HOUSE OF ASSEMBLY

Tuesday 13 October 2009

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

MOTOR VEHICLES (MISCELLANEOUS NO. 2) AMENDMENT BILL

The Hon. M.F. O'BRIEN (Napier—Minister for Employment, Training and Further Education, Minister for Road Safety, Minister for Science and Information Economy) (11:02): Obtained leave and introduced a bill for an act to amend the Motor Vehicles Act 1959; and to make a related amendment to the Road Traffic Act 1961. Read a first time.

The Hon. M.F. O'BRIEN (Napier—Minister for Employment, Training and Further Education, Minister for Road Safety, Minister for Science and Information Economy) (11:02): 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 *Motor Vehicles (Miscellaneous No 2) Amendment Bill 2009* amends the *Motor Vehicles Act 1959* to further strengthen the South Australian Graduated Licensing Scheme for novice drivers.

It is important to remember that for the vast majority of our young people today, driving is likely to be the riskiest activity they will ever undertake. Each year, nearly 350 young drivers or passengers between the ages of 16 and 24 are killed or severely injured in South Australia. Despite steady falls in South Australia's road toll over the past decade, young drivers continue to be over represented in road trauma statistics.

This Bill builds upon the previous novice driver initiatives introduced by the Rann Government by ensuring that young novice drivers are better prepared for when they graduate to a full licence.

The amendments within this Bill will do the following.

The Bill increases the required hours of supervised driving for learner drivers from 50 to 75 hours

This amendment is overwhelmingly supported by extensive research that suggests that the more time a learner driver spends driving whilst supervised the more experience they gain driving in all conditions, which decreases their likelihood of crashing. While recognising that an increase in supervised hours may result in additional imposition upon families, particularly in our rural areas, we are convinced that the long term road safety benefits outweigh any imposition incurred by sectors of the community.

The Bill increases the minimum time on a learner's permit from 6 to 12 months for drivers aged under 25 years

The most effective and enduring forms of driver training involve gaining substantial and varied on-road driving experience with an appropriate supervising driver. Further, evidence suggests that from age 25 onwards, learner drivers tend to exhibit more mature behaviour on our roads. Therefore the amendments will not apply to drivers who are 25 years or older.

The Bill introduces a restriction on driving high powered cars for provisional drivers (both P1 and P2) aged under 25 years

Victoria, New South Wales and Queensland have all introduced high powered vehicle restrictions for their provisional drivers in recent years and our scheme will be aligned with those operating in other jurisdictions. The restrictions will apply to all provisional drivers (i.e. both P1 and P2) who are under 25 years of age, however transitional provisions will be in place. Exemptions recognise that there will be individual situations where compliance with the ban will make life very difficult for some provisional drivers. I stress however that an exemption will be not be automatic.

An exemption may be granted; if a high powered vehicle is the only vehicle available to the driver; if the driver owned a high powered vehicle before the ban came into effect; or if required as part of the driver's employment. A person's driving history will also be considered. If granted, the driver will be required to carry the exemption certificate at all times when driving the high powered vehicle. Failure to immediately present the exemption certificate to a Police Officer, when requested, will result in the driver incurring 3 demerit points and an expiation fee of $250.

Drivers will have to apply to the Registrar of Motor Vehicles for the exemption. The grounds for exemption and process to apply for an exemption will be placed in the Regulations.

The Bill changes the penalty for the failure to display two P plates from disqualification to a fine and loss of demerit points

Currently, failure to display any P plates is a breach of licence conditions and results in licence disqualification. This penalty is regarded within the community as too severe. This Bill makes failure to display any plates an offence with a penalty of $1,250 (the same as for breaching a condition of licence or permit). It is intended

to introduce an expiation fee of $250 and apply two demerit points to this offence. If the vehicle is not a motor bike and only one plate is missing, the expiation fee will only be $125 and no demerit points will be incurred. For consistency, the same change has been made to the learner's permit provisions.

The Bill replaces the current hardship appeal provision with the offer of a Safer Driver Agreement

The current hardship appeal provision for provisional drivers who are disqualified because they contravene a condition of their licence or incur 4 or more demerit points will be replaced with an offer of a Safer Driver Agreement. It will not be available to those provisional drivers who receive a disqualification for a serious disqualification offence - the option to appeal a licence disqualification to the Magistrates Court on the basis of hardship will continue to apply to these drivers.

By choosing the Safer Driver Agreement, the disqualified driver would avoid the six month disqualification, but would regress to a previous licence stage and further, agrees not to breach a condition of their licence or incur 4 or more demerit points during the term of the Safer Driver Agreement. Any breach of the Safer Driver Agreement would result in disqualification for 12 months with no right of appeal. A Safer Driver Agreement would only be available to provisional drivers once in a five year period.

The Bill strengthens the current curfew conditions applying to drivers returning from a serious disqualification offence by restricting the carriage of passengers during the curfew period of midnight to 5am

Currently, a novice driver who returns from a disqualification for committing a serious disqualification offence is automatically subject to a curfew (for a period of 12 months) between the hours of midnight to 5am, unless accompanied by a Qualified Supervising Driver. This amendment strengthens the current condition by further providing that during the curfew period the novice driver must not carry any passengers apart from the Qualified Supervising Driver. This condition aims to minimise the elevated risks of night time driving and driving with passengers for these novice drivers.

In addition to these improvements to the Graduated Licensing Scheme, the Bill contains a number of amendments of a technical or administrative nature designed to improve the operation of the Act. They include:

- Upon gaining a provisional licence, the driver's learner's permit will be cancelled regardless of its expiry date. This was previously only implied in the legislation.
- The legislative requirement for police to conduct an annual check of driver's licences has been removed. This recognises that the checking of drivers licences is a continuous police activity, made possible by advances in technology e.g. mobile real time computer terminals in every marked SAPOL vehicle. A corresponding amendment to the Road Traffic Act provides for the checking of driver's licences to be combined with any random testing activity undertaken by SAPOL.
- Accumulated demerit points will be reinstated in the event of a successful appeal against disqualification. Currently, every full licence holder has a limit of twelve demerit points within a three year period before they are subject to licence disqualification. Upon disqualification, all accumulated demerit points are erased. If an appeal is initiated against the disqualification and is successful, this amendment will ensure that only the demerit points related to the offence in question are erased.
- Legislation currently specifies that it is an offence to unlawfully alter or damage a licence or learner's permit, but it is often difficult to prove who actually caused the damage to the licence/permit. To assist SAPOL's enforcement, an additional offence has been created for being in possession of a licence or permit that has been altered or damaged.
- An amendment is made to increase the period within which a prosecution can be commenced for the offence of providing false and misleading information from two years to five years with the authorisation of the Attorney-General. Fraudulent licenses can be used for a wide range of purposes including by persons who wish to continue to drive when their legitimate licence has been cancelled of suspended. As driver's licenses can be issued for up to 10 years it is considered necessary to extend the prosecution period for this offence.
- It is currently an offence to drive a vehicle with an expired registration label. If a person has paid for the vehicle registration but does not receive the new label before the old label expires, and continues to display the expired registration label, they could be fined. An amendment is being made to provide a defence to this offence, which will specify that the owner has 30 days to affix the new label.
- The Bill also provides that provisional and probationary driver's licence holders and learner's permit holders who allow their licence or permit to expire and are then disqualified, face the same consequences as a driver who remains properly licensed and then is disqualified.

These amendments will improve the Graduated Licensing Scheme and the effective operation and administration of the Motor Vehicles Act.

In conclusion, this Bill demonstrates the Government's commitment to saving young lives on the road by equipping novice drivers with the skills and experience to drive safety.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Motor Vehicles Act 1959*

4—Amendment of section 5—Interpretation

This clause makes consequential amendments to certain definitions in the Act and inserts a new definition of *high powered vehicle* (consequentially to proposed section 81A(16)).

5—Amendment of section 53—Offences in connection with registration labels and permits

This clause inserts a new defence to the offence of driving, or leaving to stand on a road, a vehicle with an expired registration label or permit.

6—Amendment of section 74—Duty to hold licence or learner's permit

This clause corrects a minor drafting error in subsection (2a) and clarifies the application of the disqualification under subsection (5).

7—Amendment of section 75AAA—Term of licence and surrender

This clause amends section 75AAA to make it clear that a licence is cancelled on surrender to the Registrar.

8—Amendment of section 75AA—Only 1 licence to be held at any time

This clause amends section 75AA to specify that the Registrar must not issue a licence to a person who already holds a licence and to make changes consequential to the new definition of *interstate licence*.

9—Substitution of section 75A

This clause substitutes a new section 75A as follows:

75A—Learner's permit

This proposed section provides for the Registrar to issue learner's permits, their expiry, conditions and renewal. The section is substantially similar to the current section 75A, however the structure and numbering has been updated and the requirement to display an 'L' plate is no longer a condition of the permit (although failure to display 'L' plates will still be an offence). The section also includes amendments to clarify the position in relation to persons who already hold a licence, or provisional licence, for another kind of motor vehicle than that for which they require a learner's permit.

10—Amendment of section 79—Examination of applicant for licence or learner's permit

This clause amends section 79 to include reference to persons who have previously held interstate learner's permits and to deal with disqualifications occurring interstate.

11—Amendment of section 79A—Driving experience

This clause amends section 79A to change requirements relating to learner drivers under the age of 25. Currently the section requires a person to have held a learner's permit for 9 months (in the case of a person who has previously been disqualified from holding a learner's permit for an offence committed while the holder of a learner's permit) or for 6 months (in any other case). For young drivers these will be increased to 15 months and 12 months respectively. In addition the section is amended to include references to interstate licences and interstate learner's permits and to deal with disqualification occurring interstate.

12—Substitution of section 81A

This clause substitutes a new section 81A as follows:

81A—Provisional licences

This proposed section provides for the Registrar to issue provisional licences (P1 and P2) and the conditions that attach to such licences. The proposed section is substantially similar to the current section 81A, however the structure and numbering has been updated and the requirement for a P1 driver to display a 'P' plate is no longer a condition of the licence (although failure to display 'P' plates will still be an offence). The proposed section also introduces new restrictions relating to high powered vehicles and alters the driving curfew for the holder of the P1 licence who has previously been disqualified from driving for a *serious disqualification offence* (the definition of which is also amended to include serious offences occurring under the *Criminal Law Consolidation Act 1935*), to ensure that no passengers, other than a person acting as a qualified supervising driver, may be present in the vehicle during the curfew hours.

13—Amendment of section 81AB—Probationary licences

This clause proposes to add to the circumstances in which a person must be subject to probationary licence conditions. These circumstances are proposed to include disqualification under section 81D (disqualification

for certain drug driving offences) and other offences resulting in disqualification committed while the person was not authorised to drive a motor vehicle on a road under the *Motor Vehicles Act 1959*.

14—Substitution of section 81B

This clause deletes section 81B and substitutes the following:

81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions etc

This proposed section is equivalent to subsections (2) to (4) and (12) of the current section 81B.

81BA—Safer Driver Agreements

This clause provides that a person holding a provisional licence who is given a notice of disqualification under section 81B may, in lieu of being disqualified from driving, enter into a Safer Driver Agreement.

81BB—Appeals to Magistrates Court

This clause provides for an appeal to the Magistrates Court in relation to a notice of disqualification given, or liable to be given, under section 81B in relation to an offence or offences committed by a person while the holder of a provisional or probationary licence. The clause is substantially the same as the previous right of appeal provided for under the current section 81B but allows the Crown to submit evidence (which may be in writing) as to previous offences relating to the appellant's use of a motor vehicle and, in such a case, the Court may only allow the appeal if satisfied that such evidence does not indicate that the appellant is a substantial risk to himself or herself or to other members of the public.

15—Redesignation of section 81BA—Consequences of holder of unconditional licence incurring demerit points in respect of offences committed while holder of provisional licence

This clause redesignates section 81BA as section 81BC.

16—Amendment of section 91—Effect of suspension and disqualification

This clause clarifies the effect of the provision where a person holds an unconditional licence to which the relevant disqualification does not apply in accordance with section 81B(4).

17—Amendment of section 97A—Visiting motorists

This clause amends section 97A to make any conditions on an interstate licence or learner's permit, imposed in the jurisdiction where issued, applicable in this State and enforceable as if they were imposed under the *Motor Vehicles Act 1959*. This clause also amends section 97A to make changes consequential to the new definition of *interstate licence*.

18—Repeal of section 98

This clause repeals section 98 (which requires the Commissioner of Police, on an annual basis, to take steps to check whether people are driving unlicensed).

19—Amendment of section 98AAE—Licence or learner's permit unlawfully altered or damaged is void

This clause increases the maximum fine for the existing offence of wilfully altering, defacing or damaging a licence or learner's permit from $750 to $2,500. The clause also introduces a new offence of possessing, without lawful authority, a licence or learner's permit that has been wilfully altered, defaced or damaged and this new offence carries a maximum penalty of a fine of $2,500.

20—Amendment of section 98BC—Liability to disqualification

This clause amends section 98BC to make amendments consequential to the new definition of *interstate licence* and to make other technical amendments.

21—Amendment of section 98BD—Notices to be sent by Registrar

This clause amends section 98BD(2) which details the notice that is to be given by the Registrar to a person liable to be disqualified from driving under section 98BC. The clause requires the notice to include references to a learner's permit.

22—Amendment of section 98BE—Disqualification and discounting of demerit points

This clause makes an amendment consequential to clause 23 and amends an incorrect cross reference.

23—Insertion of section 98BF

This clause inserts a new section 98BF as follows:

98BF—Effect of appeal or rehearing on disqualification and discounting

This proposed new section provides that, on an appeal or an application for a rehearing for a conviction resulting in disqualification, the disqualification will be inoperative until the appeal or application is determined or withdrawn and provides for the reinstatement of any demerit points

for other offences that were discounted under section 98BE(5) if, after an appeal or rehearing, the person is determined not to be disqualified.

24—Amendment of section 98BI—Notification of demerit points to interstate licensing authorities

This clause is consequential to the new definition of *interstate licence*.

25—Amendment of section 135—False statements

This clause amends section 135 to increase the maximum fine for an offence of furnishing a statement under the Act that is false or misleading in a material particular to a maximum of $5,000. The clause also inserts a new subclause that allows a prosecution to be commenced within 5 years with the authorisation of the Attorney-General.

26—Amendment of section 139D—Confidentiality

This clause amends section 139D to remove an out of date reference to the *Road Traffic Act 1961*.

27—Amendment of section 141—Evidence by certificate etc

This clause amends section 141 to include in the list of matters that may be certified by the Registrar that a person was, or was not, on a specified day, the holder of an exemption under section 81A(16).

28—Repeal of section 144

This clause repeals section 144 (which limits the time within which proceedings for an offence against this Act must be commenced).

Schedule 1—Related amendments and transitional provisions

Part 1—Related amendment to *Road Traffic Act 1961*

1—Amendment of section 47EA—Exercise of random testing powers

This clause amends section 47EA of the *Road Traffic Act 1961* to insert a new subsection (2) giving a police officer, who has stopped a motor vehicle in the exercise of random testing powers, power to delay the driver of the vehicle for the purpose of conducting a licence check.

Part 2—Transitional provisions

2—Interpretation

This clause provides that a reference to the *principal Act* is a reference to the *Motor Vehicles Act 1959*.

3—Learner's permits in force immediately before commencement

This clause provides that , subject to clause 4, the changes made by clause 9 and clause 11 of the measure do not apply to a learner's permit in force before the commencement of the measure.

4—Requirement to display L plate

This clause provides that the new requirements in relation to display of L plates will apply to learner's permits in force before commencement of the measure.

5—Provisional licences in force immediately before commencement

This clause provides that, subject to clause 6, the changes made by clause 12 of the measure do not apply to a provisional licence in force before the commencement of the measure.

6—Requirement to display P plate

This clause provides that the new requirements in relation to display of P plates will apply to P1 licences in force before commencement of the measure.

7—High powered vehicle restrictions inapplicable to some provisional licences issued after commencement

This clause provides that the proposed section 81A(16) (which prohibits a holder of a P1 or P2 licence who is under the age of 25 from driving a high powered vehicle) will not apply to a person who holds a P2 licence issued after the commencement of the proposed new section if, immediately before being issued with the P2 licence, that person held a P1 licence that was issued before the commencement of the proposed new section.

Debate adjourned on motion of Dr McFetridge.

RAIL COMMISSIONER BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3773.)

Dr McFETRIDGE (Morphett) (11:04): I indicate that I am the lead speaker in this house on this bill, which the opposition supports. The bill was introduced on 9 September by the government and will re-establish the position of Rail Commissioner. This position has a long history in South Australia, and I think Mr Hook, who has been appointed as the interim Rail Commissioner,

can be thankful that we are not using the title that was used in 1854 when the South Australian Railways had a board of undertakers, because he would be the chief undertaker.

The history of South Australian Railways is complex, and I will talk about that a little later. However, the bill before us is a fairly straightforward piece of legislation. Some questions have been put to the opposition by various stakeholders, which I will mention in my second reading speech, and hopefully the minister can respond to those concerns.

