured workers do get the best deal; not the rhetoric but the real stuff—that injured workers will be able to breath easier next week because they will be able to live and pay their bills and survive? The government will look into the issues that do exist. There have been too many claims critical to this scheme and all of that. Its existence and the practice of it is there, but nothing has ever been done. So, is it time that we started to make a really determined effort to get to the core of why this corporation can never seem to turn itself around?

I have a story here—and, again, as in the case of the Hon. Mark Parnell, it was produced by the Public Service Association to keep us in touch with the people it is dealing with as well. The story relates to a worker in their late 40s. It states:

> Submitted an anxiety and depression claim due to workload issues over many, many months. The claim was submitted in October 2007, and the date of injury was at the beginning of 2007. The compensating authority and its insurer, EML, on their behalf, did not offer any interim payments until December 2007.
>
> Due to the Christmas break and need to fill in a number of forms, the interim payments were not started until mid January 2008. The insured worker was left without any income or assistance. Rehabilitation started in early February, only after the treating doctor made a referral for rehabilitation and the doctor had written further letters to the case manager in regard to the lack of progress. The notional weekly income was incorrectly calculated and not all the earnings were included. It was some time in April 2008 that the calculations were made and back pay was sent to the injured worker.
>
> Considering such a long time and having to go through an unhelpful and difficult process while being depressed has further aggravated depression, as well as created enormous financial burden to this injured worker. The proposed bill is not going to do anything to make a difference to the system that entrenches people's injuries and disabilities. There is no early rehabilitation proposed in the new bill, and there is no commitment to make a change to the system that is already abusive to those who have been injured.

Yet again, I remind members that the remediation services that were being provided to people with stress injuries was cancelled by WorkCover—contract done and dusted—in 2004, and that is a service that had a 70 per cent success return-to-work rate in a five-week period. It goes on:

> Example 2: Worker is in late 20s; injured in 2001. Physical injury to both arms from repetitive work. Has five days off and back to work. Continues with periodic treatment to maintain his condition for purposes of assisting him to manage his pain and his return to work. Had two or three aggravations subsequent to the original injury. All accepted, with a minimum time lost of a few hours for seeing the doctor. For the last aggravation, being late 2007, he was sent by the insurer to one of the independent medical examinations, who, in his opinion, has expressed the view that, while this injured worker does have injuries and ongoing restrictions, in his opinion this is not work related and never has been. The insurer took the opportunity to request the injured worker to fill in the new claim so they can reject the claim.
>
> Despite the fact that the injured worker has a GP, occupational therapist and two of his own specialists, as well as two other independent medical opinions requested by the insurer that the condition is work related, the worker will now have to go to the tribunal to get any further medical treatment.
>
> The current bill will entrench this position, as it will be sending injured workers to medical panels, where those injured workers will not have any representation, no right of appeal, and the panel will not have to justify their position. If the panel misunderstands the worker's condition for any other facts, come to the wrong conclusion due to the misunderstanding, the decision will stand alone.

The losers here are the injured workers. It is also questionable whether any treating medical experts will participate in medical panels which will always leave those injured workers to front up before insurance doctors.

Speaking of medical panels takes me to another past issue, because these panels greatly resemble the loss of earning capacity (LOEC) scheme. These schemes were originally set up to allow injured workers to receive a lump sum payment once a year and then they were basically out of the system for 12 months. It was estimated on their earning capacity, and I think I read earlier that overtime and things like that were deducted. This is one of the changes that has occurred. However, what was actually happening was that people's income was being calculated, WorkCover Corporation was deducting the tax from those amounts, and the injured worker then received his yearly income minus the tax. That is fair enough, but WorkCover was not paying that tax into the ATO; it was keeping the tax it was deducting from injured workers' payments, putting it into its own account and not paying the ATO what was owed.

There is a story about a Mr Hill, an injured worker caught up in that LOEC scheme. He had a crippling back injury and was living on liquid morphine. His payments were cut just before Christmas one year with no explanation other than the fact that the ATO had not received the money they should have received from him. So he was cut off. Fifteen months later he is living in a hostel in the city, and every morning at 4am he drives 30 minutes home so that he can help his wife with his three children to try to keep things as normal as possible for them.

He could not live at home with his family anymore because they were not getting any income and his wife had to go onto a single parent's pension. He went to Centrelink and was told that he could sleep in the car in the driveway (with his crippling back injury and living on liquid morphine) and his wife could collect that pension—but no way could he sleep in the house. All because WorkCover had not passed on his tax deductions to the ATO.

Mr Hill wrote to members of parliament about this issue, and I am sure he found it very consoling to receive responses stating that it was a terrible situation he was in and that they were really concerned about the WorkCover scheme, but there was no way a Labor government would ever slash injured workers' entitlements like the Liberal government had done. That was a common response from most Labor members. Mr Hill had been in the paper. We see that, years later, in 1997, he gets a letter from Mr Ivan Venning, the member for Schubert, which states:

> Dear Mr Hill, thank you for your recent faxes regarding your concerns relating to WorkCover. It must be very frustrating, especially after winning your court case and still not receiving satisfaction after all this time.

So he won his court case, he got his LOEC restored, everything was sorted but, two years later, he still had not been paid what he was legally entitled to be paid under a court judgment. Again, this is 1997.

In 2008, would he have been one of those people who was not returning to work fast enough? Would he have been hanging around waiting for a payout? Would he have been contributing to the unfunded liability that we hear so much about? If he was—and he probably was, because it was at about the time that we were talking about cutting benefits to workers yet again—then how do we justify it this time? These are all newspaper articles. This was in the days when Michael Foster (a very good reporter for *The Advertiser)* was chasing up this WorkCover issue and trying to get the government to do something about it. I believe that was his motivation. He wrote many articles which, pieced together in sequence, show that the solution we think we have now is not new. We have done it before, and it has not worked. We cannot pass this legislation in its current form knowing that we have done it before and it has failed.

Knowing that it is getting critical now, does that make members think twice about whether we are asking the right questions when we look into the WorkCover Corporation and EML? Does it make us think that perhaps we could do this just a little differently or better? Or, are we just going to pretend that we never heard this tonight? Are we going to pretend that this has been a bad nightmare and that we will wake up in the morning and it will all be gone?

These are issues that I will pursue, as an elected member. There is not much I can do about it on my own, and I have to tell injured workers that. As an Independent, all I can do is try to get it into the media. Of course, the media are not very sympathetic any more. They are sick of the stories. They are sick of hearing sad news stories. One of the reporters for *The Advertiser* said to me, 'You know what? We don't bother about this any more because it's just always there. There's nothing new about WorkCover any more.' That is our doing.

If we pass the legislation now in this form we are knowingly condemning more injured workers to the same treadmill, to the same revolving door. When they write to us in the future and tell us their sad stories, we cannot claim that we do not know. An article emanating from the 2020 Summit on Saturday 19 April, headed 'Outlaw politicians' lies', states:

> Prominent Victorian barrister, Julian Burnside QC has asked this weekend's 2020 Summit to support a plan to make it illegal for politicians to lie to the public.'
>
> Mr Burnside is attending the future of governance session at this weekend's summit in Canberra. And he has warned that many of the reform ideas coming out of the summit could be worthless without a more fundamental change in public life. 'If politicians are able to lie to us, mislead us about what's going on, about what they're planning to do, the whole system will not work,' he said. 'We can have all these elaborate ideas [about] re-designing the constitution, but if they lie to us, we can't hold them to account.'

Nick Thredgold, President of SA Unions, said this about the proposed legislation:

> Unions in South Australia want a well managed fund that is financially viable. We also want workers to be able to return to work in the community safely and quickly.

I say to Mr Thredgold: with this legislation, you will get nothing of what you want. WorkCover is already performing reasonably well financially (apart from the unfunded liability, which we all know is a bit of a myth) and apparently showed a profit of $168 million in 2005-06, but it may not be performing as well as other schemes.

Let us look at the economy of Queensland, which is a far bigger economy with far more money circulating and far more employers investing in the fund, although I suppose it also has

more injured workers. We cannot compare Queensland's fund with South Australia's fund or the fund in New South Wales because they all operate differently; it would be comparing apples with oranges.

If we are to adopt a scheme, let us adopt Queensland's or Tasmania's scheme and go with their entire model for three or four years. Let us try that instead of this legislation. Let us give it a go for four or five years and, if it works better, then the problem is solved. There are so many things that we could do to avoid crashing and burning again, but this government has taken the easy way out: it has looked back over history, seen legislation there, adopted it again (but maybe tweaked it a little) and thrown it into the mix.

Here we are, debating a piece of legislation that I am sure the Hon. Rob Lucas could debate without even opening a book. He has been here long enough to know this issue inside out and back to front. This legislation is not that different from that introduced in 1995, but the question is: do we ever learn from our mistakes? Do we ever acknowledge that we make mistakes? Is that it—that governments and oppositions can never admit that we have not got it right and so we just do it again?

According to Dr Kevin Purse, WorkCover is already performing well financially. He also states that, with the current methodology, where WorkCover's outstanding liabilities are estimated on an ultraconservative basis, with the focus on the unfunded liability and the ultraconservative methodology, one could be forgiven for thinking that the bleak news about the financial situation of WorkCover has an ulterior motive—perhaps to create fear in the general population so that a statement like, 'Tough decisions need to be made in the best interests of the state,' will be more accepted by members of the public who are not affected by WorkCover.

We all know that the Hon. Mr Rann, the Premier, is prepared to make tough decisions because we hear it all the time. In fact, the really tough decision would be for the Hon. Mr Rann to take the WorkCover Corporation by the ear and insist that it do its job. It should find a way to make this work and not at the expense of injured workers or, better still, insist that the Minister for Industrial Relations do his job and force WorkCover to abide strictly by the legislation, thereby ensuring a functional system focused on the human element.

The other furphy that has been created is that those who are rorting the system are somewhat responsible for this blow-out. In fact, the Parliamentary Library shows that there have been only 68 convictions for WorkCover fraud in the past 10 years, which translates to approximately 0.05 per cent of the total number of claims made on WorkCover.

An advertising campaign was run some time ago to encourage people to dob in a cheat. This campaign was particularly sympathetic to employers who were supposedly being rorted, and it also targeted the average citizen to believe that their hard-earned money—taxpayers' dollars—was being used by many people to cheat the system. This set up another artificial adversarial system of average citizen versus WorkCover claimant. Because of this negative campaign to dob in a cheat, those who do go on WorkCover are stigmatised and labelled as bludgers. They are now almost unemployable, and often employers are loath to have them back in case they get taken for a ride again.

Those in power in the WorkCover Corporation are setting up an adversarial system of average citizen versus injured worker and creating a false reality that the number of cheats is the reason for this poor performance rather than the inadequacies of those paid good money to manage and administer. This advertising campaign was the beginning of what I believe to be the artificial problem of the WorkCover saga.

Follow that with a philosophical letter from the minister requesting WorkCover to stop its redemption practices, the media hype about the unfunded liability, the public comments of those who should know better about the effects that rorting is having on the unfunded liability, the media's full cooperation in this exercise and this horrendous piece of legislation—and one has to wonder why. If it is a revenue grab then I know that eventually all will surface, and those associated with this sorry tale had better be long gone from this state. If we tell our struggling citizens to eat cake for too much longer we may well see and feel the wrath that we deserve. Of course, we must not forget Mr Clayton's comments regarding workers who are waiting for a redemption rather than returning to work.

I am sure that there are those who would and do cheat the system. They are a minority of individuals. They should be prosecuted for any such rorts, but the true rort of WorkCover is that the focus has not been and is not with the best interests of the injured worker; rather, it is with profits at

any cost and the myriad of empires that have been built and maintained on the pain and suffering of injured workers.

Dr Kevin Purse said that attempts to blame injured workers for the scheme's shortcomings are no more than a diversion from the real issues. It is all too easy to paper over management cracks by slashing workers' entitlements. Mr Thredgold said that in the current public debate there is a view that the financial position of the scheme can be improved only by blaming and punishing injured workers.

The employers' push for a reduction in workers compensation costs and a levy reduction will be done at the expense of injured workers and their full recovery. Employers also have a responsibility to ensure workplaces are safe and, if workers are injured, that they are rehabilitated and returned to work. What we need is a calm and informed debate that balances the interests of the employers and the injured workers within a financially viable scheme. It seems that the unions will not get what they believe is needed, and again I stress that the losers, the only real losers, are the injured workers.

The bill before us will not advance the true welfare of the people of this state: it will not even come close. I ask each member to deliberate on how injured workers could possibly survive if their entitlements are cut when they, too, have families to provide for, mortgages to pay and, of course, manage the ever increasing prices of fuel, electricity and food, as I have mentioned before. Poor outcomes are the result of poor management, and it is hardly the fault of workers that they are injured on the job, although our Premier obviously sees this quite differently.

The entire argument for this legislation is to rein in the unfunded liability that has blown out during this government's time. It has been flagged as the next State Bank disaster, and that has been supported time and again by political analysts who, quite frankly, should know better. Again, as Dr Kevin Purse has put it:

> The current debate has become increasingly distorted as a result of a simplistic preoccupation with the scheme's unfunded liability. Perversely, the criticisms have come at a time when WorkCover's bottom line is trending upwards. Of even greater significance is if WorkCover's continuing strong investment results were taken into account, the scheme's financial position would be better off by $300 million.

I will not read all that because I am aware that the Hon. Mark Parnell included this in his contribution and I do not think that we need to double up.

In simple terms, the estimation of the unfunded liability, as I have said earlier, is an inexact science. The unfunded liability is calculated on the number of people on the scheme, how long they will be on it and when they will turn 65, which, according to the calculations, is a pretty straight line. If you are 45 and you are injured, you have 20 years to go. That is how they will calculate it. As I said, even the suicide rate is eight times greater than it is in the general population, and I wonder whether the actuaries have taken that into consideration. I wonder whether they have deducted the 8 per cent off their calculations for this unfunded liability. I have seen some of these injured workers and many of them will be very lucky (or unlucky, whichever the case may be) if they do live to 65.

Businesses run on unfunded liabilities all the time. We have sick leave, long service leave and, in some places, maternity leave. We have all sorts of leave. If my organisation decides that it will provide paid maternity leave for its staff, and I have 20 staff and they are all of varying age groups, it is very unlikely that all those staff will fall pregnant, give birth to their babies and collect their maternity leave all in the same space of time. That is what they are expecting us to believe will happen with this unfunded liability; that is, somehow everyone might turn 65 and we may have to pay out this $900 odd million all at once because everyone wants their money today. It will not happen; it cannot happen.

The way that we can cut down the long tail of this is to get the long-term people off the system with a fair redemption and an opportunity to move on with their life, but we are holding them there because they will not accept lousy redemptions. If they do accept those redemptions, we are committing them to a life of poverty because many of these people just simply cannot work any more. So, they take a $30,000, $40,000 or $50,000 payout and now they are not even going to be able to use a redemption to pay their debts that they would have accrued for the time that they have been on WorkCover.