The background to this is that prior to 2008 the Rail Safety Act defined a 'rail transport operator' as an owner or operator of rail infrastructure or rolling stock. They were subsequently accredited under the act. In 2008, changes to the act altered the accreditation requirements to 'effective management and control' rather than mere ownership or operation of rail infrastructure and/or rolling stock. The Rail Safety Bill in 2007 implemented the National Rail Safety Bill 2006, developed by the National Transport Commission. The bill was unanimously approved by the transport ministers through the Australian Transport Council and was part of the process to implement a nationally consistent framework for the regulation of rail safety across the national rail network over the proceeding five years. The opposition supported that bill without question.

Prior to the new Rail Safety Act 2007, the state government had absolved TransAdelaide of its responsibility for rail infrastructure assets and many future responsibilities for major infrastructure projects such as those announced in the last state budget; that is, the electrification of rail and extensions. In a recent government briefing, it was stated that TransAdelaide is not qualified to manage these projects.

These two changes have culminated in a need for the government to determine who will effectively manage and control the new rail infrastructure projects, and it has been determined that a statutory body corporate is the best option. That body would be the Rail Commissioner, which would be constituted by a person accredited under the Rail Safety Act, appointed by the Governor.

Mr Rod Hook is the Deputy Executive Director of Major Projects and oversees a team of staff with expertise in rail infrastructure and operations. He has been appointed by the Governor to be the Rail Commissioner for 12 months pursuant to section 68 of the Constitution Act or until the enactment of this bill for the progression of contracts. Until then, Mr Hook is required to act 'as if accredited'.

If the bill passes, as we expect, the Department for Transport, Energy and Infrastructure will apply to the Rail Safely Regulator for Mr Hook's accreditation. Obviously, there is no guarantee that the application will be successful. However, the department is working closely with the regulator to ensure that competence and capacity is demonstrated and the application is successful.

Whether there should have been a selection process open to all public servants is a question for the government. Mr Hook's competence is not being questioned at all. I know that in 1922 there was a worldwide search for the then rail commissioner, because in 1920 the South Australian Railways was £290,000 in debt. Mr William Webb was appointed back in 1922 on a salary of £5,000 per annum. In current terms, that is $1.56 million a year. Whether Rod Hook is getting paid that I do not know.

Mr Venning: What year was that?

Dr McFETRIDGE: It was 1922. I know this for a fact, because Mr Webb was allowed to bring his own personal accountant with him, Mr Harry Goldbeck, who is the father of a very good friend of mine. Mr William Webb, the first rail commissioner, was in fact this friend's godfather. We are going back to the past, in many ways, with the introduction of this position. It is a very important position, and I will just mention some of the tasks that Mr Webb had to face back then. What we have now is deja vu with respect to what was happening then. The Rail Commissioner will have the following functions:

- construct rail structures;
- manage and maintain rail infrastructure;
- commission and maintain rolling stock;
- operate or move rolling stock;
- move rolling stock to operate a railway service;

- act as a rail transport operator for operations carried out by the commissioner;
- hold accreditation under the Rail Safety Act;
- manage risks associated with railway operations;
- operate passenger transport services by train or tram; and
- enter into service contracts under the Passenger Transport Act.

The Rail Commissioner will have the following powers:

- to enter railway premises for particular functions...and abide by particular conditions regarding entry time, safety, financial compensation and notification;
- subject to ministerial approval, acquire land in accordance with the Land Acquisition Act to carry out functions;
- remove or cut back any tree or vegetation on or overhanging rail infrastructure (there is a concern by the civil contractors about that and I will talk about that in a moment);
- subject to ministerial approval, carry out works relating to construction, commissioning and maintenance of rail infrastructure (including making good on any damage to roads and for the disturbance of a road surface, notification and consultation);
- subject to ministerial approval, close and limit the use of railways for railway operation purposes, and
- subject to any pre-existing contract or agreement, rail infrastructure takes precedence over roads and, subject to ministerial approval, the commissioner may close roads and require a council to construct or reconstruct a portion of road to conform to rail infrastructure.

The cost to the council there is an issue on which I think the minister might want to inform the house.

Section 14 of the bill provides that the Rail Commissioner, deputy or delegate must inform the minister of any interests that may conflict with its function. One of the stakeholders has raised the issue of the potential for conflict of interest. Clause 13 provides that the commissioner may delegate any of the commissioner's functions or powers to a particular person. The regulator would be informed in writing of this in order that all delegations are approved. The Governor is able to appoint one or more deputy commissioners, and it is therefore envisaged that functions and powers will be delegated to them under section 16. The opposition supports this bill.

I will briefly inform the house of the history of the Rail Commissioner's position in South Australia. As I mentioned, Mr William Webb was appointed in 1922 and served to 1930 as a South Australian Railways commissioner. He was brought in after a worldwide search to tidy up South Australian Railways' worst financial deficit. He was an American railroad manager from the Missouri-Kansas-Texas railroad. Mr Webb introduced a rehabilitation plan based on American railroad principles. It is interesting to note that the lightly patronised passenger trains were replaced by self-propelled railcars, enabling faster, more frequent and more efficient services. The antiquated Islington workshops were demolished and replaced with a thoroughly modern railway maintenance/manufacturing works, and the Adelaide Railway Station was replaced with an imposing new building, opened in 1927.

The government at the moment is upgrading and replacing railway infrastructure and rolling stock in a similar way to that done by Mr Webb. There is an undeniable issue in South Australia that there has been an underspend on a lot of infrastructure, and there is a lot of good reason for that. I look forward to seeing the government not just have visions but have plans, time lines and costings in place because we all want the public transport system in South Australia to be as efficient as it was when Mr Webb had finished his program.

It is interesting to see that we have new trams arriving, and when the two shiploads of new locomotives arrived in 1926 they caused a sensation amongst the public, and apart from some initial teething problems (which we know about) the new locomotives settled in nicely. It appears that the trams are now working well. After the success of the original locomotives, more were locally built. Why we cannot build some rolling stock here is a question the government needs to answer.

Mr Webb retired in 1930, having revolutionised the South Australian Railways. I hope that Mr Hook is able to undertake some revolutionary work, and I wish him well in the position. One other little matter Mr Hook may want to implement is something Mr Webb put in place back in the 1920s. There is a bit here about Mr Webb:

> Mr Webb was a man with a formidable and powerful personality who achieved great things through an unfailing reciprocal exchange of loyalty, yet he could accept some men, who did not always reach adequate fulfilment, without rancour or over-disappointment. The basic humane man always came to the surface, and the legend of the Silver Goat gives us a good perception of the deep sense of humour, which could never have been far from that terrific driving force that spurred him on without relent. Webb held regular conferences with all his heads of branches and virtually everything of any weight was discussed frankly at these meetings and particularly the progress of the great rehabilitation works under way and the efficiency with which the various sections were being run. If anything of a serious nature had occurred on a division, or time schedules, or completion of works had not been maintained, the superintendent or head of the branch was presented with a Silver Goat.
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> This was held by the recipient until the next conference to remind him that he had done what he said he would do. 'The order of the goat' became an honour to which few aspired. The story goes that one day the goat (it was an actual 'model') was presented to Alfred N. Day, who promptly had a raging paranoid reaction and the animal went into limbo for some time. Webb's tolerance to men who fell short in the less arduous demands of office never extended to any who let him down on major works, particularly if they had promised the Chief Commissioner something which they subsequently could not keep up.

They were inevitably given the 'order of the goat'.

I wish Mr Hook the best in his position. I do not know whether he will be getting the equivalent of £5,000 a year for this. I do have some concerns about his other roles and the load that he is taking on. Rod Hook, like Mr Webb, has undying loyalty. He did work for the former Liberal government, and I know that he works very hard for the current government. With those comments, I wish this bill speedy passage.

Mr PEDERICK (Hammond) (11:16): I, too, rise to support this bill and make a brief contribution to the debate on the Rail Commissioner Bill 2009. This bill has been introduced by the government to establish a rail commissioner to act as a rail transport operator for the delivery of state government rail infrastructure projects. Prior to 2008, the Rail Safety Act defined a rail transport operator as an owner or operator of rail infrastructure or rolling stock. The rail transport operator was subsequently accredited under the act. In 2008 changes to the act altered the accreditation requirements to 'effective management and control', rather than mere ownership or operation of rail ownership and/or rolling stock.

The history to get to where we are now is that the Rail Safety Bill 2007 implemented the National Rail Safety Bill 2006. The bill was unanimously supported by transport ministers throughout the Australian Transport Council and was part of the process to implement a nationally consistent framework for the regulation of rail safety across the national rail network over the proceeding five years. It is to be noted that the opposition supported that bill without question.

This is part of a change towards a national regulatory scheme, and this bill before us is the next step. As seen by some people with whom the opposition has consulted (including the Civil Contractors Federation), it is an appropriate requirement given the legislative path down which the government has proceeded. The state government informs us that this bill adheres more closely than any other state's bill to the National Transport Commission's model rail safety legislation.

Rod Hook has been the Deputy Executive Director of Major Projects, and he will be put up as the interim Rail Commissioner. His accreditation will need to be approved. He has been appointed by the Governor for 12 months (or until the enactment of this bill) for the production of contracts; until then, Mr Hook is to act as if accredited. If the bill passes, DTEI will have to apply to the Rail Safety Regulator for Rod Hook's accreditation. Obviously, the department is working closely with the regulator to ensure that competence and capacity is demonstrated and that the application is successful.

It is to be noted that Rod Hook is presently extremely busy with major projects. This will increase his workload, and I hope that it does not cause any problems. I note that the Rail Commissioner will have many functions, including constructing rail structures, managing the rail infrastructure and maintaining and operating the rolling stock. The commissioner's powers include the ability to enter railway premises and to maintain native vegetation, etc., around railway lines. Also, subject to ministerial approval, they include the ability to close and limit the use of railways for railway operation purposes, and other powers.

I have always been amazed that in this country in the past we have had narrow, standard and broad gauge lines. I note that in the early nineties I was part of a team of contractors who worked with the railways to standardise the line. My part was a small section between Coomandook and heading towards Keith, where we standardised the line from broad gauge. It has never made sense that we have had all these different gauges, but that is what happens when you have states with competing interests and ideologies. In saying that, the opposition supports the bill. Let us hope that it has a speedy passage through the house.

Mr VENNING (Schubert) (11:21): I join my colleagues in supporting this bill, and I congratulate the member for Morphett on the carriage of this bill. As members would know, I have always supported legislation which supports or promotes the South Australian rail system. Anything that improves our rail system and the service to our commuters should be supported, and the opposition does so in this instance.

There is a bit of history here. Is this deja vu? Is this the return of the old SAR? In some ways you could say, yes, in a minor way. I was never in support of the abolition of SAR by the Dunstan Labor government back in the sixties, I think. There was a big move to get rid of it, and ever since then our rails have taken a back step. How ironic is it that in this instance this government brings it back again?

There have been many very famous rail commissioners in the past, and the member for Morphett mentioned but one, but there are several over history who were prominent in the state parliament. You only need to read *Hansard* to see how important this role was. There were people like Fitch, who was a very important operator in relation to the rail commissioner. The Rail Commissioner has a specific job to do, as is mentioned in this legislation, which is to deliver state government rail infrastructure projects.

As I have said many times before, I believe that government is responsible for the rail system. It is the responsibility of government to provide a system that works, and it should not be driven by the profit motive, because, let us be honest, in very few instances over the years has rail ever paid; only on very lucrative tourism corridors does it ever pay. I cannot resist mentioning here that I hope the Rail Commissioner will see the advantage and the benefit of reintroducing the rail passenger services beyond Gawler to the Barossa Valley, and I will certainly be speaking to the new commissioner about that, if it is possible.

Finally, I congratulate Mr Rod Hook, who I know very well. I have full confidence in him to carry out this role well, as he always does, and I hope it does not compromise the positions that he currently holds. Again, I always say that it is the moral responsibility of government to supply rail infrastructure to its people, and in this instance I think it is a move in the right direction and we support this bill.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (11:23): I thank members opposite for their contribution, and I appreciate their identification of Rod Hook as a person who does a very good job for the state. That is certainly my view, and it is an illustration of the special skills that he has that he does as much as he does, but it is also an illustration of the very large increase in infrastructure spending that we are seeing in the state as well.

I was going to answer some questions, but I could not quite discern any, except why we do not build trains locally. The government is not going to get into the business of building trains, and I do not think anyone on that side would suggest that it should be a government enterprise, but we would certainly love to hear from someone who wants to build trains in Australia, because it is a fairly expensive exercise bringing trains and trams over to Adelaide from the places where we buy them in Europe. It adds significantly to the bill.

I note that, originally, our trams were built in my electorate, I think; not the new ones, the 80 year old ones. What I would point out to people is that it is an interesting question. The real issue has been the volume of manufacture but, given that we have, I think, an order in excess of 70 items of rolling stock coming up, it would be good to see at least some of that work done in South Australia. However, as I said, the government will not be establishing its manufacturing works; I think those days are long gone.

I thank members for their support. It is largely a tidying up bill. It provides a proper corporate structure for a rail commissioner which we believe is right. In regard to the other comments relating to civil contractors, I think it is an advantage for those seeking to win work on the rail that we do not have to go out and find those who are doing the work who are accredited.

We will have a rail commissioner who has the overall control who carries that accreditation. I think that may well be of benefit to local firms in the future. It is a very large program and we hope that many local firms are involved in it.

I can say that it is $2.6 billion to roll out over the next 10 years. It is a continuous rolling program, as I said, with many items of new rail stock, and I look forward to working with Rod Hook in his role. From what I am hearing, it does worry me that, in creating rail commissioners of this nature, further down the track in 20 years' time, everyone will remember Rod Hook and no-one will remember poor old me, but I think I will manage to live with that. I commend the bill to the house.

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

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (SMART METERS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3762.)

Mr WILLIAMS (MacKillop) (11:27): I indicate to the house that I am the lead speaker on behalf of the opposition on this bill and that the opposition will be supporting the bill as presented to the house without amendment.

Smart meters is a new piece of technology which has become available in recent years. Back in February 2006, COAG came to a conclusion that smart meters should be rolled out across Australia basically to perform two functions. It would give consumers of electricity the opportunity to get a real-time pricing signal on their consumption and then modify their consumption according to that, which should in theory deliver benefits to consumers through those price signals.

Also, in doing so, obviously the price rises under the national electricity market at times of high demand, so it would ameliorate demand at those times and flatten out the peakiness of the demand curve on supply, therefore lessening the amount of investment that needs to be put into new generating capacity. That is something that we are very aware of here in South Australia having probably the peakiest demand curve of any electricity network certainly in this nation and possibly worldwide.

The National Electricity (South Australia) (Smart Meters) Amendment Bill is the third in the latest suite of bills which has been brought to the parliament in recent times with regard to the national energy marketing system that we have now embraced, encompassing both electricity and gas. This particular smart meter rollout has already begun. Pilot programs, I understand, have begun in both New South Wales and Victoria. The minister here in South Australia has consistently told the house that he does not believe that the benefits outweigh the costs, certainly in the South Australian context.

The Hon. P.F. Conlon: I think they are rethinking it in other places.

Mr WILLIAMS: He is suggesting across the chamber right now that he thinks that some of those other states are rethinking their position on smart meters. In recent discussions I had with ETSA Utilities, Lew Owens told me that rather than having smart meters, which would give individual consumers the power to modify their consumption, ETSA Utilities is working towards what we would refer to as 'smart networks'.

We have already seen demand management technology put in place in a couple of trials—at Mawson Lakes and Glenelg, I believe—where the load to certain high energy appliances (principally air conditioners) can be turned off for short periods during times of peak demand to lower the overall load. Again, I understand that happens at the individual household or business level, where smart networks would operate by having intelligence regarding demand on individual transformers gathered at a central point. It may be a particular street or couple of streets, and the distributor could manage the load transformer by transformer or area by area. That would provide a way to manage load, as well as ensuring that particular nodes in the system were not overloaded—probably the greatest cause of blackouts in peak demand periods in South Australia.

Lew Owens told me that, since the initial discussions on smart meters back in 2006, their cost has fallen dramatically; at the time I think it was about $600 per metre to install, and it is probably under $400 now. He also told me that the technology used in their demand management scheme could well be incorporated into a smart meter; so both pieces of technology could be bundled into one for installation, again giving greater flexibility to the management of load and networks. I look forward to seeing further developments in that area.

I remind members that this piece of legislation has been brought to this place because South Australia is the lead legislator with regard to electricity and gas law. It is not necessarily directed totally at the South Australian jurisdiction, but will allow those other jurisdictions—New South Wales and Victoria—to have the legal backing to continue with their smart meter rollout. It also gives the South Australian minister the power to make a ministerial determination with regard to other demand management technologies, such as the ETSA trials of direct load control to which I have just referred.

The electricity industry is moving forward very rapidly with these new technologies, which will smooth out our demand curve. We are also seeing many new technologies being applied on the generation side. I will not go into those today, but I think this is a significant step forward. Indeed, in South Australia we may rethink our position on smart meters as we go forward as well, but I acknowledge the briefing I received from Lew Owens, which suggested that there is great potential for us to modify our load characteristics for the benefit of South Australian consumers, both domestic and business. I commend the bill to the house.

Mr VENNING (Schubert) (11:33): The opposition supports this bill, as the shadow minister (the member for MacKillop) has indicated, and I congratulate him on putting the case for the opposition. This is good legislation—and how often have honourable members heard me say that in the last 7½ years?

The Hon. P.F. Conlon interjecting:

Mr VENNING: The minister interjects; and, yes, I have to say that this minister probably has more pluses on his plate than any of the others—particularly when it comes to ports and rail. At least he has delivered; he may not be very friendly sometimes, but he has delivered.

An honourable member interjecting:

Mr VENNING: Well, he has had the most important portfolios as well. This is good legislation; it is proactive, and it will send the right message to consumers regarding the efficient use of electricity and the government's ability to supply it. It gives consumers the opportunity to modify their consumption. It gives people the choice to use only low-priced offpeak power, medium level power or high peak power. I have always believed this because, when you look at your meter, if you are able to say that you will not use high peak power or medium power, you could probably cut your power bill by as much as 75 per cent. It will mean, though, that on those high peak days you will have to make alternative arrangements, and many people would do that.

In this instance, if some larger consumers worked out what it would cost, depending on how much they use, it may be smart business for them to install their own electric diesel generator, especially if they are a high use consumer, or to share one with some neighbours. If you are a high user of premium power, you certainly would. It ought to be tried. It would depend on what the rates of the tariffs are and your supplier, but it certainly would be an interesting exercise. Again, I think it is a great opportunity for us to move forward on this legislation.

It also will give the supplier, depending on the technology of these meters, the opportunity to send messages to its meters and, therefore, to the user. It also enables the supplier to switch off meters in times of critical emergencies to smooth out the demand curve. Like everything else, the more people who come online and have these installed the cheaper they will become; so, the rollout needs to be accelerated. I am sure that a large percentage of South Australians will embrace this, even though it would be very expensive to install in the first instance. I believe that, for the sake of expediency and the environment, South Australians will embrace this and pay the cost to have them fitted because they will have the flexibility of using the cheaper grade powers if they choose. Certainly, the opposition supports this bill; it is good legislation.

Mr HANNA (Mitchell) (11:37): I want to make a few remarks about the government's legislation concerning smart meters. These are devices to be fitted into people's homes and businesses. They will allow information to be passed back to a central point so that electricity planners can find out what people are doing in their homes with their electricity usage, but something else is tucked away in this bill called the direct load control device. That allows remote control over people's air conditioning, pool pumps, water heaters and so on, and these can be activated by the electricity supplier, I think, to cut out people's equipment at home.

If we need to do this for the conservation of electricity, so be it; maybe we are in such a desperate state that we need to take these measures. But when this sort of extraordinary intervention in people's homes takes place, I am always surprised that the Liberal Party is so far

departed from its origins in liberalism that it passes these measures without blinking. I think the community would be shocked to find out what is in this legislation, and they certainly will be shocked when it becomes mandatory as opposed to merely a test pilot run. It is one thing to test it but another to bring it in and make it mandatory. If we go down that track, there will be a lot of upset people because a lot of people do not want big brother telling them when they can and cannot have their air conditioner on.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy) (11:39): I thank everyone for their contribution. First, to work through smart meters, COAG was moving to a rollout of smart meters some years ago, and it was the Premier of South Australia who asked for an amendment to the COAG decision and said that smart meters would be rolled out where a cost benefit analysis justified it. I think it was a very smart thing for the Premier to have done because, having been adopted, the consequent cost benefit analysis pointed to very little (probably negative) benefit to South Australia.

There are other jurisdictions where that cost benefit analysis looks different, and that is why we as a lead legislator are happy to promote this legislation; it will allow those trials in other places. I point out to the member for Mitchell that these matters are ongoing; this is merely the legal background to it. Both the smart meter rollouts in other states and direct load control trials have occurred here.

The member for Mitchell needs to understand that it is completely wrong to suggest that direct load control is about a shortage of electricity; it has nothing to do with it at all. It is an entirely voluntary program where people in those trials sign up for a reduced tariff in order to trial controlling peak demand, which costs everyone a lot of money, by their progressing through turning off some items in the home for a short time. What is measured through that is whether you can, by direct load control, control some of those items, including air conditioning, without making any difference to the comfort in the home—the comfort of people who undertake these trials. They remain trials, and the results are very strong.

There is absolutely nothing in this bill that suggests a mandated rollout of direct load control; it is not necessary. We are talking about a large marketplace and what this allows retailers to do. You have to remember that, at the moment, it is a distribution company conducting the trial. What it will allow us to do, in the fullness of time, is to have retailers offer products that might include direct load control, and that is some way off.

It also gives us the capacity to have the laws suitable for very quickly changing technology. What we have seen in recent years is the merging of information and communication technology, so that we no longer talk about IT: we talk about ICT. I think the next step will be, as ETSA has suggested, for a further convergence to have smart grids, that is, the same wires taking electricity to your home also provide information about the nature of that grid. DLC is a small part of this, but one of the very important things about it, which a lot of people do not realise, is that, at present, when the household goes off the power, the distribution company does not know where it is. When many households go off, they know that some load has gone off, but they do not necessarily know where. In fact, people should always ring ETSA if their power goes off, because they should not assume that their distribution company would know.

All we have here is the legal framework by which the national electricity market can embrace new and emerging technologies. I can assure the member for Mitchell that it will be on a voluntary basis, as it is at present. It will not be that we will do this and then do a DLC trial start. The DLC trials have been ongoing. I would urge the member for Mitchell maybe to have a talk to ETSA about those trials, because they have been quite successful. I point out that controlling the summer peak is not about the lack of supply. It is about the overbuilding of networks and the overbuilding of generation and, of course, those fast start peakers will generally be dirtier generation than what is going to be the emerging baseload of natural gas. There are a lot of environmental reasons why you want to find technology that will help you to control summer peak. Obviously, if you over-invest, someone has to pay for it. South Australian pricing is consequently higher than many places interstate because our summer peak is the worst.

I commend the bill to the house. It will allow other states to do what they want to do with smart meters. I personally do not see any time in the future—and I am prepared to be wrong—where there will be a cost benefit analysis in rolling them out. I make the point that you can get one if you want; we are not preventing it. Anyone who thinks there is an advantage in real-time metering is free to get one, but I would say that you would have to be a very large customer. That

ability has been around for a very long time and I must point out that very few large customers have taken it up, which I think supports the case we have made in South Australia.

It is an important piece of legislation for the national electricity market and, in terms of smart meters, it is far more important in other jurisdictions than it is here. It will allow us to embrace those technologies if there is a benefit from them and if people want them.

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

VISITORS

The SPEAKER: I advise members of the presence in the gallery today of students from Victor Harbor Primary School.

FAIR WORK (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3773.)

The Hon. I.F. EVANS (Davenport) (11:46): I indicate that I am the lead speaker on this matter for the opposition. The Fair Work (Commonwealth Powers) Bill 2009 is the first of two bills the government has introduced with the principle of transferring the remainder of the private sector industrial relations system to the commonwealth. The house will recall that the former Howard government used its constitutional powers to take over what are known as constitutional corporations and put them into the federal industrial relations system. That is, in essence, for want of an easy description, Pty Limited companies.

It means that about 70 per cent of the South Australian private sector is under the current commonwealth system and that 30 per cent remains under the state system. There is some debate about whether it is 70 per cent or 80 per cent under the national scheme and 20 or 30 per cent, but we will use the figures of 70 per cent and 30 per cent for the sake of the argument. What the state government is proposing with the two bills (and this is the more substantive of the two bills) is to transfer the remaining 20 or 30 per cent of the private sector through to the commonwealth so that all the private sector, in essence, is under the national industrial relations system.

It does not apply that commitment to the state public sector, which will largely remain in the state system, and local government will also remain in the state system. This is an in-principle decision to be made by the parliament. Does the South Australian parliament want to set future industrial relations policy settings for the remaining 20 or 30 per cent of the private sector, or are we happy to forfeit that power through to the commonwealth?

The opposition is not going to support these bills. We went to the 2006 election, even when the Howard government was in power, saying that we would support the retention of a state industrial relations system. So, unlike the government, we do not come to the table with a philosophical position that says, 'Now that we have a friend in Canberra, we want the state to have an industrial relations system and, when we have an enemy in Canberra, we have a different position.'

Our position has been consistent now for well over three years; that is, regardless of the colour of the commonwealth, we believe that there is some benefit in the states (including South Australia) maintaining their industrial relations systems. The opposition believes this for the following reason: we think that there is good sense in states being able to set some of their business climate, if you like, and setting legislation so that they can create a competitive business environment to attract and maintain investments into the states.

The parliament should be aware of the long-term goals of the Labor Party and the union movement Australia wide. What the Labor Party seeks to do, in my view, is transfer the private sector through to the commonwealth to have a national industrial relations scheme. The minister has already been subject to public comment about the harmonisation and nationalisation of occupational health and safety laws, and there is now a draft bill out nationally for public comment. The ACTU has already put a submission to the commonwealth government about a national workers compensation scheme.

As a parliament, we should look 10 years down the track and ask ourselves: if that agenda is achieved, what legislation will the state government have left at its disposal to make an attractive business investment climate in South Australia? It will have tax measures, as does every other

state, but it will not, to any large degree, have industrial relations, occupational health and safety or, indeed, workers compensation.

The state Liberal Party believes that there is some benefit in having states competing against each other. We believe that a competitive federalism in actual fact is good for Australia, because it creates competition between states and it makes states continually review their industrial relations, OH&S and other legislation to make sure they remain competitive nationally. Once you transfer it all to the commonwealth, the parliament will essentially take its eye off the ball long term—not initially, but in the long term because, essentially, that would be a matter virtually controlled by others not in this place. We do not see that that is in the long-term best interests of small states, particularly smaller states like South Australia.

During my brief time as the minister for industry and trade, we used to love travelling to the Eastern States and plundering their businesses by saying that we had the best industrial relations system in Australia; the lowest level of industrial disputes in Australia; more flexible industrial relations laws; a lower cost of living; lower business costs—come to South Australia and invest. Once you go to the national system, that argument is gone, because it is the same everywhere. So, South Australia loses the capacity to paint itself, in industrial relations terms, as a competitive environment, because it is the same everywhere.

The other issue is that, if we want evidence of that, we can go to the debate we had in this chamber and in the upper house more recently, when this government brought in what was the worst industrial relations bill in the state's history under former minister Wright—the Fair Work Bill. It went to the upper house, and we demolished it there, and I think the government is pleased that we demolished it. There were lots of ambit claims in that bill. The government was pleased we demolished it in the upper house, but how did we have the capacity to demolish it? We had the capacity to demolish it because we flew around the country and spoke to business organisations in Western Australia, Queensland, New South Wales and Victoria and looked at the provisions that this government wanted to bring in that already existed in those states.

I remember the unfair contracts legislation that existed in Queensland, for instance. It was an atrocious piece of legislation that this government adopted as part of its Fair Work Bill. We demolished it in the upper house, because we could go to the other states and look at what was happening. Once we transfer all of the private sector to the federal scheme, essentially there is one scheme across the board and, ultimately, there is no trial and error, as such, in between states, so you are stuck. If you get it wrong, it is totally wrong. For those reasons the state opposition will not be supporting the bill. We think to have one industrial relations system right across the nation will actually harm South Australia's interests in the long term.

We have consulted with the business community, and we understand the business community, particularly those who represent large employers who trade across states. We accept the argument that a national system for those big employers who trade across states could be of some benefit. That is why we adopted the policy in 2006 to give individual businesses choices, whether they go to the federal or state scheme. Given a choice, the large employers, like BHP, Santos and Woolworths, etc., which go across a number of states, would ultimately choose to be in one national system. I can understand that argument for those big employers.

However, let's look at the impact of what I call the small business, for instance, the Blackwood shoe shop, which might operate or compete only in the Blackwood district and not across states. Why is it so important to the government to force that business into a national scheme that brings with it increased costs and obligations on the employer?

Mr Speaker, I will give you the example of my sister's business. My family comes from a retail, building and plumbing background, and that is well known to the house. My sister's business involves a number of retail paint shops, which do not trade outside of South Australia. The extra cost to that particular business of going into the federal scheme will be $30,000 a year to do nothing more than they have done for the last 10 years, that is, sell paint. Why is that? It is because they have been forced into a federal scheme, and now the federal government is going through an award harmonisation process, and through the award harmonisation process the cost structures are different.

The house needs to be very clear about what we are doing with this bill. What we are doing is forfeiting our rights, in essence and in all practical senses, to the commonwealth, and small businesses, not the big businesses so much—and, according to WorkCover, 80 per cent of South

Australian businesses employ fewer than 20; so, we are essentially a small business state—will feel the impact of this long term; their costs will increase long term.

If you want any better evidence of this speak to any businesses involved in the award harmonisation process being undertaken at the moment. There have been media comments that newsagents face a 10 per cent rise, pharmacies something like a 12 per cent rise, and the restaurant and cafe sector are so bad that they simply tried to exempt them out of the process. The horticulture sector has had complaints. There is the aged care sector, where costs are going up significantly because of their involvement in the national system.

Where we are heading long term is to a position where the state is going to have less day-to-day control, and I will come to the level of control in a minute. The bigger businesses, I think, would choose to be in the national system, and they have the resources, the revenue and the human resources to deal with all the complexities of that. It is the small end of town, the small business, that will be hurt by this long term. Yet, there is no better evidence than what is happening with the OHS laws and award harmonisation.

Occupational health and safety laws? The government knows this; it has not responded to it. We have raised this before. The housing industry says that, through the occupational health and safety provisions that are being proposed, the cost of a new single-storey house in South Australia will go up $12,000 extra just because of occupational health and safety laws—nothing else—just so that we can be in a national system—nothing else—and for a two-storey house $21,000 extra just so that we can be in a national system.

There comes a point where political philosophy has to be put aside for the practical reality of the impact on the ground. For the small businesses in this state, that 20 to 30 per cent that are not in the national scheme, the opposition says that there is more benefit to the state and more benefit to small business to retain the state system and let those businesses decide themselves whether they want to go into the federal scheme and suffer the benefits or 'dis-benefits' of going into the federal scheme or stay within the state scheme.

We have had this position now for three and a bit years. I repeat to the house: even when the Howard government was in power, we went to the 2006 election and said that we would retain a state system. Even though we had friends in Canberra, we did not ever forfeit this state's right to set an industrial relations agenda—and we went to the election with that policy in 2006. Of course, in 2006, the state government did not say that it was going to forfeit the industrial relations system to the commonwealth. It has come to this conclusion only since it has had a friend in Canberra, Mr Rudd. It has come to the conclusion that this is what it would do only since the Rudd government has been elected. The opposition is of the view that it will be voting against both these measures.

I want to run through some of the issues raised in the minister's second reading explanation. It mentions that, even though the government had introduced the bill and was committed to it, a number of issues needed to be resolved between all the other governments through the intergovernmental agreement. I understand that the intergovernmental agreement has now been signed—and the minister confirms this with a nod. The opposition is yet to see a copy of the intergovernmental agreement. Eventually, I guess, maybe when the legislation is finally dealt with in the upper house, the government might produce it, but the—

The Hon. P. Caica interjecting:

The Hon. I.F. EVANS: The minister said that is a bit unfair. I will tell the minister what is unfair. I thank his staff for forwarding me the information, but to email me, at 10 past 6 last night, amendments to the bill which the minister knows we have no chance to discuss at a portfolio meeting or a party room meeting, given that it is only 12 hours before the debate, is unfair. Further, the minister will say what a good bloke he is because he will present to the house details of the intergovernmental agreement. Why not email me last night all the other information you expect me to debate in the next 10 minutes through to the third reading stage? Why not send through the intergovernmental agreement then, so that we could see what is in it? Anyway, it was interesting that the government committed to this matter, regardless of the detail of the intergovernmental agreement.

In the second reading explanation, the government says that it consulted widely with industry groups. Industry groups will tell you that, yes, they were consulted, but they were not able to consult their members. It was a closed shop and they were only able to consult their members once the government had introduced the bill and finalised a position. That is not consultation. The

government has talked to the senior people in the various industry associations, but only on the basis that they dare not talk to their members.

The government brings in a bill, saying, 'We have consulted with the industry associations and they support us generally.' Really? The industry associations never had the chance to go back to their membership as part of the consultation process until after the government introduced the bill and had reached its position. If that is what the government calls consultation, well good luck to it. It is not the style of consultation that this opposition would run or, indeed, that the former government ran, to my knowledge.

The government claims that this will be more efficient. More efficient for whom? I challenge the minister to explain to my sister how their having a $30,000 per year extra bill is more efficient—and they are doing nothing different from what they have done for the last 10 years. The award modernisation process that they are locked into as a result of being in the federal scheme delivers them that result. The government can wave its flag and say, 'Isn't this good: we have a national scheme and it is somehow more efficient for business.' Really? Go and talk to the newsagents, the little guys, the pharmacies, the horticultural sector, the retailers and all those operating the little one, two and three people businesses that are running their own show, and they will tell you that the award modernisation process, thanks to the national scheme, is a dog's breakfast.

This is what is being delivered through a national scheme, and I do not think that the government has its head around exactly what cost structure will be imposed long term on the little bloke, the small business, as a result of this scheme. The minister can correct me if I am wrong. He certainly has more industrial expertise at his disposal through his officers than I, but, if we go to a national scheme, all the awards will eventually go to national awards.

The basic rates—the minimum pay structure under all the awards—will be the same Australia wide, and that means that for those industries that just pay the award—and there are plenty of them out there; the retail sector, in particular, tends not to pay above the award—what you are imposing on the retail sector—and restaurants and cafes is another—is a national cost structure, a national penalty system that it has never had to wear before.