If that had been done at the beginning when they were assessed as being unable to return to work, all that could have been retrieved, but now so many people are so far into this, they are so deep in debt and they are so desperate, that those redemptions now are not going to redeem them. It will not assist them and they are older than they were when they went on it. Some of these people, as I said, are classified as 36 months plus, which is a long time. Maybe we should be more

specific about the exact periods of time that people are on them instead of 3,700 for 36 months plus. That could mean anything. That could mean that people have been on it for 18 years and we would never know.

So perhaps that is what we as a parliament need to be doing, asking for more information on this so that, when we are being asked to pass legislation to slash injured workers' entitlements, we are not doing it like blind Nelly. Should we do it like blind Nelly? We are the legislators. Should we take their word for it, should we take a corporation's word for it, or should we conduct an investigation? There is a lot missing from the last Clayton Walsh report, as members heard from the rehabilitation service provider and also the mediator. None of those services were even included in this Clayton report, but it was in the previous one. How do we explain that?

We are basing this legislation on half a report. Service providers say that no consultation was done for this Clayton report. The Law Society says that the terms of reference were very narrow, yet we are prepared to rush this legislation through. Why? Because it does not affect us. Why don't we introduce legislation that now adjusts our workers compensation? Why don't we have the same system that we are expecting our workers to wear? Why don't we do that, in here? I damn well will and I bet it would not get through. I bet Mr Rann would not rush it through, like we have rushed this one through. It would be most unpopular, I would imagine.

The Hon. P. Holloway interjecting:

The Hon. A. BRESSINGTON: How could anyone sitting here find any of this even slightly amusing, given that the Hon. Mark Parnell stood up in this place for seven hours and myself for almost as long to make the point that what we are doing in this place with this legislation is wrong. It is wrong and we know it. If we sell it, if we put this through then, by God, I do not know how any of you will be able to sit in your own skin. You have heard the facts here tonight. You have heard about a scheme critical list that the minister has admitted exists. Those people never settle. They are 36 months plus. They are our long tail to this scheme.

Can you pass this in good conscience? Can you pass this for the true welfare of the people of this state? I hope not. Do not heckle me about this because, as I said, I know most of you guys want to do the right thing. I know that that is what we are here to do, to advance the true welfare of the people of this state, but most of you do not have to go into this in depth. Most of you do not have to do the research to get your head around this stuff. You do not have the opportunity to do that, as the Hon. Mark Parnell and myself have. We know what we know. You know what you are told. You only know what you are told and, for any other piece of legislation, for any of my drug legislation, I would not make a stand like this.

It is so important that this is done right, because people in this state have been suffering way too long, and I will not be a party to this. I will create as much public dissent as I can to educate the public about what we are going to do now that we know what we know. Even if you do not believe what I have said tonight, for God's sake go and check it. Do your own research. I will give you the paperwork. Check it out for yourselves. And you Labor backbenchers, take this into consideration, otherwise you are betraying your unions, and for what purpose?

The ACTING PRESIDENT (Hon. I.K. Hunter): I remind the honourable member to direct her comments through the chair.

The Hon. A. BRESSINGTON: Okay, Mr Acting President. If we even suspect that scheme critical exists now, if we even suspect that those activities that have been able to provide return to work and mediation services have been cancelled for no reason, and if we believe that rehabilitation service providers are not being accessed and utilised in the way they should be, is that not enough to stop this legislation from becoming law?

I could go on; I guarantee I have boxes of stuff to use and, if this late sitting had not been arranged in the way it was between the Liberal Party and the Labor Party, I was prepared to speak for weeks on this bill. I have boxes of stuff that I could use to talk further about the scheme critical, because I knew that otherwise this was information that would not be discussed in this debate. I knew it was information to which you would not get access. We all know about the unfunded liability. Everyone got up and talked about unfunded liabilities. Incidentally, what were the backbenchers last night?

The Hon. M. Parnell: Gnomes.

The Hon. A. BRESSINGTON: Gnomes. I hope tonight I have provided each and every one of you with enough information to spark your curiosity, to think about this legislation instead of blindly following our Premier, the Hon. Mr Rann, and the Hon. Mr Foley. They do not care about

you. They would sacrifice you like they are sacrificing our injured workers. If they cared about you they would not be asking you to do this. You must feel in your gut that this legislation is wrong.

So, I am going to close now. I have done my bit; I have said my piece. There is a whole lot more stuff here that I could have used to back up my remarks, but I hope that some of this has got through. None of you can resort now to deniability. None of you can claim that you do not know. None of you can claim that you did not even suspect, because now you all know. Whether you sit there and read your papers while this is being said, or whatever else you are doing, you know. If you do nothing else but look into this, then thank you very much. If you do not, then God damn us all.

The Hon. B.V. FINNIGAN (03:49): I support the Workers Rehabilitation and Compensation (Scheme Review) Amendment Bill. In doing so, I highlight that there is no actual need for me, or any other government member, to speak in order to support the bill. We have heard the constant accusations from non-government members that somehow silence is consent, and the Hon. Stephen Wade quoted Sir Thomas More to that effect. It is rare for every member in this place to speak on every bill and, while our contributions matter, what counts most is the way we vote. I, and every other government member, will vote for this legislation. Our names will be recorded in perpetuity as having voted for the bill. To suggest that somehow we are hiding our position on this bill is laughable. There is no surer way to prove one's intentions in this place than by the side one sits in a division.

Opponents of this bill, particularly in the past 24 hours, have implied that anyone supporting the bill is uncaring, lacking in compassion and basically heartless. I resent that inference. To suggest that supporting a bill to restore WorkCover to financial health is motivated by an uncaring attitude to injured workers is untrue and deeply unjust. None of us want to see workers being injured, and all of us are moved by the stories of those who have suffered such injuries and the difficulties faced by them and their families.

It is important to remember that the government is not proposing to abolish the workers compensation system or health and safety regulations. What we are proposing to do is ensure that the system will be there and solvent into the future for the benefit of injured workers. If I were an opponent of this legislation, I would be profoundly disappointed by the advocacy of that position by the Hon. Mark Parnell and the Hon. Ann Bressington. Having just lectured us all about how we should have been sitting here every moment of the debate, listening intently (we could not read it in *Hansard* or listen in our rooms: we had to be here), the Hon. Ann Bressington and the Hon. Mark Parnell have just left the chamber. Having goaded government members to speak for the entirety of this debate, they do not have the courtesy to listen to what members have to say. The length of their contributions has turned this council into a place of high farce.

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. B.V. FINNIGAN: Both the Hon. Ann Bressington and the Hon. Mark Parnell simply took up time. Neither of them has made a cogent case against the bill. The Hon. Ann Bressington has made another of her contributions. I am at a loss as to what position she was actually advocating. She is against the bill—I worked out that much. However, she seemed to be simultaneously arguing for a self-insurance system, a universal WorkCover system that you could not opt out of and the restoration of a common law system.

The Hon. Ann Bressington in her contribution cast aspersions on the Deputy Premier, suggesting that he cares more about the state's AAA rating than injured workers. She just repeated that assertion about the Premier and the Deputy Premier, and that is a disgraceful slur on their character. It is unparliamentary. It is a gross distortion to suggest that they do not care about injured workers and that they care only about themselves.

The Hon. Ann Bressington also called into question the integrity of the WorkCover Board and members of the Workers Compensation Tribunal. It was another trademark contribution composed of conspiracy and conjecture. I think that we should really get the Hon. Ann Bressington to look into the Kennedy assassination, because she is bound to know who was behind it. The honourable member insisted this morning that there must be more to it; that there must be some conspiracy that we do not know about.