South Australia has always had a lower cost of living than other states. It has always been a state with a lower cost structure for its systems, but not any more. If we go to a national scheme, the wage structures will be the same. I am talking long term, not tomorrow or next week but, rather, in five or 10 years once Fair Work Australia, the industrial relations commission, goes through all the awards. We are heading to the same wage structure and minimum wages all the way through.

The minister will quite rightly say that not every industry pays the minimum award. That is quite true. In relation to the plumbing and building industries—which are nexus awards, anyway—that is quite true, but plenty of industries just pay the award. Those industries—which are mainly made up of little blokes and mum and dad businesses—will get caught.

The minister will quite rightly say that a lot of those businesses are caught now due to the Howard decision about industrial relations. That is true. I do not mind saying—again publicly—that I was the only Liberal to stand up publicly against the Howard legislation and campaign with a different view.

It has always been my view that South Australia is best placed to set the industrial relations environment, the occupational health and safety environment and the workers compensation environment it wants in this state to provide a proper system of wages, safety and compensation to its citizens, but at the same time provide for a competitive business environment compared with other states.

So what is the government's view on this? Once we have a national system of industrial relations, a national system of occupational health and safety and a national system of workers compensation, tell me exactly how South Australia will then provide a different competitive business environment. Essentially, we are left with the tools of tax and training.

We are starting to limit and restrict the impact that states can have on setting their competitive business climate long term—10, 20 or 30 years down the track. I am looking that far ahead. I am not looking at tomorrow but, rather, long term. What does the parliament think will happen long term? Let us look at it. South Australian federal representation is reducing. We have gone from 12 seats to 11 seats in the lifetime of this parliament due to population shift from the lower population states to the higher population states. Queensland has got an extra seat and South Australia has lost a seat.

More of the power in the federal parliament—and, indeed, the federal cabinet—will be Eastern States based. What we will get long term is Eastern States industrial laws, Eastern States occupational health and safety and Eastern States workers compensation. This state, for decades, under governments of every colour, has campaigned against exactly that. We have gone to Eastern States businesses and plundered them and brought them to South Australia by saying, 'You don't want to have the Eastern States industrial relations regime,' or OH&S regime or workers compensation regime. 'Come to South Australia, where it is cheaper and easier and there is a better quality of life, to do your business.' To my mind, long term, we are forfeiting that argument, and we are forfeiting it so we can say we have a national system. I am not convinced and, indeed, neither is the opposition yet convinced.

In his second reading explanation the minister gives examples of the benefits of a national system, and I will quiz him on every one of these examples. He says there will be great benefits to small business: I think I have addressed that. There will be greater benefits to young workers. How are young workers better off? Surely, that depends on the award, I would have thought; but, apparently, by going to a national system somehow younger workers are better off—not the older workers, just the younger workers.

Apparently, there are greater benefits for women in going to a national IR scheme—not for men, but just the women. Apparently, somehow, there are greater benefits for women in going to a national scheme. And you would not believe it, Madam Speaker: there are greater benefits for the disabled in going to a national scheme. There are greater benefits for regional workers—not metropolitan workers, apparently—and there are greater benefits for indigenous workers. Also, there are greater benefits for workers from culturally and linguistically diverse backgrounds. All that is in the second reading speech.

Give me a break! Does anyone honestly believe that going to a national system somehow derives benefits for simply those classes of workers mentioned in the minister's second reading explanation? I do not believe that. I think that is an all-encompassing, feel-good statement that sets out all the tick boxes, if you like, of political correctness. Either the legislation is good for all South Australians or it is not. A cynic might ask: what is in it for an able-bodied male living in the city? So, I do not believe that section of the second reading explanation.

The minister talks about cooperative federalism: I talk about competitive federalism. I think the United States has got it right and I think Canada has got it right. They have states actively competing against each other for workers and for business. There is a competitive tension between the states. By going to a national system, we will lose some of that—a significant part—and I think I addressed that in my earlier contribution.

The minister in his second reading speech says South Australia will have a significant and ongoing say. Well, I am not convinced. Under these bills, as I understand it, there are two ways that the state government can have a direct influence on future industrial relations legislation. There are only two ways. It can give a six month notice and totally withdraw from the scheme, if I understand the bill correctly. So, the state government can basically say, 'The federal government is moving to a policy area we do not like so we are going to withdraw from the whole scheme.' The business community is not fussed about that because it says no government will ever have the guts to do that. That is essentially the business community's argument on that provision.

There is another provision that if the federal government seeks to amend some of the key principles in the bill, the government can give three months' notice and withdraw the commonwealth's power in relation to just those principles. The business community is not that happy with that provision. For instance, if the federal government moved to change the unfair dismissal provisions to a position that the then state government did not like, under this bill the state government could say, 'We are going to withdraw the commonwealth's power just in relation to unfair dismissals.' The business community would argue, 'Well, that is bizarre.'

You would have businesses under the commonwealth system for everything except unfair dismissals and under the state system for unfair dismissals, and they say that would become very complex. However, the government has thought about this long and hard and has decided that that is the model it wishes to put in place. They are the only two ways in which the state can have a say. Of course, the state parliament does not have a say.

This will all be done in the smoke-filled rooms of cabinet. It will simply be done through the cabinet process: the parliament will be ignored. We will not a have a say. We will get a ministerial statement; we might get a press release if we are lucky. However, we certainly will not have a say

through legislation on that provision because, from memory, they are done on advice to the Governor, who advises the federal government on behalf of cabinet.

The mechanism that the government is using is what is known in the industrial relations field as a text-based referral. The referral is done by way of a schedule to this bill. I note that the email with a new schedule attached to it was sent through at 10 past 6 last night. There are nine pages of amendments, including a new schedule, the text to be included in the provisions of the commonwealth Fair Work Act. So, having met with the minister back in September, and the minister's having introduced it in June, at 10 past 6 last night we receive another schedule to look at.

The opposition will not be commenting on any amendments before the house. We accept the fact that it is basically a 30 to 15 vote in this house. We will have to look at the amendments in between houses. As I received them at 10 past 6 last night, I have not had a chance to consult any member of the business community about them. The minister's office says they are minor. I accept the fact that they may be minor, but I have not had a chance to go through them line by line. So, with respect to the amendments, we will not be commenting, other than to say that we will look at them between the houses.

It staggers me that, on such a major piece of legislation—giving up our industrial relations rights—after years of negotiating this, the government is still coming up with amendments the night before. I just find that interesting, I guess. One of the interesting aspects of this (and I think I have got this right; the minister can correct me) is that, if the commonwealth decides to move amendments which the state does not like to the commonwealth industrial relations laws and which then become the state industrial relations laws by default, we can move for a clawback, if you like, of the provisions.

However, the amendments the commonwealth has already moved stay in place. If the commonwealth moves amendments, for instance, to a particular provision that the state does not like, even though it is through the federal parliament, the state can then object to it and seek to withdraw, but the amendment stays in place. It is for future amendments from that point on—from the withdrawal—that the state claws back its power.

So, if the unfair dismissal provision is changed and the state does not like it, it can use its three months' notice to withdraw unfair dismissal out of the commonwealth system. However, the change that it does not like stays there and applies, and it is only future changes the state can make to suit itself, but of course it cannot make a change that is different from the federal change because the federal change, through the constitution, overrides the state change. I argue: what protection is there for the state? Not a lot. Essentially, we are forfeiting the rest of the industrial relations system to the commonwealth. That is the government's plan and, as I said, long term, I think that is a mistake.

I will be interested to question the minister in the committee stage on exactly how future amendments to the act work. I understand that through the intergovernmental agreement changes can be agreed at the ministerial council if two-thirds of the council support such changes. One assumes that South Australia could get voted out on every occasion, because we could be in the minor third, and the amendments will still go through.

I am not sure, as I have not seen the intergovernmental agreement and it is not attached to the legislation (when this legislation was introduced they were still negotiating it, so it was a movable feast, so the opposition is totally in the dark on the issue), of the legal position if the ministerial council agreed to an amendment and South Australia actively participated in the vote by voting against it. Are we then locked into not being able to use any of our retraction provisions—the six month or three month clause—to retract our position? That is not clear.

It is not clear under the intergovernmental agreement whether the two-thirds provision even applies. If it does, who gets to vote in the two-thirds: is it every state, every state and territory, every state and territory plus the commonwealth or, as per the ministerial council, every state and territory, plus the commonwealth, plus New Zealand? Does it actually get a vote? It is not clear to me; it is not before us. I am at liberty to ask the questions in that sense. The minister might like to address how that will actually work.

The federal government will be able to make technical and progressive amendments. I am not sure how a court would interpret the word 'progressive'. It is not defined in the bill but, if the South Australian parliament supports this it is saying that it is happy for a federal government to move 'progressive amendments' to our industrial relations system, I have no idea what that actually

means in an industrial relations setting or exactly how a court or tribunal would interpret the words 'progressive amendment'.

The reason I have explained the amendments—the six and three month clawback and the intergovernmental agreement—is that the minister says in his second reading explanation that South Australia can directly influence the new industrial relations system by this proposal to transfer the balance of our private sector through to the commonwealth. I say to the parliament: how so? Whichever way you look at it, if you vote for this you are voting for less influence, because today as we speak about 30 per cent of the private sector in South Australia is under the state industrial relations system and the parliament—the individuals here—can vote to change that industrial relations system.

The minister says that, under the new national system, by transferring it all federally, South Australia can directly influence it. I say: rubbish! We can directly influence it now, because we control it. If we forfeit it to Canberra, can we really directly influence it? I do not think so. We will be like a spectator at the football. We will barrack a bit from the sidelines and occasionally the ball will be kicked to us when someone kicks a goal but, as for having active participation and a real influence over it, I am sorry; I do not accept the argument that the South Australian parliament will have a real influence over it.

Oh, yeah, the cabinet of the day will be consulted! The opposition of the day, if it is lucky, might get something out of FOI, although cabinet documents are not FOI'd. How will the opposition or the other minor parties be involved? The answer is that they will not be involved. This proposal is to lock away the industrial system in Canberra and then give cabinet a consultative role long term. That is not the future of South Australia that I support. I support the South Australian parliament having a direct say. It might be a bit old-fashioned, but I think that the South Australian parliament should stand up for small business. I do not think we should forfeit our rights to the commonwealth, and that is what this particular bill will do.

The second reading explanation says that transitional arrangements are still being finalised; so the opposition is in the position of not knowing what they are. The government may wish to explain to us what the transitional provisions are. The other issue in relation to the intergovernmental agreement is that I want to know whether the decisions are binding and legally enforceable or are they simply a matter of honour? In other words, if the intergovernmental agreement (through the ministerial council) decides a position, is it simply a matter of honour that the state government then must implement that or is it legally binding, that is, legally enforceable? I have had mixed reports about which answer applies.

The government says that to have a national industrial scheme is a really good thing for business. It went through and named virtually every group saying that it would be of great benefit to them. Small business, young workers, women, the disabled, regional workers, indigenous workers and those from culturally and linguistically diverse backgrounds will all benefit out of having a national industrial relations scheme. What the government is not doing—and Business SA argues this—is transferring the public sector up to the national scheme.

It is that good for the private sector that the government's public sector wants nothing to do with it; and the reason I suspect the government wants nothing to do with it is because it wants to control the industrial relations setting and the wage structure for its own workforce—that is why. It is all right for the government to do that, but all you little business people out there can tootle off to the federal system. You can wear the award modernisation process, you can wear a national OH&S scheme that will put up your costs and you can wear a national WorkCover scheme within the next five to 10 years (because that is the philosophy that is being driven), and if that puts up your costs, bad luck; and that is the stark difference.

The public sector is being treated totally different to the private sector in this piece of legislation. Local government will also come back under the state scheme. Apparently, it is that good for the private sector that local government does not want to be involved in the national scheme, either. If there are all these benefits of efficiency, why would Business SA ask why they would not be applied to the public sector? It is an interesting question that the minister might like to address.

A number of government business enterprises will be excluded from the national system, and they include: the Adelaide Convention Centre, the Motor Accident Commission, the Land Management Corporation, SA Lotteries, the Forestry Corporation, the Superannuation Funds Management Corporation, the West Beach Trust, WorkCover Corporation, HomeStart Finance and

the Adelaide Entertainment Centre. They will be excluded from the national system. The following business enterprises will not be excluded. I assume that means that they will be included, but the email says 'not excluded', so I will use that language. The business enterprises that will not be excluded from the national system are TransAdelaide and SA Water.

I am wondering whether the government has done any work—and the minister can answer this during his response to the second reading contributions—about competitive neutrality, because the Land Management Corporation will be under the state system, which has a different wage and award structure, etc. The people they compete against in the development industry will be under the national system. The South Australian Forestry Corporation, of course, will be under the state system, while privately owned forests will be under the national system. So, I am wondering whether any thought has been given to the competitive neutrality issues there. I would also be interested to know on what basis organisations' enterprises were in or out of the national system.

I will not speak about the second bill, even though the measures are related; I will leave that until it comes on. The minister has, I think, nine pages of amendments to his own bill, so we will need a committee stage.

In conclusion, I go back to the broad principle and that is: long term, what does South Australia's parliament see its role as being in terms of setting the industrial relations, OH&S and workers comp environment? My view is that the state parliament should have a proactive role, and I do not think that we should be forfeiting, as we are in these bills, those rights (at least the industrial relations rights, at this stage) to the commonwealth.

The opposition has the same stance as it had in 2006, that is, we support the maintenance of a state industrial relations system for those 30 per cent of businesses that find themselves still in the state system.

Mr RAU (Enfield) (12:31): I listened with great interest to the contribution by the member for Davenport. As a person who has worked professionally in and around industrial law for many years now, I saw considerable force and merit in what he had to say. It would not surprise members of this parliament to know—or any who have been unlucky enough to listen to me speak before—that I am profoundly sceptical about the value of transferring authority from the state to the commonwealth just for the sake of doing so. I am profoundly sceptical about ministerial councils making decisions and then bringing them back here and directing us to do various things.

As I said, most, if not all, of what the member for Davenport said, I believe, is largely correct. However, there is a large number of things that he did not say. To understand a picture properly one needs to say these other things as well. The conclusion that one draws after having heard what the member has very carefully and skilfully explained to the chamber might be a different conclusion to the one drawn after hearing the other facts which are highly relevant to this matter.

The history of this matter goes back a very long way. The member for Davenport is quite right: historically, South Australia's competitive advantage within the commonwealth has been a lower cost structure, with lower wages and things like the Housing Trust, for example. Back in Tom Playford's time, these were all part of the social infrastructure and the cost structure built into the South Australian economy which made things like Whyalla, the car industry and various other things possible in South Australia. That is absolutely true.

It is also true that, going back 30, 40, 50 years, state award rates in South Australia were considerably lower than federal award rates or equivalent state award rates in some other states. Further, it is true, and important to understand, that prior to Federation Charles Kingston, who was premier of this state and a very important contributor at a state and national level, was largely responsible for putting together the system of conciliation and arbitration. That system was enshrined in the Commonwealth Conciliation and Arbitration Act 1904.

For the next 100 years, a boundary existed between what the commonwealth could do and what the states were able to do. That boundary, which was demarked by the High Court, eventually came to be reasonably clearly understood, although the path to understanding it took about 100 years, but milestones along the way enabled the commonwealth and the states to have two coexisting systems.

The federal system applied only to federally-registered organisations and people who were logged under federal awards. That tended, by the late 1990s, to be largely big business—the metal industry, motor vehicles, construction and so forth. The state system looked after everybody else in

terms of their pay, conditions and so forth, whether they were a corporation, a partnership, a sole trader or whatever they were, and the state system also looked after unfair dismissals for these people.

We could go on a trip down memory lane here with Ted Gnatenko's case and all the arguments about whether the federal system excluded the operation of 15(1)(d) or whatever it was back then, but I do not want to bore everyone here stupid because most people are not as interested in that as I might be. The point is that the state system had a lot of work to do. It had a lot of work to do in terms of the relationship between employer and employee on an individual level, and it had a lot of work to do in terms of the relationship between groups of employers and groups of employees or an employer and a group of employees.

It was a very active, busy, vibrant place and it did good work, and this state has a proud record of putting very sensible people on the State Industrial Commission some of whom have been from the employer background and some from the employee background. With very few exceptions that it would be in extremely poor taste for me to entertain now, they have been excellent. I know that the member for Davenport has had the opportunity of presiding, in effect, over the system or looking at the system as a minister. He has been an employer.

The Hon. I.F. Evans interjecting:

Mr RAU: Sorry, you were minister for police, not industrial relations—quite right. Never mind. He has seen the system from a number of angles, anyway, and I am sure he has business encounters with the system. The point that I want to make is this, and it is the point that the member for Davenport alluded to and I give him credit for this: it was something that he did not want to happen and he was right. It should not have happened.

However, let us not forget that the conservative party in this country was the party that usually ran the flag of the 'Canberra octopus' up the flagpole any time anybody wanted to do anything constructive. I remember Peter Reith opposing every referendum proposal that was put up during the period of the Hawke-Keating governments on the basis, irrespective of what they were, that they were an example of the Canberra octopus.

The idea that Federal Court judges should have to retire at 70 and not when they died was apparently an example of the Canberra octopus. I personally actually disagree with that one. I think quite a lot of them are good at 75, but anyway, who am I to worry about these things? The point is that Mr Reith saw in that a threat and, for as long as I can remember, the clarion call of the Liberal and National parties at a state level has been exactly what the member for Davenport says and I agree with him.

I am what you might call an anomaly over here in terms of my views on these things. That is what I would call myself: others might call me something else. However, I will say this: the member for Davenport is now an anomaly in his own party because it is not the Labor Party that tore up a hundred years of industrial relations and stomped it into the dirt. It is not the Labor Party that made redundant overnight the conciliation and arbitration provisions of the federal constitution which have been the guiding rails for industrial relations in this country for over 100 years.

It is not the Labor Party that did that. It is the mob of hypocrites who have gone around saying, 'The Canberra octopus! We're for states rights. The commonwealth should butt out. Let the states do what they want to do. We're not on about big government. We're not on about big taxation. We're not about poking our nose into other people's business. We want everything decentralised. We want local communities making their own decisions. We want people in the workplace to make their own decisions, we want everyone to be happy having their own little endless confabs about things and making their own decisions; but we will tear up the constitutional arrangements, tear up 100 years of judicial interpretation of the conciliation and arbitration power, tear up the federal legislation dealing with conciliation and arbitration, and we will use a completely different model'—namely, the corporations power—'as the vehicle for getting ourselves inside places we were never constitutionally intended to be.'

That is exactly what they have done. Howard did that without putting it to an election, without telling the public what he had in mind, and he got his just desserts at the next election for doing something that was despicable. It was dishonest because it was not put to the public first, and it was despicable because he betrayed his own mob as much as anyone else, as much as the small business people for whom the member for Davenport is pleading. He replaced a two-part industrial relations system, which had a reasonably clear demarcation line, with a piece of Swiss

cheese—and the tiny little holes in the cheese were what was left of the state jurisdiction. That is exactly what he did, and now members of the opposition are saying—

Mr Goldsworthy interjecting:

Mr RAU: —that they want to save these little remnants, these tiny little filaments of jurisdiction that are left. I do not know whether the member for Kavel appreciates this, but if you operate as a corporation you are already out. Sole traders and partnerships are the only ones that are not already completely and totally enmeshed in the federal system—and even then there are ways they can slip up and wind up in the system, but we will leave that aside for the moment.

If we were having this debate before John Howard did that which destroyed the history, culture, background, certainty and understanding of what industrial relations in this country has meant for 100 years, I would not only agree with most of what the member for Davenport said, I would vote with him. However, that is not—

Mr Goldsworthy interjecting:

Mr RAU: I feel quite strongly about this, it is a terrible tragedy. As the member for Davenport pointed out, it will only be in the fullness of time; it will take 10, 20 or 30 years for all these smart alecs, who thought this was a good pre-emptive strike to sneak up on the voters after an election without telling them—if they still care about anything—to work out what terrible damage they have done. By then it will be too late. But, hello, this is one of the consequences; get used to it. This is one of the consequences, and there will be a lot more.

So if members of the opposition are looking for someone to blame for this they do not need to look any further than their former exalted national leader. I used to have a lot of respect for John Howard, not because I was a supporter of his or voted for him, but in the same way that a Port Power supporter might think that Riccuitto is not a bad player. I thought that Howard at least had the courage—in particular, the way he had the guts to take that tax reform to the electorate (albeit wasting a lot of public money on terrible advertisements with chains around supermarket things)—to put on a plate what he wanted and why he wanted it, and allow the public to make a decision about it.

He won that election, and it is to his credit that he had the courage and fortitude to do that honestly. I think the people appreciated that (he won another couple of elections after that, using various other tricks he had). Nonetheless he deserves credit for that, because it took courage and integrity. What he did by sneaking up like a cat burglar on the industrial relations system—not notifying anybody that it was coming, not giving anybody an opportunity to have a debate about it before the election and not giving anybody an opportunity to vote on it at the election—meant that everyone just started rubbing their hands and waiting and waiting for the next election, when they got the opportunity to say not only, 'We do not like your system' but also, 'We do not like the sneaky way you went about putting it in.' That is why he got booted out even of his own seat.

The Hon. I.F. Evans: A bit like Stanley Bruce in 1929.

Mr RAU: Exactly; only he and Stanley Melbourne Bruce have managed that fantastic achievement. Despite all the great things Howard might or might not have done in his career, he sullied them terribly with this. Whatever detail might be argued, remember this: we are now dealing with the holes in the Swiss cheese or, if we are going to continue with the dairy analogy, it might even be the little bits of blue running through the blue vein because it is not most of the cheese. I will give you the big tip: most of the cheese is already in the federal system.

So, let's have a debate which is relevant to today and which deals with the circumstances as they exist today. Let's certainly lament the loss of the system that was; I will join in the lament on that one any day, but it is already gone. Caesar is buried; there is no point in praising him. He is buried; he is dead. Please, let's keep the debate relevant to what is actually on the table. I only regret that the member for Davenport was not a member of the federal parliament at the time—

The Hon. I.F. Evans: I tried.

Mr RAU: —I know, but that was after this—this idiocy was perpetrated and that he was not able to offer his voice of reason to some of his colleagues who obviously had a rush of blood and decided that the fact they had fluked a majority in the Senate meant that they were going to go for the Holy Grail and give the other mob a real pineapple they would not forget, and away they went. Guess what? They joined the Golden Circle club at the next election: they got a big pineapple, too.

Let's applaud the great common sense of the Australian public. They saw a rotten act, they saw a dud system, and they did not like it. But guess what? We are stuck with it now. The damage has been done—you cannot put Humpty Dumpty back together again.

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (12:48): I thank the members for Davenport and Enfield for their contribution to the debate on this historic bill. Members are certainly now aware of the importance of South Australia's participation in the national system from 1 January 2010 in the manner proposed in this bill. This bill will ensure that South Australia is in a direct position to influence the future industrial relations laws that will apply in our community and also ensure that appropriate comprehensive education, information and enforcement services will be provided for the national system in this state.

To achieve the objectives of South Australia's being part of the new industrial relations arrangements in a timely manner, it will be necessary for parliament to consider this bill expeditiously before the Christmas break. In this regard, I record the appreciation of the government to date for the cooperation of the opposition in facilitating arrangements for what I trust will be the expeditious passage of this package of legislation through the house and, hopefully, the other place.

I make the point that, while some concerns have been raised by the opposition member in regard to consultation, I think that my officers have most certainly bent over backwards to make sure that the opposition was provided every opportunity to be briefed on this. I make no apology for the fact that, during our briefing with the honourable member, none of his opposition colleagues decided to attend. Notwithstanding that, we will now undertake another process by which we will attempt to brief the opposition in the interim between the passage of this bill in this house and its introduction in another place.

Since the introduction of this bill last month, there have been some further—and I say constructive—developments relating to the bill. I confirm that, on 25 September 2009, South Australia, the commonwealth and many other state and territory governments formally endorsed the multilateral, intergovernmental agreement for a national workplace relations system for the private sector. As members would recall from my earlier contribution, this bill gives legal strength to the agreements and commitments through its amendment reference provisions, which contemplate a partial termination of the amendment reference if the fundamental principles set out in the IGA are breached. I table a copy of the IGA for the assistance of the house.

Through our continuing consultation with interstate agencies, I understand that Victoria and Tasmania have introduced, or will shortly introduce, legislation to their respective parliaments that is now in line with the provisions of the South Australian referral bill. This is indeed recognition of the leadership shown by this state, which reinforces the need to pass this bill in the form as agreed by the commonwealth and the other relevant jurisdictions to accept the referral of industrial relations for the private sector provided for in this bill.

I am also advised that the commonwealth minister will introduce a bill to the commonwealth parliament in the week beginning 19 October 2009. The commonwealth bill will accept our referral in the form to be proposed to this house and make technical and other necessary changes to the Fair Work Act 2009.

As a result of further consultation between senior officials acting on behalf of South Australia, the commonwealth and other referring states, I will be seeking to make some minor technical drafting changes to the bill currently before members. Again, comment was made by the opposition speaker in this regard, and I am thankful that we were able to get them through to him at around 10 past six last night, prior to this bill being debated today. That is the way in which this side operates: we got them at the earliest possible time we could to the opposition's lead speaker on this bill.

I will be seeking to make some minor technical drafting changes to the bill currently before the house. The changes relate to schedule 1 of the commonwealth text which has been referred and some minor consequential changes, which do not change in any way the substance of the referral. I will also provide details of the necessary alterations through a government amendment to the bill to be moved in committee.

In view of the urgency associated with the passage of the bill, I do not intend to go over the points raised during the debate but to simply reiterate the importance of a national IR system for the private sector to the employers and employees in this state. I again thank members for their

contribution and the opposition for what has been its cooperative approach, which it has indicated will apply to the consideration of this bill. Notwithstanding what might be said by some to be the opposition lead speaker's anomaly in regard to the position perhaps held by his colleagues and others on this side of the house, I am hopeful that is the case with respect to what will ultimately be the support of the party more so than the lead speaker in this regard.

Many issues were raised by the opposition lead speaker. As I have said, I do not intend to go through those now. We can go through those issues during the committee stage, and that will not be a problem. I guess one of the points I would make is the relationship that was drawn or concluded by the opposition lead speaker with respect to the introduction of an industrial relations system for the private sector and a national industrial relations system in this state and its relationship to national employment standards.

I think that was probably an issue where the opposition member wanted to create a cloud by introducing it, more than anything else. However, they are issues that need to be discussed and I am quite happy for them to be raised in committee. I stand by what has been this state government's position with respect to the interaction with the commonwealth, whether it be the horticultural industry, the retail industry or any other industry that sought the support of the state government with respect to what they believe will be the impacts and how to mitigate against some of those perceived impacts.

The Hon. M.J. Atkinson: Militate.

The Hon. P. CAICA: I thank the Attorney for his sage advice with respect to terminology. I would give him some advice on what clothes he should wear, if that is what he wants in return. On what is a very serious and historic bill, I would certainly appreciate the Attorney not interjecting whilst I am on my feet, and I know that he will not do that in the future.

With regard to some of the issues raised by the opposition lead speaker, I think they are out of kilter with reality and they will be addressed during the committee stage. In particular, if he does not believe that this will provide benefits to the groups that he outlined—those being young workers, women, disabled and regional workers and, indeed, those from an indigenous or culturally linguistically diverse background; the most disadvantaged people within the workforce—he lives in another world from me, because this is going to provide certainty for those people, certainty with respect to not only what system they are in but also going forward with respect to that level of disadvantage being addressed.

I know that we have philosophical differences when it comes to this matter—I accept that—but do not think that the state government has not dealt with this matter in a serious way. It is doing so and it will continue to do so on the basis that it believes that the certainty that will arise from the referral of the remainder of the private sector is nothing but a good thing for those workers and a good thing for South Australians.

With respect to the other matters raised by the opposition, we will deal with those matters during the committee stage. I will, of course, be very pleased to answer any questions on any matters that relate to this bill that the opposition has flagged during the second reading debate. Again, I thank members for their contributions and I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

[Sitting extended beyond 13:00 on motion of Hon. M.J. Atkinson]

SERIOUS AND ORGANISED CRIME (CONTROL) ACT REVIEW

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (12:59): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.J. ATKINSON: Today I table the Independent Review on the Operation of the Serious and Organised Crime (Control) Act 2008. On Thursday, 14 May I announced in this place that I declared the Finks Motorcycle Club under the Rann government's Serious and Organised Crime (Control) Act, because I had formed the view, after considering the evidence put before me by South Australia Police, that members of the Finks associate for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity and that the organisation represents a risk to public safety and order in this state.

On Thursday 18 June, I announced in this place that retired District Court judge Mr Alan Moss would conduct the review of the exercise of powers under the Serious and Organised Crime (Control) Act 2008, as per the requirements of part 6 of the act. I have now received this review and I feel it is important to provide the house with a detailed summary of it before laying this report on the table in this and the other place. In his report, Mr Moss states:

> I consider that that conclusion was open to him upon the material which was properly before him.

In his report, Mr Moss made eight findings, which state:

- There was only one application made by the Police Commissioner during the review of 4 September 2008 to 30 June 2009 and that was for the Finks Motorcycle Club operating in South Australia.
- That application was based upon information that was generally reliable, although assessment of the weight of evidence might vary.
- Random checks showed that the Assistant Commissioner's various declarations and the Commissioner's submission were consistent with material contained in the files of individual members.
- The Commissioner's classification of criminal intelligence was in accordance with accepted standards. Adequate reasons were given for all such classifications.
- Random checks of source criminal intelligence material showed consistency with the reasons for classification.
- The Attorney-General approached his decision making...in a manner befitting an administrator faced with an important decision potentially affecting the rights of individual citizens, in that he approached the task fairly and responsibly, was not biased, correctly interpreted and applied the law, only relied upon material that was properly before him and made a decision that was reasonably open upon the evidence and material before him.
- Twelve control orders were applied for in the period in review; and
- The exercise of discretion in deciding to apply for those control orders was within the limits contemplated by the act.

In his report, Mr Moss comments on the 'unashamedly tough' laws, but he states:

Obviously the situation offends the rules of natural justice, which require that a person be informed of the allegations against him and have the opportunity to refute those allegations. The answer, for the purpose of the review, is that that is what parliament intended and the purpose of this review is to ameliorate any potential injustices.

Speaking about the potential bias, Mr Moss said:

> This built-in bias is inherent in the construct of the act and cannot be avoided.

However, further in his report, Mr Moss states:

During my interview with the Attorney-General, I raised with him the question of bias. The Attorney-General asserted that he was not actually biased and I accept that to be the case. He did however agree that his political public utterances might give rise to an appearance of apparent bias such that, if they had been made by a judicial officer, then that person would be disqualified from hearing the matter. On the issue of apparent bias the Attorney-General made the following observations:

- Before the application he had no idea which, if any, group might be the subject of an application under the act and he had no particular knowledge, or preconception, about any particular group.
- The information supporting the application was completely new to him and he had not previously been aware of any particular allegation.
- His conscientious consideration of the application militates against any suggestion of bias; witness his approach to the question of classification and public interest immunity.
- He wished to make any decision in a way that would withstand judicial review.
- He was aware he was administering 'draconian' legislation and wished the process to be seen to be as fair and impartial as possible so that the community might have confidence in it. He had relied upon the advice of the Solicitor-General, who is an independent statutory officer, while on the other hand he had

> deliberately avoided advice from the Crown Solicitor's Serious and Organised Crime Unit, which he considered to have the role of advising the Commissioner.

In his report Mr Moss also discusses the extent of the review process, saying:

> The review process is quite a powerful tool. It needs to be because it stands in substitution for the judicial process, which would normally determine proceedings of this kind. Not that the review is in any sense a judicial process.

Coming to one of the most important aspects of the review, which is discussion about my reasoning, Mr Moss states:

> In his publication process the Attorney-General actually went much further than required by the act.

He goes on to say:

> I essentially undertook the same process and would have reached the same conclusion. The Attorney-General did not, as I did, make a check against the original source material. While I considered it was important for me, as the reviewer, to do that, it was not necessary for the Attorney-General to do so. In the absence of some powerful indication to the contrary, he was entitled to rely upon the sworn declarations of the Assistant Commissioner.

I would like to thank Mr Moss for his extensive review of the execution of powers under the Serious and Organised Crime (Control) Act 2008. It is pleasing that a retired judge has analysed this process. The house would be aware that on 25 September 2009 a majority of the full court of the Supreme Court of South Australia handed down its position in the matter of Totani & Another v The State of South Australia, wherein the constitutional validity of sections of the Serious and Organised Crime (Control) Act 2008 were challenged. The judgment of justices Bleby and Kelly in this manner, with Justice White dissenting, invalidated section 14(1) of the act.

I have sought advice from the Solicitor-General about the full court's finding in this matter. Based on that advice, I have now decided to appeal the full court's decision in the matter of Totani to our country's highest court, the High Court of Australia. I have instructed the Solicitor-General to proceed with an application for special leave to appeal this matter in the High Court.

It is a certainty that, had the Finks lost the Supreme Court appeal, they would have appealed to the High Court, and it is possible that, pending that appeal, the magistrates would have suspended the operation of the control orders. The state of South Australia is not much worse off for losing the first appeal. Indeed, the courts can still make control orders under section 14(2) of the Serious and Organised Crime (Control) Act 2008. I am advised by the Solicitor-General that, with section 14(2) still valid, it is open for the Commissioner of Police to continue to seek control orders, and it is a matter for the courts to decide whether to make them.

The Solicitor-General has advised me that an appeal to the High Court would have reasonable prospects of success. The majority judgment in Totani rendered invalid only one subsection of the Serious and Organised Crime (Control) Act 2008. With the rest of the act intact and with Mr Moss's positive independent review of the operation of the declaration process that I carried out for the declaration of the Finks motorcycle gang, I remain steadfast in my conviction that this legislation is necessary and appropriate for the curbing of organised crime in South Australia.

[Sitting suspended from 13:09 to 14:00]

ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

HARBORS AND NAVIGATION (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

REPRODUCTIVE TECHNOLOGY (CLINICAL PRACTICES) (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

FIRE AND EMERGENCY SERVICES (REVIEW) AMENDMENT BILL

His Excellency the Governor assented to the bill.