What this bill aims to do is entrench in place a WorkCover scheme with a secure future. It aims to address the financial health of the scheme, to reduce the unfunded liability and to ensure that, into the future, claims can be paid. There is no doubt that this is painful, but it is necessary.

This bill is necessary to ensure the survival of the WorkCover scheme for future injured workers, and it is necessary for the financial stability of the state and our economic competitiveness. No-one is pretending that, if we continue to have a 3 per cent levy, every business will pack up and leave the state, but some may, and others will certainly choose not to establish here because the cost of doing business is too high.

I am sure that we are all familiar with the key provisions of the bill. It does provide for some diminution of benefits for new claimants compared with those under the current regime. It does provide for a 130-week review, which will mean some recipients no longer receiving income maintenance. But the bill also provides for the establishment of the office of a WorkCover ombudsman with strong powers to act to protect claimants. It is part of a package that includes $15 million to help get long-term injured workers back to work. Of course, we all want to see fewer work injuries in the first place.

This government has acted to increase the number of inspectors to strengthen occupational health and safety regulations, including the increase in penalties, and to provide funding for training and education at workplace level, and we should continue to invest in reducing injuries at work. Many have expressed the view that further improvements in the administration of the WorkCover scheme can help address the problem of not getting people back to work. I have some sympathy for that view, and I am hopeful that the board can continue the work to improve the return-to-work rate. But that alone is not enough. That is why the key focus of these changes is getting workers back to work. Almost everyone agrees that this ought to be the primary aim of the workers compensation system.

We have heard some claims that more redemptions are the way to get people off the scheme, or the restoration of common law rights. However, those propositions do not solve the problem of getting injured workers back to work quickly.

We know this bill has not gained support from unions and some lawyer groups. The fact that the government has pressed ahead with this bill is testimony to its resolve to govern responsibly for all South Australians, to protect the future of the scheme for injured workers and to protect the state's financial security. In contrast, we have had a number of contributions from the Liberal opposition members in this place bemoaning the WorkCover Corporation's management and the government's management. If it is not the fault of the board, they say, it is the fault of the government.

We heard from the Hon. Stephen Wade the invocation of May Day, which is an extraordinary affront from a member of the Liberal Party. This is the party that first outsourced the claims management of WorkCover when it was in government: the party that cut the levy to satisfy its business constituency against the advice of the board. Let us not forget that this is the Liberal Party of WorkChoices; the party which sought to tear apart the fabric of industrial relations in this country. Members opposite sat there and cheered when John Howard ripped up the social contract with respect to workplace laws.

So, let us see no more crocodile tears from the Liberal opposition. Let none of us and none of our friends in organised labour fall for this Potemkin facade of compassion or caring about workers from the Liberal opposition. We know the Liberals never stand on the side of working families, and they will not do so when it comes to WorkCover in the future. And how do the Liberal members end their learned perorations lamenting this bill? By saying that they are going to vote for it. So outraged are they that members opposite will vote in support of this legislation.

The Hon. Mr Wade said that the Liberal Party condemns this bill. So, what do you do when you condemn a bill? You vote for it! That is what Liberal members opposite are doing. So incensed are they by this legislation, so appalled are they by the government's solution and so fuelled with righteous condemnation that they will vote for the bill. And where is the Liberal solution? It is coming, we hear; it is on its way; it is in the pipeline; it is under consideration; it is in development—like every other Liberal policy.

We know that somewhere in the office of the Leader of the Opposition, Mr Martin Hamilton-Smith, the work experience kid is burrowing away producing policy documents. All he has to do is get the automatic generator to churn out a few agreeable phrases—'planning frameworks', 'fresh and consistent approach', 'swift action', 'lots of plans, 'more plans'. But, of course, none of the sums add up; none of the plans are thought through; and none of them are thorough or costed.

When it comes to WorkCover, the work experience kid has the day off. They cannot even come up with a plan to have a plan. Instead, the only response we get from members of the Liberal Party is for them to throw up their hands and say, 'This is a terrible mess, and it's all your fault. But

we will support you, anyway.' The opposition has not put up its own proposition. Instead, it has simply and opportunistically sought to score political points without putting forward a solution of its own.

That is not what being in government is about. It is not about squibbing the tough decisions; it is not about putting your head in the sand and saying, 'It's your problem.' Sometimes acting in the state's best interests requires tough decisions, difficult decisions, and that is what this government has done. We have acted in the best interests of the WorkCover scheme and the State of South Australia. And that has not been easy.

It is no secret that many in the Labor government have struggled with this measure, and the union movement has vociferously opposed it. As members committed to labour principles, this has not been easy. As members with union backgrounds we have seen the coalface of workers' injuries, and this is not easy. However, we have taken the decision that we have because that is what good government requires; that is what responsible, careful stewardship requires.

I now wish to turn to the tardiness by non-government members in debating this legislation. Last week, we saw the unedifying spectacle of members of this place giggling and carrying on like a runaway bunch of school kids in adjourning this bill. We have heard members protesting that they have not had time to consult; that they are being bullied and rushed. Yet what did we spend the past two sitting days doing? Going through a bunch of filibustering amendments on the serious and organised crime bill—amendments which were largely in complete opposition to the bill itself and which were designed to drag it out because two members opposed the bill.

We also found time to hear the Hon. Sandra Kanck's views on what she calls 'the catastrophe': the creation of the state of Israel 60 years ago. The upper house of this parliament found time to talk about the dispute over Palestine. Apparently, the Hon. Sandra Kanck can address a problem that has plagued the international community for decades. Forget Camp David summits: the Hon. Sandra Kanck is on the case.

We had time to hear the Hon. Rob Lucas waxing lyrical about his opinion of the education system. If the Hon. Mr Lucas wants to be a commentator, I suggest he quit parliament and start a blog. This meandering was more important to non-government members than debating the WorkCover bill. With this WorkCover bill we have extraordinary unprecedented filibustering from the Hon. Mr Parnell and the Hon. Ms Bressington—an unseemly parlour game of trying to outdo each other with long speeches; an unseemly parlour game on the taxpayer's penny.

The contribution by the Hon. Mark Parnell was about 7½ hours and the Hon. Ann Bressington's was, I think, 4 to 4½ hours. There is no conceivable argument that these contributions constitute debate. It was absurd filibustering and nothing more. The Hon. Mr Parnell spoke for about long enough to read the entire unabridged script of *Hamlet* twice over. That is not debate on the provisions of this bill. It is an abuse of this parliament to waste time to delay a measure that the honourable member does not support.

We know that members have had more than enough time to consider this legislation and the Clayton Walsh report—over two months. All of the interested parties have had submissions and documents in the public domain for a long time. We have heard much from the SA Union's document and research paper, which have been around since November last year, and the board's own recommendations, since late 2006.

The Clayton Walsh report has been public for over two months, and various other documents have been circulating, including views from various unions, including the LHMU, AWU, AMWU and the SDA. The Law Society and the Australian Lawyers' Alliance have put their opinions forward. Business SA and other business groups have put their views on record. To suggest that there has not been enough time to consider all these views is simply not sustainable.

The members opposite and those on the cross-benches have had at least two months to consider this legislation, and have had plenty of time to look at all the submissions that are in the field. What this is about is that certain honourable members oppose the bill. That is their right. They are entitled to vote against the bill. But let us not see this petty filibustering to delay the bill and simply prevent a vote. Let us hear no more protestations of being weighed down by the burden of so much legislation to consider. Let us end the charade of legislators at leisure being unable to pass this bill. Let us do our job; let us do what we get paid for—debate this bill, vote on this bill and pass this bill, to keep WorkCover working, to keep our state's finances in good shape.

This is a real test for the Leader of the Opposition, the member for Waite, in another place. We saw him and the leader in waiting, the member for Goyder, in here this week. They have to

personally show up to keep an eye on the Liberal members in here, because we know that all is not sweetness and light in the Liberal Party. We know that the Hon. Rob Lucas and others await their moment to strike back for the colonel's coup. And so the colonel has to be here personally to keep an eye on what his Liberal Party members are up to.

We have seen this week who is running the Liberal Party. It is not the Hon. Martin Hamilton-Smith; it is the shadow men of the past frustrating his ambitions. We will know this week whether the Liberals completely surrender any claim to the leadership of this state, any claim to economic responsibility.

This Labor government does not have the commitment to economic rectitude. The government is serious about keeping the WorkCover scheme functioning, solvent and financially sound. This Labor government will not stand by and let workers be put at risk by a scheme that could border on insolvency if action is not taken.

The Labor Party, the labour movement, is about representing working families. The first duty of the Labor Party is to give workers the right to a job—the right to work. And that right would be diminished in the face of the teetering workers compensation system. That right is diminished if jobs go interstate. That right is diminished if the state's finances are not secure. This Labor government will not let that happen. We will take the hard decisions necessary to protect the long-term interests of working families in our state. I commend the bill to the council.

The Hon. I.K. HUNTER (04:04): As we all know, the government is concerned about the increase in WorkCover's underfunded liability, which is now estimated at $911 million as of December 2007, and projected to grow further. The genesis of WorkCover's deteriorating funding position can, of course, be traced to the actions of the former WorkCover board and the previous Liberal government. I refer specifically to the excessive reliance on redemptions for getting long-term injured workers off the scheme, a policy that resulted in the virtual abandonment of rehabilitation programs to assist seriously injured workers' return to work.

I refer also to the premature and ill-advised decision to reduce the average premium rate from 2.86 per cent to 2.46 per cent of payroll in 2001. This decision was taken at a time when global equity markets had peaked and were about to spiral downwards out of control. The Olsen government, however, threw caution to the wind. It was much more interested in cutting premiums as part of its political posturing in the lead-up to the 2002 election, than acting in a prudentially responsible manner.

The combined result of these decisions was a slow burn which has eroded the financial foundations of the WorkCover scheme. I say that because workers compensation is a long tail form of insurance, where the effects of major policy changes often take many years before they become apparent. We are now paying the price for those decisions by the former WorkCover board and the Olsen government.

When coming into office, the Labor government took immediate steps to put in place a number of major changes, including the Stanley review in 2002 and the replacement of the board and WorkCover's senior management. This was followed by a consolidation of WorkCover's legal resources in 2005, and subsequently in 2006 the appointment of a sole claims agent to replace the four agents that had been appointed during the Liberal's term in office.

Despite these important initiatives, I nevertheless incline to the view that WorkCover's management difficulties have yet to be fully resolved. In reaching this position I have been influenced by the consistent criticism of WorkCover from a broad spectrum of stakeholders, including those submissions I have been privy to on the Statutory Authorities Review Committee's inquiry into the WorkCover Board, especially in relation to its management of the return-to-work process.

It appears that part of the problem is structural. Since 1995, WorkCover's claims management responsibilities, its core business, have been outsourced, and there seems little doubt that outsourcing has failed to deliver on its promises. By contrast, WorkCover Queensland, which has Australia's lowest average premium rate, attributes this achievement, in no small part, to the fact that:

> We are the only state insurer to manage our claims in-house, which we believe is an important part of our excellent customer satisfaction and return-to-work results.

Closer to home, Finity Consulting, in its claims baseline review of the South Australian scheme's claims management process, found a series of fundamental weaknesses. Among the problems identified were systemic failure to communicate with the relevant stakeholders involved in workers'

claims and an inability to assess the likely duration of claims; a hands-off approach to claims management; and a failure to follow up with employers regarding their obligation to provide workers with suitable employment.

These shortcomings highlight the point that the administration of the WorkCover legislation has been a serious problem in terms of both the scheme's operational and financial performance. Since the Finity report, in 2006 WorkCover moved to a sole claims agent, Employers Mutual Limited. At the time, WorkCover issued a media release promising that its 'new agent will make WorkCover better for everyone'.

WorkCover CEO, Ms Julia Davison, claimed that Employers Mutual had agreed to targets that will, and again I quote from the media release:

> ...achieve the necessary liability reduction to deliver a fully funded scheme by 2012-13. They convinced us they have what it takes to create the turnaround in claims liability we expect.

Regrettably, to date, EML has not delivered on this commitment, and since its appointment WorkCover's liabilities have actually increased by over $300 million. This reinforces my tentative view that outsourcing has been an abject failure.

Similar views concerning the performance of WorkCover and its agents in managing the return-to-work process have also been expressed by trade unions. In its submission to the Clayton Walsh review, SA Unions drew attention to delays in determining workers' claims, late referrals to rehabilitation providers, an insurance industry mentality in which employers are viewed as the customers and workers merely as claims, and a lack of retraining for injured workers unable to return to their pre-injury employers.

In relation to the retraining issue, I am most concerned, particularly in light of recent comments by the Australian Manufacturing Workers Union secretary, Mr John Camillo, that retraining has been part of the WorkCover legislation since its inception, but is rarely, if ever, used by the scheme's management. I say this for the obvious reason that retraining should be regarded as an essential management tool in any scheme which has as its main aim the return of injured workers to suitable employment.

WorkCover's management of the return-to-work process has also been contrasted with the performance of the self-insurers. In its recent commentary on the bill, the Law Society pointed out that self-insured employers demonstrate how effectively and efficiently claims can be dealt with under the legislation as it presently stands.

In keeping with its view that the scheme's problems were predominantly claims management-related, it suggested that WorkCover's unfunded liability could be dealt with without changes to workers' entitlements provided WorkCover was prepared to learn from the superior performance of the self-insurers. Interestingly, or so it seems to me, the self-insurers association (Self-Insurers of South Australia) has provided some of the most cogent insights into WorkCover's management of the return-to-work process. According to SISA, WorkCover's claims outcomes can be viewed in two ways. Here I will quote from SISA's submission:

> Social outcomes - in which the focus is on the restoration of injured workers to the community, their families and their safe and sustainable return to safe work. In this context, compensation is merely a supporting service that sustains the worker and provides the necessary treatment and rehabilitation services while the restoration is accomplished. The actuarial benefit is delivered by the earliest possible sustainable departure of the worker from the compensation system.

And secondly:

> Financial outcomes - in which the earliest possible income maintenance discontinuance is achieved via financial disincentives and the payment of redemptions and non-economic loss lump sums. In this model, the compensation is the driving factor with little reference to whether the worker returns to work or not.

In practice, SISA's assessment is that the financial model, which can also be depicted as an insurance industry model, has taken precedence over the social or rehabilitation model and has dominated the operating practices of WorkCover and its agents. The consequence, as SISA notes, is that high levels of rehabilitation resources have been absorbed in sustaining the administrative and financial demands of the regulator rather than being directed purely to rehabilitation activity. This observation is borne out by supporting evidence. As pointed out in the Public Service Association submissions to the Clayton Walsh review, WorkCover's expenditure on rehabilitation more than doubled from $7.6 million to $19.3 million during the period 1999-2000 to 2005-06 without any corresponding improvement in the scheme's return-to-work rates.