ARKAROOLA WILDERNESS SANCTUARY

The Hon. I.F. EVANS (Davenport): Presented a petition signed by 368 residents of South Australia requesting the house to urge the government to prevent exploration and mining in the Arkaroola Wilderness Sanctuary.

BUSHFIRE PREVENTION

The Hon. I.F. EVANS (Davenport): Presented a petition signed by 51 residents of South Australia requesting the house to urge the government to preserve the natural surroundings of the Belair area and protect the residents' ability to escape a bushfire by seeking the immediate removal of the cyclone wire fencing on Downer Avenue, Belair.

AUDITOR-GENERAL'S REPORT

The SPEAKER: I lay on the table the 2008-09 Annual Report of the Auditor-General, including Part A: Audit Overview; Part B: Agency Audit Reports—Volumes I, II, III, IV and V; and Part C: State Finances and Related Matters.

Ordered to be published.

PAPERS

The following papers were laid on the table:

By the Speaker—

Joint Parliamentary Service—Administration of—Annual Report 2008-09

By the Deputy Premier (Hon. K.O. Foley)—

Regulations made under the following Acts—
Petroleum—General

By the Treasurer (Hon. K.O. Foley)—

Finance—Budget Statement, 2009-10—Budget Paper 3—Corrigendum
RESI Corporation Charter—24 September 2009
Regulations made under the following Act—
State Procurement—Prescribed Public Authorities

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

Death in Custody—Steven Michael Bradford—Response to Coronial Inquiry into the Death of—prepared by the Department of Transport, Energy and Infrastructure
Regulations made under the following Acts—
Development—
Assistant State Coordinator General
Mining Production Tenements
Motor Vehicles—Exemptions from Duty to Hold Licence

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

Rules made under the following Act—
District Court—Civil Rules—Amendment No.11

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

Witness Protection Act 1996—Report 2008-09
Regulations made under the following Act—
Firearms—Prescribed Firearms

By the Minister for Environment and Conservation (Hon. J.W. Weatherill)—

Pastoral Board of South Australia—Report 2008-09
Witjira National Park Co-management Board—Report 2008-09
Regulations made under the following Act—
Upper South East Dryland Salinity and Flood Management—Project Works Corridors

By the Minister for Families and Communities (Hon. J.M. Rankine)—

Supported Residential Facilities Advisory Committee—Report 2008-09
Regulations made under the following Act—
Liquor Licensing—
Dry Areas—
Salisbury
Semaphore—New Years Eve
Victor Harbor—New Years Eve
Local Council By-Laws—
City of Victor Harbor—
1—Permits and Penalties
3—Roads
4—Local Government Land
5—Dogs
6—Cats
7—Nuisances Caused by Building Sites
Tatiara District Council—
1—Permits and Penalties
2—Moveable Signs
3—Roads
4—Local Government Land

By the Minister for Agriculture, Food and Fisheries (Hon. P. Caica)—

Regulations made under the following Act—
Primary Industry Funding Schemes—Citrus Growers Fund

By the Minister for Industrial Relations (Hon. P. Caica)—

Office of the WorkCover Ombudsman—Report 2008-09
WorkCover Corporation of South Australia—
Charter—Dated 22 September 2009 and 24 September 2009
Report 2008-09
Financial Statements 2008-09

By the Minister for Gambling (Hon. A. Koutsantonis)—

The Alma Hotel Alteration (Responsible Gambling) Pre-commitment Amendment 2009—
Notice pursuant to the Gaming Machines Act 1992

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the following written answers to questions be distributed and printed in *Hansard*.

WATER RECYCLING

139 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). Has the government investigated whether it is possible to install aerobic recycling of all waste water into all new and existing households and if so, would any rebates apply to householders?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security): I am advised that the Government already has in place approval measures to allow for the installation of onsite aerobic treatment systems for domestic wastewater for new and existing households.

The approval of the Department of Health (for non standard systems) or local government (for pre approved systems) is required for the installation of onsite treatment systems, and in sewered areas the approval of SA Water is also required.

The Department of Health has standard guidelines (Waste Control Systems—Standard For The Construction, Installation & operation of Septic Tank Systems in SA—Supplement B: Aerobic Wastewater Treatment System), which are applicable to individual onsite aerobic treatment systems.

At this stage, no rebates apply for onsite recycling systems.

WATER CONSUMPTION

149 Mr HAMILTON-SMITH (Waite—Leader of the Opposition) (30 September 2008). What action is being taken to reduce the amount of water being used by cotton and rice farmers in other states?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security): While I understand you are concerned about rice and cotton growing, the real issue is not the type of crop grown, but whether the amount of water permitted to be taken from the Murray-Darling Basin is sustainable. Governments should not decide what is grown. Rather we should ensure the amount of water taken is sustainable, and that irrigators are using water efficiently.

The Government of South Australia strongly advocated for the establishment of an independent authority to develop, implement and manage a Basin Plan for the Murray-Darling Basin and the legislation to enable this to occur was passed in late 2008.

The Basin Plan will include limits on the quantities of surface water and groundwater that can be taken from the Basin water resources. The limits will be defined as the level at which water in the Basin can be taken from the resources without compromising key environmental asset, ecosystem function or the proactive base of the water resource.

South Australia and the other Basin States will play a major role in putting the Basin Plan into operation by developing and implementing water resource plans that are consistent with the Basin Plan. The Basin States and the Commonwealth are also working with industries to improve the water-use efficiency of irrigation infrastructure in the Basin.

The Government of South Australia has been a strong advocate for the accelerated buyback of over allocated water licences in the Basin, particularly in the upstream states.

The Commonwealth has already acted on this and is using the $3.1 billion allocated for this purpose to purchase entitlements from large water users such as Twynam Agricultural Group and water intensive properties such as Toorale Station. In securing Toorale's water entitlements, this will return an average of 20 gigalitres of water to the Darling River each year, peaking at up to 80 gigalitres in flood years. The purchase of water entitlement by the Commonwealth from Twynam Agricultural Group will see up to 240 gigalitres for the environment.

PUBLIC TRANSPORT

255 Dr McFETRIDGE (Morphett) (21 October 2008). With respect to the 2008-09 budget papers—Program 4: public transport services, why was the budgeted amount for 'other' expenditure in 2007-08 set at $7.267 million when only $2.749 million was spent and why is the 2008-09 budgeted amount set at $1.938 million ?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The difference is due to bus registration costs. These are internal to the Department for Transport, Energy and Infrastructure (an expense to the Public Transport Division and a revenue to the Safety and Regulation Division). These items were included in the original 2007-08 Budget but were eliminated from the 2007-08 revised Budget and 2008-09 Budget.

PORT RIVER BRIDGES

353 Dr McFETRIDGE (Morphett) (21 October 2008).

1. How many reports has the government received from contractors or consultants regarding any problems with the alignment of the opening span; bearing and hinge mechanisms; steel quality; and the stability of the footings of the opening road bridge currently under construction at Port Adelaide?

2. What are the names of the companies who produced the reports and what are the dates of each of these reports?

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure, Minister for Energy): I provide the following information:

The approximate total annual cost of operating ferry vessels on the River Murray is $7.740million. This includes operating contracts, maintenance, minor infrastructure improvements and depreciation of majority ferry investments.

The Department for Transport, Energy and Infrastructure has no available information on the economic impact or cost associated with these vessels becoming non-operational.

HEAVY VEHICLES

367 The Hon. G.M. GUNN (Stuart) (17 November 2008).

1. Is it the intention of the police to adhere to the undertakings given by the Minister for Transport during the recent debate of the new heavy vehicle legislation in the House of Assembly?

2. Will the police be adopting a reasonable approach to the new heavy vehicle laws given that many rural producers are facing severe economic distress?

3. Have the police been instructed to issue as many infringement notices as possible and if so, by whom?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) : The *Road traffic (Heavy Driver Fatigue) Amendment Bill* to which the member refers was developed nationally under the umbrella of the National Transport Commission. It came into effect on 29 September 2008 and applies to vehicles with a gross mass weight of over 12 tonnes or a bus with more than 12 seats, including the driver.

The legislation is specifically aimed at managing driver fatigue and set work and rest limits for drivers. Penalties for the new fatigue laws vary based on the severity of the breach and consequent risk to road safety, both of the driver and other road users. The penalties are categorised on risk base in a similar way to those applied to mass, dimension and loading offences. Breaches are categorised as minor, substantial, severe and critical with penalties imposed rising through the categories. Penalties range from loss of accreditation, supervisory intervention orders, demerit points, prohibition orders and fines. They are all in support of achieving safe working practices.

The police focus remains road safety. The new fatigue related laws had an education and transitional phase, which ran for three months to allow drivers and companies time to comply with the new provisions. The issue of a caution or discretionary action by police will always be relevant to the circumstances relating to any individual incident.

WATER SECURITY

444 The Hon. G.M. GUNN (Stuart) (10 February 2009). What action will be taken to rectify the poor quality of water supplied to the mid-north town of Terowie and when will this occur?

The Hon. K.A. MAYWALD (Chaffey—Minister for the River Murray, Minister for Water Security): The possibility of providing an alternate water supply to Terowie has been previously investigated. The 15km pipeline required to significantly improve the water supply to existing customers in Terowie would need to be funded in accordance with the principles of the South Australian Government's Mains Extension policy. Initial estimates indicate that about $2,500,000 (or $100,000 per connection) of additional funding would be required over and above SA Water's normal contribution to a scheme of this nature.

The advice issued to the residents of Terowie regarding the non-potable supply was issued in conjunction with the Department of Health. Recent advice provided by the Department of Health is that the latest water quality results show no evidence that the water is unsatisfactory on health grounds for secondary uses such as bathing and laundry.

SA Water has informed me that they are aware of the aesthetic water quality issues associated with the water supply in Terowie and have commenced carting from Peterborough earlier than normal in order to provide some improvement to the water supply. However the water being delivered to customers in Terowie remains non-potable.

PERPETUAL LEASES

449 The Hon. G.M. GUNN (Stuart) (24 February 2009).

1. Has further consideration been given to allow perpetual lease holders in the transitional zone the opportunity to freehold their properties in line with other perpetual lease holders and if not, why not?

2. Is the Minister aware that security of tenure is a very important element in primary producers maintaining and securing finance?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management): I am advised that:

1. Lessees holding perpetual leases in the Transitional Zone and perpetual leases used for non-pastoral purposes in the Rangelands Zone can freehold their properties as recommended by the Select Committee on Crown Lands (Miscellaneous) Amendment Bill 2002, in 2003.

2. Yes, that is why the current freeholding process allows leases within the Transitional Zone to be freeholded and provides a security of tenure."

EMISSIONS TRADING SCHEME

478 The Hon. G.M. GUNN (Stuart) (19 May 2009).

1. Has the Department considered the effects of carbon trading arrangements proposed by the Federal Government on the agricultural sector in South Australia?

2. Does the Department or any other State Government Agency possess any reports on research into this issue?

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development): I have been advised:

Yes, PIRSA has considered the implications of carbon trading arrangements proposed by the Federal Government on the agricultural sector in South Australia.

- Agriculture is second only to the stationary energy sector as the largest contributor to greenhouse gas production (GPP) in Australia (16.8 per cent).
- Approximately 65 per cent of agriculture's contribution comes from livestock (methane production from enteric fermentation, and manure management).
- Approximately 22 per cent comes from agricultural soils (cultivation) with 85 per cent of Australia's nitrous oxide emissions being released as a result of nitrogen fertiliser applications and nitrogen in animal excreta.
- Agriculture is not included in the Carbon Pollution Reduction Scheme (CPRS) currently under consideration by the Federal Government.
- Commencing this year the Federal Government is undertaking a work program to enable it to determine in 2013 whether or not to include agricultural emissions from 2015.
- Even though Agriculture is not included in the CPRS, producers may face increased production costs as GGP related costs increase in the manufacturing, transport and energy sectors.

Current Status

- If Agriculture is included in the CPRS then producers will be accountable for GGP from livestock, nitrogen fertiliser applications, stubble burning and land clearing.
- Given the significant GGP by this sector, costs to primary producers could be substantial.
- Research groups across Australia are currently investigating methodologies for determining and accounting for GGP at the farm level using satellite imagery, GIS and weather observation data. Much of this work is being lead by the Department of Climate Change in Canberra.
- It has been suggested that farmers could offset their GGP by increasing soil carbon. It is extremely difficult, however, to increase soil carbon in areas with rainfall less than 10mm.

- Conversion of cropping land to pasture has the potential to increase soil carbon, however, when this pasture is retuned to cropping the carbon is released again.
- When cropping land is converted to permanent pasture it is only possible to increase soil carbon by a finite amount as the soil will eventually reach a new carbon plateau, after which it is not possible to increase soil carbon content.
- Within a rotational cropping/pasture system it is difficult to see soils being used successfully as a long-term solution for agricultural emission offsets.

PIRSA does not have a report on this topic. The research is currently being undertaken. In this regard PIRSA and SARDI are supporting research being undertaken by Dr Camel Schmidt (CSIRO). Dr Schmidt is modelling the soil carbon baseline thresholds that would be expected to occur in agricultural soils under low rainfall grain and mixed operations. The outcomes of this work will be made available upon completion.

SARDI is also undertaking a range of research focused on reducing GGP. This includes:

Methane production

- SARDI has recently initiated a new $794,000 Meat and Livestock Australia funded research program to determine if it is possible to reduce the amount of methane produced by sheep and cattle. This research includes: selection of genetically low-methane production animals, the use of feed additives, and the influence of feed quality on methane production.
- Further investigations are needed into the use of feedlots for meat production. While feedlots allow feed quality to be better controlled (thus reducing methane production) and methane produced by animals to be collected, the GGP costs of producing feed elsewhere and trucking it to the site may prove to be substantial.

Fertiliser application

- Work is being undertaken to reduce nitrous oxide emissions from fertiliser applications. This work includes; determining the optimum timing for application of nitrogenous fertilisers and the benefits of rainfall immediately after application.

LEARNING CENTRES

492 Mr HANNA (Mitchell) (21 July 2009). How many students are currently on the waiting lists to attend Learning Centres at Beafield, Christies Beach and Cowandilla, respectively, and where do these students come from?

1. How many students are currently on the waiting list to attend Bowden Brompton Community School?

2. How much funding is allocated to each of these centres?

3. Does the Department of Education plan to establish more Learning Centres?

4. What plans does the Department have for the vacant Dover Gardens Primary School site?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide): The Department of Education and Children's Services (DECS) has provided the following information:

As at 14 September 2009 there was one student from the Northern Adelaide region waiting to enter the junior program at Beafield. This student will begin the program on 12 October 2009. Until that time, the student's current school continues to provide an educational program. There are no other students waiting to enter any other learning centres.

Bowden Brompton Community School takes enrolments and does not have a waiting list. The school is staffed on the basis of 150 fulltime students.

The DECS Learning Centres, which are Beafield, Christies Beach and Cowandilla, are funded through a corporate budget. The total Learning Centre budget for 2008-09 was $3,411,000 plus $171,800 for transport, totalling $3,582,800.

There are no current plans to establish additional Learning Centres.

The Dover Gardens Primary School continues to be occupied by DECS and the disposal of the property is not being negotiated at this time.

However, when a site is declared surplus to the department's requirements, it is disposed of in accordance with the Department of the Premier and Cabinet Circular 114—Government Real Property Management.

SCHOOL SWIMMING POOLS

497 Mrs PENFOLD (Flinders) (21 July 2009). Is it Departmental policy for the closure of swimming pools in regional and small country schools in South Australia and what assurances are there that they will be maintained and remain open?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide): The Department of Education and Children's Services has advised that the decommissioning/disposal of a school pool will only occur when the school, with the support of the Governing Council, decides to cease operation of the pool.

PORT LINCOLN AMBULANCE BUILDING

499 Mrs PENFOLD (Flinders) (21 July 2009). When will the St John Ambulance building in Port Lincoln be completed and what is the anticipated cost?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts): I have been advised that:

St John Ambulance is a public benevolent institution and therefore this is not a State Government project. The development is entirely from St John Ambulance funds.

ABORIGINAL AFFAIRS AND RECONCILIATION

In reply to **Dr McFETRIDGE (Morphett)** (5 February 2009).

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management): I am advised that:

This Government is proud of its progress on Aboriginal Affairs and Reconciliation. Each day we strive to work in partnership with the South Australian Aboriginal Community. As part of our engagement we have acknowledged that before we can genuinely 'Close Gap', Aboriginal South Australians must first be able to exercise the same choices as the wider community.

To this end, this Government has embedded Aboriginal wellbeing as a policy priority at the highest level within South Australia's Strategic Plan (SASP), with an increase from two to nine Aboriginal specific targets from 2004 to 2007. These targets provide a focus for policy and program implementation across government.

This Government is doing its part as an employer to improve Aboriginal Wellbeing. Since 2003 there has been a significant effort by the South Australian Government to improve the quality and quantity of Aboriginal employment in the State public sector. At 2003, 0.9 per cent of the SA public sector workforce identified as Aboriginal and/or Torres Strait Islander. By 2007, this had grown to 1.5 per cent. The Government recognises the importance of Aboriginal Leadership and over 150 Aboriginal people have undertaken leadership development through governance training, heritage management training and through a State public sector Aboriginal Leadership Program.