From these observations, it seems apparent that WorkCover needs to undertake a fundamental reassessment of how it manages its return-to-work obligations. Symptomatic of the current malaise, in SISA's view, is that claims management by WorkCover has been model-based and process-driven. This approach tends to expose claims to similar processes and events regardless of their differentiating characteristics. In short, the system is not alert in the important early days to the risk indicators. SISA concludes its assessment of WorkCover performance with the following comments:

> To take a purely legislative view of the current situation fails to acknowledge that if the laws are changed to eject people from the scheme earlier or substantially reduce their entitlements, there is no allowance for achieving better individual outcomes. Like the now discredited policy of trying to redeem people out of the scheme, seeking legislative relief alone infers that the scheme is incapable of managing the complexities of high-risk claims and seeks simply to remove them from the system without considering the broader social impact that such action infers.

In broad terms I concur with this assessment. Efforts to restore WorkCover's operational and financial viability need to embrace not only legislative change but also changes to the way in which the scheme is managed. I would perhaps go one step further and suggest that greater emphasis needs to be given to improvements in scheme management, rather than the wholesale legislative approach.

Of course, the legislation we are considering contains a number of supportive proposals that are of benefit to injured workers, their families and, of course, the scheme. I refer specifically to the provisions concerning provisional liability, the proposed increase in compensation when workers are killed on the job and the associated counselling provisions for family members caught up in these tragic circumstances, and I congratulate the government on these changes.

Under this bill, it is proposed that the claims for compensation will generally be accepted for a period of up to 13 weeks within seven days of the initial notification of a worker's disability. Similar provisions already exist under New South Wales and Tasmanian legislation. The value of provisional liability is that it enables injured workers to be paid promptly. It also has the great merit of facilitating the early commencement of vocational rehabilitation where this is required.

At present rehabilitation normally commences only once a claim has been accepted. This means that if there is disputation over a worker's claim, rehabilitation does not commence until such time as the dispute has been resolved. This can often take several months, although according to WorkCover's own figures, the worker usually succeeds. As early intervention is the key to effective intervention and an expeditious return to work, provisional liability is an important reform, always provided that it is properly administered. The proposal to increase compensation payments to $400,000 in the event of death is also an improvement on the current situation. Although money can never really compensate for the loss of a loved one, the proposed increase does mean that a worker's dependants will be more adequately catered for financially than has been the case in the past.

Similarly, the amendment to provide counselling services for family members where a worker is killed through work is most worthy of our support. It is difficult to imagine a situation more devastating than losing a father, mother, partner, son, daughter, brother or sister as a result of a fatal work injury or a disease. In the circumstances, it is entirely appropriate that counselling services should be available to assist family members to come to terms with what can only be described as a tragic loss.

Notwithstanding these beneficial changes, I have some serious misgivings with some other aspects of the bill. One of these concerns relates to the proposal to increase the maximum lump sum payment for a permanent disability, which I mentioned earlier. Initially it appeared to me to be a welcome reform; however, on closer inspection I am not quite so sure. In part, this is because the new maximum would, in all probability, benefit no more than about 1 per cent of seriously injured workers. More substantially, it would be accompanied by a 5 per cent threshold intended to exclude workers who would otherwise be eligible for permanent disability payments.

WorkCover figures indicate that, in 2005-06, 5,663 injured workers received a lump sum payment for permanent disability. My understanding is that probably more than 10 per cent of these workers would be denied compensation for permanent disability under the proposal contained in the bill. This is in line with a recommendation from Clayton and Walsh to reduce the overall amount of lump-sum compensation to injured workers with permanent disability by linking it with an increase in the maximum—the classic situation of giving with one hand while taking more with the other.

By far, the most important concern that I have involves a proposal to reduce weekly payments to injured workers to 90 per cent of pre-injury average weekly earnings after 13 weeks of incapacity, to 80 per cent after 26 weeks and then to terminate, or very substantially reduce, payments in the event injured workers are unable to return to work by 130 weeks. The logic here seems to be that injured workers require the sanction of financial penalties in order to return to work, even though most are back on the job within a month or two.

Although this view remains popular amongst some economists, as well as many business lobbyists and scheme administrators, the evidence is far less persuasive. It is worth noting that, despite the widespread use of step-downs of weekly payments since the 1980s, no Australian-based studies of substance have examined the linkage between weekly payment levels and the duration of workers' claims. What evidence we do have is from econometric studies based largely on North American workers compensation schemes which, it should be noted, are substantially different from the Australian schemes as far as compensation payments to injured workers are concerned.

These studies, incidentally, examine the relationship between compensation payments and claims duration in the context of increases in payments—not reductions—as is being proposed in this bill. Summarising the evidence, Professor Robert Guthrie and his colleagues found:

> A systematic review of US studies in the late 1980s concluded that a 10 per cent increase would increase the average duration of claims by 2 per cent, from 11 weeks to about 11 weeks and three days. A subsequent survey of the literature in the mid 90s concluded that a 10 per cent increase of weekly payments would result in an elasticity duration of between 2 per cent and 11 per cent.

At this point, I should perhaps declare that I am no economist, but I understand that elasticity of duration is a concept used by economists to measure the effect on the duration of claims following a change in weekly payments. The same researchers went on to point out:

> More recently, there have been criticisms that US studies have overestimated the duration elasticities involved because of limitations in the statistical methods used. Adjusting for this, a recent Canadian study reported an elasticity duration of only 0.09 per cent, slightly more than an extra half day off work.

Why economists have to use terminology like 'elasticity duration' instead of just saying 'increased duration' is beyond me. In any case, in this situation we see that the impact of step-ups is slight. As Guthrie and his colleagues conclude, increases in weekly payments are likely to have, at best, a 'quite modest' effect on claims durations and return to work outcomes. So much for increases in weekly payments.

What about the impact of decreases in payments? According to Mr Clayton, they, too, have a minor effect on return-to-work outcomes. In support of this, he has cited, with approval, a 1996 Canadian study, which found that a 10 per cent reduction in payments to injured workers increased the probability of returning to work by only 1 per cent. This reinforces the conclusion that the so-called incentive effect of reductions in weekly payments is much less than claimed by the WorkCover Board and its backers in the business community and elsewhere.

All the evidence points to a negligible impact on return-to-work work rates. I fear that this argument is more about ideology than facts—an ideology of blaming workers for their injuries, instead of looking at admittedly a more difficult job of rehabilitating them back into work. To my mind, the significance of reductions in weekly payments as a means of promoting improved return-to-work rates has been massively overhyped. If we were really serious about improving WorkCover's return-to-work performance, there are other factors which are much more important which need to be considered. Although this seems to have escaped the collective wit of the WorkCover Board, it did not elude the ever-erudite Mr Clayton, who pointed out in his report:

> The strongest correlate to early and durable return-to-work outcomes is a positive and sustaining workplace culture.

In light of these observations, though, I would have thought he might have focused on measures to strengthen workplace culture. Instead, by some bizarre twist of logic, Clayton managed to recommend a 20 per cent reduction in weekly payments after 13 weeks of incapacity and the prospect of a 100 per cent reduction for most injured workers after 130 weeks. This, of course, has very little to do with return to work but, rather, a lot more to do with throwing people off the scheme. Perhaps Mr Clayton had not much hope in WorkCover ever addressing its rehabilitation failures, but I would not want to impute motives to Mr Clayton.

In addition to the financial impact of this legislation on injured workers and their families, which will inevitably result in hardship, I also have grave misgivings concerning the means by which weekly payments will be reduced. I refer here specifically to the work capacity review

provisions, which, in my assessment, are among the most capricious aspects of the bill. These provisions, which have already been alluded to, have nothing to do with returning workers to work but are intended to remove them from the scheme by, in most cases, simply terminating their payments should they be unfortunate enough not to be able to return to work within 130 weeks.

In practice, as is in the case in Victoria, the work capacity review provisions are designed to operate by means of a deeming arrangement that enables WorkCover to reduce or terminate an injured worker's weekly payments on the basis of theoretical earnings or notional earnings, to use the bureaucratic jargon, from a theoretical job—not, it should be noted, a real, available job, but a notional one that might very well not exist.

By way of illustration, let us consider a construction worker scalded by super-heated steam during the demolition of a cooling plant, suffering from third degree burns to his or her upper body, arms and legs, along with serious damage to the tissues of his or her lungs. Previously, he received $1,130 a week in weekly payments. Under the work capacity review provisions, she could be informed that her payments would be reduced to $60 a week because, despite the seriousness of her disabilities, she has been deemed capable by WorkCover of working in a console operator's job that theoretically pays $1,070 a week. Or a nurse employed in an aged care facility diagnosed with a permanent back injury and intermittent and chronic pain, unable to return to his or her pre-injury employment, could find him or herself in a similar predicament, or even worse. Previously, he or she received $970 in weekly payments but could be deemed capable of working as a courier, with a hypothetical salary of $970 a week under these provisions. Consequently, his or her weekly payments could be terminated altogether.

The issue of whether workers in these circumstances would have any realistic prospect of obtaining the hypothetical jobs they were deemed capable of performing would not need to be considered. The focus would almost exclusively be on whether they had any residual work capacity, no matter how limited, without any regard to the practicalities of labour market conditions.

To me, another disturbing feature of the bill is that work capacity issues will be determined exclusively by medical panels. Medical panels were a feature of the original WorkCover legislation but were abolished in the early 1990s because of delays and other difficulties associated with their operation.

Under this bill they have been resurrected, and will have much broader powers than had previously been the case. Ostensibly, medical panels are intended to determine medical questions; however, the definition of medical questions is extraordinarily broad and covers not only medical issues but also legal issues associated with work capacity, suitable employment and a range of related issues including rehabilitation and return to work plans. It is difficult to envisage what significant issues might not fall within the jurisdiction of medical panels.

Unless the situation has changed from the days when I went to university, medical practitioners do not obtain a law degree as part of their medical studies. On this basis alone I submit that it would be most unwise for decisions of a legal nature to be delegated to medical panels. Imagine for a moment if circumstances were reversed and it was suggested that lawyers be allowed to offer medical advice—or even, heaven forbid, operate on their clients. The absurdity of the proposal would be immediately evident to all concerned. I suggest the proposal to have medical panels make judicial decisions should be regarded in exactly the same way.

It is also essential to note that decisions by medical panels are meant to be final and binding as no appeal is allowed—in other words, crucially important decisions concerning injured workers' rights and entitlements would be taken out of the hands of the tribunal and the courts and transferred to a new body whose decisions cannot be challenged. In the process, the transparency of the dispute resolution system will be irreparably compromised. This reinforces my conviction that the use of medical panels as a means of resolving claims disputation is neither reasonable nor just.

I believe this will be most evident where work capacity reviews are undertaken. Decisions by medical panels in relation to the work capacity of injured workers, and what constitutes suitable employment, will enable WorkCover to terminate weekly payments without any realistic prospect of judicial review. Rather than viewing medical panels as a means of bringing clarity to the claims dispute resolution system, they may best be regarded as an integral component of a cost-cutting strategy directed primarily at removing injured workers from the scheme.

There are other aspects of this bill that are of concern to me, but rather than detail each and every single one of them I have outlined those areas that cause me the greatest concern. While I strongly support the government in its decision to tackle WorkCover's financial problems, I also believe there are better ways of achieving the objective. An overhaul of the scheme's

administration, a reorganisation of rehabilitation services, a serious commitment to retraining are among the most obvious elements of a genuine WorkCover reform program. I am disappointed, therefore, that the thrust of this legislation is not to change the culture of WorkCover Corporation away from that of an insurance model to one that deals more effectively with worker rehabilitation, for it seems to me that the greatest failing of WorkCover over the years has been its corporate culture, which has failed its clients, the injured workers, time and again.

I understand why the government has gone down this track. It is much easier to address the financial model than it is to effect changes in the social model; however, I believe the financial problems of WorkCover are due to the failings of management to embrace the social model and to work with clients to get them back into the workforce—a successful approach, it seems, taken by the self insurers. The changes in this legislation do not address the failings of the management of WorkCover.

At the outset of my contribution I indicated that I would be voting for this bill, and I will; however, I do confess some deep reservations. And just for those rampant individualists on the other side of the chamber who often boast of their free vote on issues (which we all know are entirely free as long as they feel their preselections will not be threatened by the exercise of their conscience), let me explain why. I believe in collective decision-making, so much so that I happily signed a pledge to abide by the majority decisions of my Labor caucus—much as we all in this council agree to abide by the majority decisions of this chamber. Having given my word I will honour it. We all want to see WorkCover's problems satisfactorily resolved; the best way to do this, though, is by tackling the causes rather than just the symptoms.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (04:49): I acknowledge the contributions made by members to this debate. Of course, several of those contributions have gone somewhat longer than what is normal in this place, and I think one of the sad consequences of that will ultimately be that after 160 years this council will have to look at time limits in relation to debates. That is probably a sad thing—

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: Well, there is an interim measure. I will say, as a member of the government, that this is not the sort of bill that any member of the government would like to be bringing in. We are not doing this for fun. We are not masochists and we are not sadists; we are doing it because we have to deal with the situation now facing WorkCover. Of all the workers compensation schemes in this country, the South Australian WorkCover scheme is the most expensive in terms of the rate. It is also by far the least effective. It is the most expensive, least effective workers compensation scheme in the country and it is probably one of the worst performing in the world.

The top priority of any workers compensation scheme should be getting workers back to work and the fact that it fails to do so, of course, is part of the reason why it has the highest levy rate, why the liability is so high and why it is, of all the schemes in Australia, the only one that has a funding ratio of less than 100 per cent. In other words, if it were a private business it would be technically insolvent which is why it has to be dealt with.

The background to it has been spelt out by my colleagues who have just sat down, and I think we know what happened. Just before the 2002 election the rates were cut. Clearly, those rates were unsustainable and, after the election, the government was forced to increase the rates. The board was changed. The management of the system has been changed. The board, which is responsible for the management of WorkCover, has had members on it from the union movement and Business SA. In early 2007, that board came to the conclusion that the scheme simply was not functioning correctly or in a sustainable way. That is something that really should concern every South Australian. I would like to read the conclusion of the board's comments, as follows:

> It is clear that the South Australian scheme faces limitations in the effectiveness of the legislation to return injured workers to work. It is also clear that returning people to safe work sooner remains critical for the scheme's long-term sustainability. The key driver of WorkCover's unfunded liability is the increased length of time people remain on the scheme. Long-term claims, claims from injured workers who have been receiving income maintenance payments for longer than three years, represent 28 per cent of all WorkCover claims but amount to approximately 45 per cent of WorkCover's claims liability.
>
> It is estimated that, if every injured worker returned to work just one day earlier, WorkCover's claims liability would be reduced by almost $1 million. If five long-term claimants returned to work the claims liability would reduce by $1 million. Small changes to the assumptions about how many people will be supported by the scheme and for what duration can have a large impact on the liability when calculated over the long term.

It then concludes:

> Within other workers compensation schemes, certain aspects of the scheme and the underpinning legislative framework can be utilised and controlled to drive desired behaviours and outcomes. By comparison the South Australian scheme in many areas lacks the legislative means to encourage those behaviours towards return to work. Better return-to-work outcomes for South Australia can only be achieved if adequate incentives exist within the legislation.