This Government has also committed itself to the review of the Aboriginal Lands Trust Act and the Aboriginal Heritage Act 1988. The ALTA has not been reviewed since its inception in 1966 and this review is a major commitment to retaining Aboriginal land rights while ensuring the legislative framework enables rather than impedes Aboriginal prosperity. Similarly our review of the Aboriginal Heritage Act will create a strong framework for Aboriginal custodianship of cultural heritage and for its long-term protection and management.

This Government is also working at both the national and community level to improve Aboriginal wellbeing.

State Government continues to work in partnership with the Commonwealth to implement programs to assist Aboriginal people to build their capacity to address social problems such as family violence and child abuse; links to existing services; and increased support for community education

and awareness. Through the Council of Australian Governments (COAG) forum, South Australia is implementing an agreement focusing on a further priority health outcomes including;

- Tackle smoking—'the single biggest killer of Indigenous people'
- Healthy transition to adulthood
- Making Indigenous health everyone's business

WORKCOVER CORPORATION

In reply to **Dr McFETRIDGE (Morphett)** (2 June 2009).

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development): I have been advised that:

The *Workers Rehabilitation and Compensation Act 1986* stipulates that if a worker is injured then:

> 35(2) Weekly payments are not payable under this Division in respect of a period of incapacity for work falling after the date on which the worker reaches retirement age.
>
> (3) However, if a worker who is within 2 years of retirement age or above retirement age becomes incapacitated for work while still in employment, weekly payments are payable for a period of incapacity falling within 2 years after the commencement of the incapacity.
>
> (8)(d) 'retirement age' means—
>
> (i) if there is a normal retirement age for workers in employment of the kind from which the worker's disability arose—that age of retirement; or
>
> (ii) the age of 65 years,
>
> whichever is the lesser;

Therefore, the Federal changes to the retirement age may change what is the 'normal retirement age' referred to in section 8(d) of the Act. However, as this change will be an increase, and for WorkCover the relevant age is the lesser of the 'normal retirement age' and '65 years', retirement age for the purposes of the Act will be 65 years old.

POLICE, RANDOM BREATH TESTING UNITS

In reply to **Mrs REDMOND (Heysen—Leader of the Opposition)** (2 July 2009).

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing): The Deputy Commissioner of Police has advised me that General Orders contain provisions which apply to all situations of police pursuit driving. Police pursuit driving is when police are following a vehicle, and the person in control of the vehicle:

- fails to stop after being signalled to do so by a police officer;
- takes deliberate action to avoid being stopped; or
- appears to ignore police attempts to stop the vehicle.

These circumstances are not specific to driver testing stations.

I am told that before and during any pursuit, police assess the risk involved in line with SAPOL's operational safety philosophy and principles to minimise the risk of danger to the police involved, the alleged offender and community members such as other road users and pedestrians in the area. Protecting life and property is paramount, and if at any time the risk to police, public, suspect(s) or damage to property is assessed as unacceptable, the pursuit is terminated.

I understand that in the case of random breath testing stations, a strategy which is often adopted is to communicate the description and details of a vehicle which appears to be avoiding being stopped at the RBT to a mobile traffic unit or patrol located in close proximity. The vehicle can then be intercepted and stopped in the safest possible manner.

PAROLE BOARD WARRANTS

In reply to **Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition)** (14 July 2009).

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing): As at 24 August 2009, SAPOL records indicate that 95 parole warrants have been issued where the offender has not yet been arrested.

Of the 95, 30 are serving a term of imprisonment interstate. Two people are believed to be overseas and 20 are interstate. The remaining 43 people are believed to be residing in South Australia. Active enquiries are being made by police at the relevant Local Service Area level in relation to locating those people, based on their last known address.

The majority of new warrants received by SAPOL are being executed within 24 to 48 hours of receipt (ie person located and arrested).

PRISONS, DRUG TESTING

In reply to **Mr WILLIAMS (MacKillop)** (15 July 2009).

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Correctional Services, Minister for Gambling, Minister for Youth, Minister for Volunteers, Minister Assisting the Minister for Multicultural Affairs): The number of drug tests conducted in prisons has increased over recent years, in keeping with the State Government's commitment to reducing the impact of drugs in the prison system. I am advised that:

- 2392 tests were undertaken in South Australian prisons in 2006, with 564 of those tests returning positive results
- 2715 tests were undertaken in South Australian prisons in 2007, with 578 of those tests returning positive results
- 3585 drug tests were undertaken in South Australian prisons in 2008, with 906 of those tests returning positive results.

STATE BUDGET

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (14:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. K.O. FOLEY: Strong financial management is the hallmark of the Rann Labor government. Since coming to office, the Rann government has delivered balanced budgets, paid off public sector debt and delivered massive increases in funding to health, education, policing, and family and community services. The Rann Labor government has provided tax cuts that will be worth in excess of $3.3 billion when fully implemented by 2012-13.

At the same time, this government has invested record amounts in infrastructure, completing the Port River Expressway, the opening Port River bridges, the Bakewell underpass, the city tram extension, redevelopment of metropolitan hospitals, as well as providing substantial drought and water security initiatives across this state.

The Rann government is also delivering the 100 gigalitre Adelaide desalination plant, the outstanding Techport defence precinct (in the electorate of Port Adelaide), the six new super schools (already proving so popular) and the Marion Aquatic Centre (which will be a world leading aquatic centre).

The Hon. I.F. Evans: In which decade will that be built?

The Hon. K.O. FOLEY: It is starting now. It is underway—much sooner than when you were in office; you couldn't get it underway. I continue: the Northern Expressway, the Anzac Highway underpass, the new Royal Adelaide Hospital, the Health and Medical Research Institute (in partnership with the commonwealth), the Adelaide Entertainment Centre redevelopment, the tram extension to Bowden and redevelopment of the state's public transport infrastructure, which includes a record investment of more than $3 billion over four years.

All this has been achieved—and work is continuing—despite the impact of the global financial crisis. In June the state budget mapped out a strategy to continue our record investment in

infrastructure, maintain our tax cuts and keep the state's AAA credit rating, despite the budget dipping into deficit in the short term.

The budget strategy recognised that in 2010 the state government—whether it be Labor or Liberal—will need to identify significant savings to reach the projected budget outcomes, maintain fiscal discipline and keep the state's AAA credit rating. Savings have been a feature of the budgets I have handed down. They impose a discipline on government to continue to review expenditure, making money available for emerging priorities and ensuring taxpayers' money is being well spent.

In the Rann government's first budget for 2002-03 the cabinet outlined $967 million worth of savings over the forward estimates. The second budget outlined a further $538.2 million worth of savings. More recently, following the 2006 state election, former commonwealth Treasury official Greg Smith conducted a review of priorities for the government, identifying $695 million worth of savings over four years.

These savings, contained in the 2006-07 budget, were outlined alongside new initiatives that delivered record funding for health, education, community services, and law and order. Of these savings, over 92 per cent—or $643 million—has been achieved. The remaining 7 per cent has been identified, and these savings have been removed or deferred, to be implemented in the forward estimates periods—nothing comparable to the little or nothing that former treasurer and current shadow finance minister Rob Lucas ever achieved.

In the 2008-09 Mid-Year Budget Review, released in December last year, I outlined the first part of the government's response to the global financial crisis. Part of that strategy was to reduce public sector full-time equivalents by 1,600 over three years, the first 1,200 to be gone in 2009-10 and a further 200 in each of the years 2010-11 and 2011-12. The government announced that a targeted voluntary separation package scheme would be available for the first three months of this financial year, closing on 30 September. I can say the TVSP scheme was designed to help agency chief executives achieve the 1,200 FTE separations, as well as other government savings measures.

Mr Pederick interjecting:

The Hon. K.O. FOLEY: Tough government, mate, tough times. I can report to the house that at the time the scheme closed, preliminary information shows that a reduction of around 1,150 FTEs have been achieved through the 2009 TVSP scheme. The vast majority of the targeted voluntary separation packages (at least 900) were to meet the Mid-Year Budget Review FTE reduction targets for 2009-10. From a budgetary perspective, this is an excellent result. The government is well on track to meet its target of a reduction of 1,200 FTEs by 30 June 2010, with fewer than 300 further separations now required to meet this initiative from either not filling existing vacancies or through attrition. It again demonstrates this government's economic credentials.

Certain areas were exempt from this specific process to reflect our focus on protecting and enhancing frontline service delivery. These exemptions included doctors, nurses, ambulance workers, paramedics, psychologists, teachers, school support staff, police, firefighters, and social and youth workers. However, in some cases, agencies over-subscribed their Mid-Year Budget Review FTE reduction allocation and have applied those extra TVSP applicants as a contribution to achieving other savings measures.

There has been some very good economic news recently, particularly the most recent unemployment figures. In the headline, seasonally adjusted terms, South Australia's unemployment rate fell from 5.8 per cent to 5.7 per cent, to be the same as the national figure. This is quite extraordinary and I am surprised this has not been reported more significantly—and that is by no means a criticism of the media but just an objective observation.

In the same terms, total employment rose by 15,900 in South Australia out of a national rise of 40,600, with an increase in full-time employment of 20,200 out of a national increase of 35,400. So, in the last month in the data collected, South Australia has provided the largest contribution to part-time and full-time employment in any state in any part of the nation. Part-time employment fell 1.6 per cent, or 4,300 jobs. Pleasingly, the participation rate also increased 1.1 percentage point against a national figure of 0.1 percentage points, again in seasonally adjusted terms.

This is not a time to lose focus on the fact that Australia and South Australia are currently experiencing the effects of a serious economic downturn. We may yet see—almost certainly we will see—unemployment increase in the months ahead. I have said, though, that this decline in

conditions has been the worst experienced since the Great Depression. This is certainly true. The impact on government revenues and investments is a stark illustration of the difficulties being experienced across all sectors of the economy.

While we have had some encouraging employment figures, as I said, it is still too early to determine whether the state is firmly on the path to recovery. The government will provide updated forecasts in the Mid-Year Budget Review. However, the message is clear: a commitment to strong financial management is required in the future.

It is a commitment that the Rann Labor government has the experience to deliver. I make the appeal one more time to the shadow treasurer Rob Lucas and the opposition: they, too, must be committed to very cautious, careful financial management when promises are made in the lead-up to the next state election. I hope shadow treasurer Lucas adheres to that warning.

LAW AND ORDER

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:14): I seek leave to make a ministerial statement. I apologise that a printing delay means that I cannot circulate simultaneously a copy of this ministerial statement, but it will be on its way soon.

Leave granted.

The Hon. M.D. RANN: On Friday 25 September, the Full Court of the Supreme Court handed down its decision on the Totani & Anor v The State of South Australia case. That case concerned the Serious and Organised Crime (Control) Act that forms part of the government's attack on organised crime, including criminal bikie gangs. In a majority decision, the court held that one section—just one section—section 14(1) of the act, was invalid. It is very important to make it clear that the remainder of the act has not been affected by the court's decision.

There are, of course, alternative procedures under the act that can be used to obtain control orders with respect to organised crime gangs, including criminal bikie gangs. I know that some people reported that the act had been struck down, I am told, but that is not the case: one small section.

After the decision was made, the Attorney-General asked the Solicitor-General to review the decision and present advice to cabinet about how to proceed in light of the Supreme Court's decision. The advice from the Solicitor-General is that an appeal to the High Court is the most appropriate option to correct the majority decision of the full court of the Supreme Court.

This challenge is important as the Supreme Court judgment could affect this parliament's powers in legislating in the interests of the people of South Australia—in the interests of the public safety of the people of South Australia. The Attorney-General has now instructed the Solicitor-General to apply for special leave to appeal to the High Court. To make that more simple, the Solicitor-General, on behalf of the state, will appeal to the High Court.

This government has been confident in this legislation from the outset, and we are equally certain that we will prevail in the nation's highest court. In fact, the Solicitor-General has advised the Attorney-General that an appeal to the High Court would have reasonable prospects of success.

It should be kept in mind that, if the Finks had lost the Supreme Court appeal, they would almost certainly have appealed to the High Court and it is possible that, pending that appeal, the magistrates would have suspended the operation of the control orders. An appeal to the High Court was almost inevitable, and the State of South Australia is not deterred because we are the appellant on this occasion. We are defending public safety. We are also defending this parliament's right to make the laws of this state.

The majority judgment in Totani only rendered one subsection of the Serious and Organised Crime (Control) Act 2008 invalid. This government remains steadfast in its conviction that this legislation is necessary and appropriate to stop the violence, the drug dealing, the intimidation and the extortion created by organised crime in South Australia. I would expect other jurisdictions that have followed South Australia's lead with similar laws to join us in the fight; to join us in the High Court in making this appeal.

This decision by the Supreme Court strikes down section 14(1) of the Serious and Organised Crime (Control) Act, and nothing the court has held prevents the Commissioner of

Police from making applications under section 14(2) of the Serious and Organised Crime (Control) Act to obtain control orders. The Solicitor-General has confirmed that the power to obtain control orders on members of the outlaw motorcycle gangs and other serious organised criminals can be made through section 14(2), which remains valid.

The main difference between sections 14(1) and 14(2) is that police in the latter must prove that the defendant's organisation exists for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity and represents a risk to public safety and order. It is a matter for the police commissioner, and I understand that he will soon make control order applications through this mechanism. The public of South Australia can be assured that this government will continue to tackle serious crime in this state, whether it be organised, such as that committed by outlaw motorcycle gangs, or, indeed, the gang-type activity that has been widely reported over the past week.

I now turn to address that matter. Since 3 September a small, hardcore group of offenders have been on a crime spree, holding up so-called 'soft target' businesses at gunpoint and terrorising workers and customers. The crime spree began at the Challa Gardens Hotel, and since then they have targeted numerous businesses and households. Other robberies police have connected to the gang include: the Sussex Hotel; Cash Converters, Kilkenny; Ashford TAB; Adelaide Exchange Jewellers; Jackpots on Pulteney Street; Eagles Bar and Bistro; the British Hotel; Vili's Bakery; Subway, Black Forest; Bakery Black Forest; and home invasions at Seaton and Clarence Gardens.

Due to the efforts of the South Australia Police, the core members of this group have been arrested and are before the courts. I understand that SAPOL is continuing its investigation into other members involved in the attacks. I understand that some of the alleged offenders had only been recently released from prison or detention and, as a result, questions have been raised about the rehabilitation of convicted offenders, specifically those involved in this sort of brazen activity.

While it would be improper to comment on the particular circumstances of the cases now before the courts, there are some general matters that are relevant to the issue of recidivist offending and rehabilitation. In June 2007 the social inclusion commissioner, Monsignor David Cappo, released his To Break the Cycle report in which he made 46 recommendations on how to deal with youth offending. The state government accepted these recommendations when, in May 2008, we announced that $11.5 million would be devoted over four years in the state budget to break the cycle of youth offending.

Members would be aware of police statistics, of course, over the time of the government showing a significant reduction in robberies in this state. However, the funding that we gave following Monsignor Cappo's advice came on top of previous state government action on Monsignor Cappo's report, which included passing new laws giving the DPP greater authority to refer youths straight into adult courts, as well as passing laws which allow for higher penalties for adults who involve children in crime.

We have worked on engaging with young people who are vulnerable to negative influence and to facilitate intervention programs. As part of this broad effort we have launched the Aboriginal Power Cup initiative, in which the state government and Port Adelaide Power are working together to steer Aboriginal youths from crime through their engagement in football—and also, of course, Gavin Wanganeen's terrific work with young people at risk and the work of the ICAN system, which is about making sure that young people at risk stay at school.

The government will and should always look to rehabilitate offenders and use preventative measures as a first option. However, as Monsignor Cappo (our Commissioner for Social Inclusion) has stated, some offenders must be taken out of society for the protection of the whole community. I agree with Monsignor Cappo's assessment that this hardcore group must be dealt with quickly and that they must be out of circulation, out of contact, with the community. Whatever labels one might attach, there is no hiding the fact that they are serious offenders.

They are violent people, they are violent criminals, and that is why we legislate to deal with these sorts of offenders. Community protection is the paramount consideration. Public safety is our first and ultimate obligation. We will put the public first, and we are going to put public safety first.

Just the other day, people were saying that we should not be building a new detention facility, that that was the wrong thing to do. There are groups of people for whom rehabilitation is essential, but there are hardcore criminals who are a menace to themselves but, more importantly, to the community. They also of course have an impact on other young people. They should be

locked up. There is no merit in having these violent criminals back on the street so that they can go out and reoffend again. They should be in prison or in detention.

Even at an early stage in their lives, offenders who are career criminals and who are not willing or do not have the capacity for rehabilitation should face lengthy prison sentences for the protection of the public. Rehabilitation, vocational and educational programs should be available, particularly to those who have a willingness and a capacity to benefit.

After speaking with Monsignor Cappo about current events at length over the weekend, I encouraged him to meet with the relevant bodies so that he could express his concerns. I am pleased that he has already met with acting police commissioner Gary Burns, and I understand that he is scheduled to meet with the Chief Justice as early as this afternoon.

My government will use every tool properly at its disposal to keep the public safe. It will continue to legislate and do everything it can to ensure that South Australians can feel safe in their homes and on the streets. That is why we have toughened up more criminal laws and that is why there are more than 550 extra police officers on the streets since we came into office.

It comes down to this: we have people claiming to represent the United Nations saying that the Magill facility is in breach of the United Nations. When we announce massive funding for a new facility, that is condemned because somehow we should allow these people to roam free, that all they deserve is a hug. We will continue to lead Australia in rehabilitation, but we will not allow a group of young thugs to cause mayhem, to prey on people, to use guns and to basically think that they are above the law.