That was the finding of the board about 12 months ago. The then board advocated cuts which were much more draconian than what we see in this bill. So what did the government do? That is when it got Mr Clayton and Mr Walsh to do a thorough review.

We had to respond to the board's recommendations. If the government is told that the board itself is saying, 'The better return-to-work outcomes can be achieved only if adequate incentives exist within the legislation,' then clearly it is obliged to look at the legislation—and that is exactly what Mr Clayton and Mr Walsh did. Essentially, this legislation was based on that, following negotiations. The Premier, the Treasurer and other members have been much maligned in the debate but there was significant consultation, first of all, at the start of the Clayton report. Invitations for submissions were part of that report. Of course, there were negotiations after the report was released and some modification of the legislation resulted.

So, that is the background. Essentially, what the government is obliged to do here is ensure that our workers compensation scheme is financially sustainable. What we do know is that the liability of that scheme increased by $67 million in the last six months of 2007; in other words, it was increasing by approximately by about $2.5 million a week. Given what happened in the stock market earlier this year, one could expect that the liability would already be around the $1 billion mark.

Faced with that situation, what could any government do? The board was telling us that it needed changes to the scheme. It had tried changes in management, but they had not worked and the liability was still rising. We can look around the country and see that every other scheme has a funding ratio of greater than 100 per cent but in South Australia, as at June 2007, it was at 64.7 per cent, compared with ratios of 107 per cent in New South Wales, 133.9 per cent in Victoria, 183.4 per cent in Queensland, 168 per cent in Tasmania, 113 per cent in Western Australia, and 110 per cent in the Northern Territory. There is a saying, 'If it ain't broke, don't fix it.' However, it is quite clear that this is 'broke'.

Faced with those statistics, what could any government do? Does it just leave the liability to increase, which seems to be the suggestion of the Hon. Ms Bressington? What do we do? At what point do we intervene? If it is $1 billion, do we wait until it reaches $2 billion or $3 billion? If it is growing at that rate, how can we ignore it? To make it solvent, I suppose that the government could borrow $1 billion and put it into the scheme. That would put it up with all the other states, with a 100 per cent funded scheme. We would have to service that with $100 million of interest every year, so what would we do—cut 1,200 public servants to pay for that? Is that the sort of solution that those who oppose this bill would prefer, or could we increase the levy for employers?

If one goes back to 2003-04, the levy in this state was 3 per cent. In New South Wales it was 2.44 per cent; it is now 1.77 per cent. Even though our scheme is the only one well below 100 per cent in funding rate, our levy has stayed at 3 per cent; in New South Wales it went from 2.44 to 1.77 per cent; in Victoria, it dropped from 2.22 to 1.387 per cent just yesterday; in Queensland, it went from 1.55 to 1.15 per cent over that time; in Tasmania, from 2.78 to 1.94 per cent; and in Western Australia, from 2.34 to 1.85 per cent.

During the debate it was said that South Australia has lower costs and, really, what does a small difference in a WorkCover levy rate mean in terms of the capacity to employ people in this state? It was certainly true that in 2003-04, given the other cost benefits our state enjoyed, a difference of 0.7 per cent compared with Victoria might not have been huge, but it has already gone up to 1.6 per cent. If we were to take the view that the only alternative would be to increase levies, it would be getting somewhere over 2 per cent and would start to have a big impact on jobs in this state.

The point I am trying to make is that doing nothing is not an option. That is why members on this side are here with this legislation. It is legitimate to debate how one fixes this scheme, but I do not think that anybody in this parliament could sustain an argument that WorkCover is functioning adequately, particularly when one looks at the performance in other states.

Indeed, in her very impassioned plea, Ms Bressington made the point that she had found no-one who was happy with the WorkCover scheme. If that is true, why would you want to oppose

any changes to it? Why would you want to keep it like it is if it is performing so badly? Clearly, what we need is a workers compensation scheme that gets workers back to work. Indeed, that is obviously where the problems in this scheme lie.

Many others on the Labor side of this parliament have had much more experience working with workers compensation schemes than I. The statistics show that people who have a claim for compensation take longer to get better than people who do not for the same physical injury. Data shows that more than 75 per cent of all work injury claims for soft tissue injuries for non-compensated patients on average recover within six weeks, yet more than half of WorkCover's injured workers on income maintenance remain off work after 13 weeks. That is the problem in this scheme. It is very easy to diagnose, but it is much harder to try to get the solution for it. That is where the problem lies.

Similarly, psychological injury is thought to be compounded by involvement in a compensation scheme such as WorkCover. The Hon. Mark Parnell himself referred to that. That is the problem, and the question is how we fix it. I understand people may believe there are better solutions, given the complexity of this scheme, but how can anyone argue that maintaining the scheme as it is now is a viable option? It is not, I suggest, in the interest of workers.

There is also the human element to this issue. It has been suggested by others that somehow members of the government are callous or indifferent to workers' needs. If those statistics I just read out are true, and if it is true (as is suggested in the WorkCover report) that about 3,000 or 4,000 people have been on the system for over three years and about half of them under other schemes would have been back at work, then the cost must be about 1,500 workers in this state who probably have been damaged by the scheme. Other members have referred to exactly that process and how it has happened through WorkCover.

That greatly concerns me. If that is the system that 'doing nothing' leaves, then it is not a system I want to support. It is not only the financial cost but also the human cost of people who are effectively damaged under this scheme. That is what motivates me to improve the system. I want any changes to the scheme to get workers back to work. It is quite clear—and all the evidence shows—that workers back at work will be healthier than those on the scheme. While we can have a debate—and we will in the committee stage—about the best way in which to do that, I do not see how anyone could argue that should not be the objective of the scheme. By any measure, the WorkCover scheme is failing the workers of this state by not getting them back to work.

In New South Wales and Victoria, 30 per cent of workers who are in receipt of weekly payments at around four months post injury are still on such benefits two years post injury. In South Australia about 80 per cent are still receiving weekly payments. Are our workers more badly injured or sicker than those in New South Wales and Victoria? Of course, they are not. That is the damning statistic about this scheme and it is the one we need to address in this legislation, and that is why I make no apology for supporting this legislation. We can debate whether this is the best way in which to proceed, but I do not see how anyone could say that doing nothing is an option.

There is a lot more I could say. Obviously, we have a lengthy committee stage before us. I thank members for their contributions. We can discuss these issues in much greater detail when we get to the committee stage.

Bill read a second time.

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (04:44): I move:

That the committee stage be adjourned on motion.

My intention is that we suspend the sitting of the council and come back later today to deal with it.

The council divided on the motion:

AYES (6)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P. (teller)	Parnell, M.	Zollo, C.

NOES (11)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W. (teller)	Schaefer, C.V.

Stephens, T.J.	Wade, S.G.	

PAIRS (4)

Hunter, I.K.	Kanck, S.M.
Wortley, R.P.	Evans, A.L.

Majority of 5 for the noes.

Motion thus negatived.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Police, Minister for Mineral Resources Development, Minister for Urban Development and Planning) (04:45): I move:

That the council at is arising adjourn until Tuesday 13 May 2008.

The council divided on the motion:

AYES (5)

Finnigan, B.V.	Gago, G.E.	Gazzola, J.M.
Holloway, P. (teller)	Zollo, C.	

NOES (12)

Bressington, A.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Parnell, M.	Ridgway, D.W. (teller)
Schaefer, C.V.	Stephens, T.J.	Wade, S.G.

PAIRS (4)

Hunter, I.K.	Kanck, S.M.
Wortley, R.P.	Evans, A.L.

Majority of 7 for the noes.

Motion thus negatived.

At 04:54 the council adjourned until Tuesday 3 June 2008 at 14:15.