WORKCOVER CORPORATION

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (14:30): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. CAICA: Today I have tabled WorkCover's 2008-09 annual report and the report of the WorkCover Ombudsman. Members are aware of the issues facing the WorkCover scheme. The past year has seen a major effort in the implementation of the legislative reforms which were passed by this parliament in June 2008. Those reforms are now, for the most part, fully implemented, although the full impact of the reforms is still building. The challenge is now to ensure that the benefits of these legislative reforms are realised as those changes are bedded down within the scheme.

This government and WorkCover are of the view that the legislative reforms, coupled with improved case management and a renewed focus on improving return-to-work rates in this state, provide a means of redressing what has historically been a poorly performing workers compensation and rehabilitation scheme.

The figures contained in this year's report revealed that this has been a year of two halves for the WorkCover scheme. Like many investors, WorkCover was hit particularly hard in the first half of the financial year by the global financial crisis. Losses in the investment markets and economic factors such as decreasing interest rates had a significant impact on WorkCover's assets and liabilities. However, I am pleased to inform the house that the second half of the year has seen much of those losses recouped.

Most importantly, WorkCover has been able to report a third successive six-month period where it has made a saving on its claims liability. In the past financial year, WorkCover has also achieved an actuarial release of $171.2 million against its strategic plan target of $60.1 million. The combined effect of these results has seen WorkCover report an unfunded liability at June 2009 of $1.06 billion, which is still far too high but an improvement nonetheless on the $1.3 billion reported to December 2008.

These are positive signs that things are moving in the right direction in the WorkCover scheme but there is still a long way to go. Importantly, the government and WorkCover are working hard to improve the return-to-work performance of the scheme. In the past financial year six projects totalling approximately $2.4 million have been approved under the $15 million Return to Work Fund. These projects are focused on retraining, skills development and job matching for injured workers.

There will soon be a further call for expressions of interest for funding from the Return to Work Fund. WorkCover will be looking for projects that involve collaboration with local organisations to help injured workers and their families through the return-to-work process.

I have also today tabled the first annual report of the WorkCover Ombudsman. A very important part of the package of legislative reforms introduced by the government was the creation of the independent Office of the WorkCover Ombudsman. This government recognised that it was crucial that injured workers and employers not only have an impartial and independent source of information and support but also that they have access to an independent body that could review claim determinations. In addition, the WorkCover Ombudsman's role includes providing recommendations to the compensating authority, self-insurers and the government about how claims management can be improved.

The WorkCover Ombudsman's report reveals that a number of decisions made by case managers were deficient, particularly within the first few months of operation of the legislative amendments. Importantly, the ombudsman reports that, through his work, case managers have received additional guidance and information and that there has been a dramatic reduction in the number of cases where the ombudsman has found a basis to reinstate payments that had been discontinued by case managers.

I have emphasised this government's firm commitment to achieving even greater improvement in case management performance, and the WorkCover Ombudsman makes an important contribution to that end. The government is committed to ensuring that everyone involved in the scheme—employers, workers, rehabilitation providers and case managers—fulfils their obligations to help ensure that, where possible, injured workers achieve a safe and early return to work. Also, we are committed to ensuring that the workers and businesses of this state have a scheme that is fair, sustainable and competitive.

PUBLIC WORKS COMMITTEE

Ms CICCARELLO (Norwood) (14:35): I bring up the 347th report of the committee on the Roseworthy Primary School development.

Report received and ordered to be published.

Ms CICCARELLO: I bring up the 348th report of the committee on the Woodville High School redevelopment.

Report received and ordered to be published.

Ms CICCARELLO: I bring up the 349th report of the committee on the Willunga High School redevelopment.

Report received and ordered to be published.

Ms CICCARELLO: I bring up the 350th report of the committee on the Main South Road/Victor Harbor Road junction and Seaford Road/Patapinda Road intersection upgrade.

Report received and ordered to be printed.

VISITORS

The SPEAKER: I draw to honourable members' attention the presence in the gallery of members of the Probus Club of St Peters, guests of the member for Norwood.

QUESTION TIME

GANG OF 49

Mrs REDMOND (Heysen—Leader of the Opposition) (14:36): Will the Premier advise which of the recommendations in the To Break the Cycle report, delivered to the government in June 2007 by Monsignor David Cappo, have resulted in reducing the crime committed by the so-called Gang of 49?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:37): Let us look at the statistics. My recollection is a 30 per cent drop in robberies in South Australia. If you look at the figures, there is a 38 per cent reduction in crime. I think that what Monsignor Cappo did was outstanding. You have just come out and said we just have to give them a hug. The Liberals believe in a soft approach: let's give them a hug; it will all be settled, but what

Monsignor Cappo has said right from the start is that there are intervention points to keep people at school, and there are intervention points to break up these gangs and make sure that kids get involved in positive things like football and other areas, such as the Aboriginal sports academy, which was highlighted at the recent COAG meeting held in Darwin.

The key point of what David Cappo is about is: where people can be rehabilitated let us rehabilitate them, but where they cannot be rehabilitated let us put public safety first, rather than just giving them a hug, like the Liberals.

LOCHIEL PARK

Ms PORTOLESI (Hartley) (14:38): Will the Premier update the house on the launch of the Lochiel Park Green Village and Sustainability Centre?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (14:38): On 11 October I launched the Lochiel Park Green Village and Sustainability Centre with the Minister for Infrastructure, energy and other things, and it is an important milestone in the South Australian government's vision for environmental protection and sustainability. As many members of this house are aware, the government made an election commitment in 2002 to save Lochiel Park. While the opposition, then in government, planned to subdivide the area and sell it off—

Members interjecting:

The Hon. M.D. RANN: Don't you remember the huge, Titanic battle over Lochiel Park? There were people out there; there were protests.

Members interjecting:

The Hon. M.D. RANN: No; what we did was envisage a different future, one which would not only achieve outstanding environmental credentials in its own right but also provide inspiration for further sustainable development and design in our state. We legislated to make Lochiel Park proclaimed parklands, thus ensuring that it would remain open space. We also earmarked a 4.25 hectare area that housed existing buildings as the site for a leading-edge, environmentally-sustainable residential development. Lochiel Park Green Village is one of the results of this vision. I remember my meeting with the minister for energy, transport and infrastructure. I wanted this to be the model green village for sustainability in the nation. The Lochiel Park Green Village is one of the results of that vision.

The village will ultimately house 106 dwellings, each fitted with solar photovoltaic cells and designed to achieve a 7.5 star energy efficiency rating. The homes will also be serviced by several different water sources, including a non-potable water system, which includes two on-site wetlands, pollutant traps and aquifer storage and recovery systems. The southern wetlands will provide stormwater recycling for the site's domestic grey water and garden use and will be operated by SA Water. The northern wetlands are essentially an external catchment system that incorporates a pollutant trap. They will provide filtered water into the Torrens and will also provide water for extensive revegetation. These wetlands will be owned and maintained by the City of Campbelltown. This is about stormwater recycling. In addition, rainwater will be used in hot-water systems, which will significantly reduce the demand for mains water.

Lochiel Park is an important model development for many reasons. It recognises that this state government is actively working with local government and the community to reduce South Australia's carbon footprint and water usage through ambitious sustainability targets. Now, you said you want facts: here are the facts. These targets, which were set against 2004 South Australian household averages, include: reducing mains water use by 78 per cent; cutting greenhouse gas emissions by 74 per cent; and lowering energy use by 66 per cent.

Lochiel Park will also house a new Sustainability Centre which will showcase the latest in sustainable housing ideas and innovations for architects, builders, developers, renovators, as well as home handymen and women. In addition to showcasing the very best and latest in sustainable building techniques and living practices, Lochiel Park also delivers on the government's commitment to retaining open space for community use and biodiversity preservation.

This is the bit which was just raised by the opposition. This is it: a standard residential subdivision would incorporate around 12.5 per cent of its total land for public open space—12.5 per cent. At Lochiel Park, more than 67 per cent has been set aside for that purpose. In fact, a

substantial part of the full 15 hectare site has been set aside as an urban forest that links directly to the River Torrens Linear Park. More than 160,000 trees, shrubs and grasses have been planted in line with the government's commitment to plant three million trees across metropolitan Adelaide.

I am pleased to say that Lochiel Park has been nationally recognised through a number of awards, including the National Housing Industry Association's GreenSmart Award for Community Development and the Planning Institute of Australia's 2008 award for planning excellence in urban design. I congratulate the honourable member for Hartley and I congratulate the minister for his increasingly green vision.

The Hon. K.O. Foley: Hear, hear! A government of action.

The SPEAKER: Order!

YOUNG OFFENDERS' PROGRAMS

Mrs REDMOND (Heysen—Leader of the Opposition) (14:44): My question is to the Minister for Families and Communities. Can the minister reassure the public of South Australia that, in accordance with recommendation 11 of the To Break the Cycle report by Monsignor David Cappo 'all young people leaving secure care have transition plans in place' and, if that is the case, how is it that they have been able to reoffend?

Members interjecting:

The SPEAKER: Order, the Deputy Premier and the Attorney-General!

The Hon. M.J. Atkinson interjecting:

The SPEAKER: Order, the Attorney-General! The Minister for Families and Communities.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (14:45): I thank the Leader of the Opposition for her question because it gives me an opportunity to inform the South Australian public about some of the things we are doing with young offenders when we take them into detention. As members would know, there are 46 recommendations in Monsignor Cappo's To Break the Cycle report, and the government has been responding in a staged process to all those recommendations.

In the 2008-09 budget various initiatives were announced. There is an allocation of $5.5 million over four years for the Community Protection Panel program for the most serious young offenders. The aim of this program is to reduce reoffending by identifying and intensively managing serious repeat offenders—those who present the highest risk to public safety. We have set up multidisciplinary youth teams with $4 million over four years for less serious clients, in order to have structures around young people to support them in the community so they do not reoffend.

Also, a range of rehabilitation programs are operating in our youth training centres. The program Seeing Red—

Mrs REDMOND: I have a point of order, Mr Speaker. The question was specifically about whether there are transition programs in place in accordance with recommendation 11 of Commissioner Cappo's report.

The Hon. J.M. Rankine interjecting:

The SPEAKER: Order! The minister will take her seat. She will not engage the Leader of the Opposition; I will deal with it. The minister's answer seems to me to be detailing those transitional programs.

Mrs REDMOND: A whole lot of other things, sir, but the question was specifically: are there transition programs in place in accordance with recommendation 11 of the commissioner's report.

The SPEAKER: I will listen carefully to the minister's response, but my understanding is that she is detailing those transition programs. I will listen to her answer. If she is not detailing them, I will pick her up. The minister.

The Hon. J.M. RANKINE: Thank you, sir. I am going through a range of programs we have in place so that those opposite are fully informed about what we are doing. We have a program for young men aged 12 to 15 which addresses issues of anger and the use of violence. The program aims to dispel the belief that anger is negative and unhealthy, and promotes anger as

a healthy and normal emotion but how to use that emotion. Violence is negative and unhealthy, and young men are responsible for their use of violence. The program also aims to highlight that the use of violence is a choice—one they can make or not make.

Challenging Offending Behaviours is a program that challenges young people's offending behaviours by looking at the reasons they offend and exploring alternative options. Young people look at the short-term and long-term effects of offending and its impact on friends, family and the community. Red Cross conducts the save-a-mate program, which talks to young people about drug and alcohol abuse.

Mrs REDMOND: I have a point of order, sir, on relevance. The question was specifically about young people leaving secure care and whether there are transition programs in place for them. The information being provided by the minister is interesting in terms of young people in other circumstances, but the question is about young people leaving care and whether there are transition programs for them when they leave care, as recommended by Commissioner Cappo.

The SPEAKER: Again, the minister seems to me to be answering that question, detailing what those transition programs are.

The Hon. J.M. RANKINE: I am trying to explain to those opposite how we prepare those people when they come into detention and how we prepare them for when they leave detention and, if she just holds her horses, I will answer the question. The Talk Out Loud program aims to increase knowledge and understanding of mental health and mental illness, particularly depression and anxiety, decrease stigma, increase the confidence of young people to talk about mental health, seek assistance early and support their peers.

A parenting program for young men who are new fathers about how they can better prepare themselves when they leave to deal with parenthood and Mark Davis's basketball program also have a positive impact.

Body Think is a program that aims to help young people build positive self-esteem and body image by understanding and dealing with feelings in regard to physical appearance and, in particular, their weight and shape. I think it is worth pointing out that many of the young people who come into care have had very unhealthy diets and often it is the first time they have had regular meals, and often have food they have never experienced before.

Journey to Respect is a program for Aboriginal young males aged 14 to 18 years who have committed or are at risk of committing violent offences. This is a really important program and aims to allow the person to build better relationships and have a better understanding of where they come from.

Bullying Behaviours is a program that identifies what bullying behaviour is, where it occurs in young people's lives and how to adopt responsible strategies that will empower them to deal with it in ways that maintain their safety and wellbeing.

Also, when a young person comes into care, we undertake a VONIY assessment. This is an assessment tool that was developed in Victoria and recommended by Monsignor Cappo that looks at the needs of these young people. We developed structured supervision programs for them and case management for when they leave care. Many of these young people undertake education and training programs, speech pathology programs—

The Hon. A. Koutsantonis: Any scientologists?

The Hon. J.M. RANKINE: —no, no Scientology—and cultural identity programs. There is a range of programs. One young offender, who was part of Operation Mandrake, I understand is currently in the community and doing incredibly well and attending school five days a week, which is an amazing leap forward for this young person. So, we have case management in place for them, we have supervision once they leave care, and we have very good custodial programs while they are in our detention centres.

YOUNG OFFENDERS' PROGRAMS

Mrs REDMOND (Heysen—Leader of the Opposition) (14:52): I have a supplementary question. In light of the minister's answer, which covered everything except the question, all young people—

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition will not include debate in her question if she wants an opportunity to ask a supplementary question. The Leader of the Opposition.

Mrs REDMOND: Thank you, Mr Speaker. In light of the answer given by the minister, can she confirm whether or not the Attorney-General was correct when he stated on 28 July last year:

In line with the recommendations, the Rann government has provided transitional plans for young people leaving secure care.

Can the minister confirm whether or not young people leaving secure care have any transitional plans in place?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (14:53): I think I have outlined in great detail—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —the structured planning that we have for these young people that we take into detention, and when they leave their care. In some instances, we are having some good results.

Members interjecting:

The SPEAKER: Order! The house will come to order when the Speaker is on his feet.

FERGUSSON, MR A.

The SPEAKER (14:54): On behalf of the House of Assembly I would like to welcome Mr Alex Fergusson, the Presiding Officer of the Scottish Parliament, to our parliament.

Honourable members: Hear, hear!

QUESTION TIME

ROYAL ADELAIDE HOSPITAL, HEPATITIS C

Mr RAU (Enfield) (14:54): My question is to the Minister for Health. What follow-up support and testing is being offered to patients following the positive testing of a health care worker at the Royal Adelaide Hospital for hepatitis C?

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:54): Over recent days, 30 former patients from the Royal Adelaide Hospital have been identified as at risk of transmission of the virus hepatitis C from a health care worker. Officers of SA Health have been locating and contacting those who can be reached. Only one of the relevant patients remains to be reached, and that person is believed to be in remote Western Australia. I understand that departmental officers have spoken to a member of that person's family. On contact, patients are offered precautionary screening for hepatitis C and support and counselling.

This has resulted after a health care worker at the hospital tested positive for hepatitis C on 18 September and immediately informed hospital management. Using national and international health guidelines, staff at the Communicable Disease Control Branch of SA Health and hospital management, with the Chief Public Health Officer, Dr Stephen Christley, and clinical experts in the field of expertise of the health care worker, have reviewed the activities this health care worker has been involved in over some years.

This is a time-consuming process, as members would understand, but they have come up with a list of 30 patients who might have been at a very small risk (and I emphasise that) of transmission and have been locating and contacting them or their families and GPs over recent days. Screening and counselling have been offered if required. It was considered important that every possible step was taken to ensure that patients were alerted before the matter became public. I have been advised today that so far 13 patients have had testing, with the results showing they have not contracted hepatitis C. Health experts advise that in this case the risk of transmission is extremely low.

I stress that this issue is a medical issue, which is being managed by hospital staff and SA Health. As a medical issue, this matter is being overseen by the state's Chief Medical Officer,

Professor Paddy Phillips, who briefed me yesterday, and the state's Chief Public Health Officer, Dr Stephen Christley. Professor Phillips is an eminent and respected doctor who has worked interstate and overseas as well as in Adelaide. Professor Phillips was previously professor and head of medicine at Flinders University, Flinders Medical Centre and Repatriation General Hospital. Before that he held senior clinical academic posts at the University of Melbourne and Oxford University.

This is not a political issue and, as such, it was absolutely appropriate for Professor Phillips to brief the media on what the department had done. Unfortunately, the new opposition health shadow yesterday chose to chase ambulances on this issue. He chose to politicise this issue, claiming a cover-up. He told media yesterday, 'It looks like a cover-up to me. It could be 30 people; it could be 300 people.'

I want to make it absolutely plain to the shadow minister, the media and everyone else that there is no ambiguity whatsoever about this figure. It is 30, as determined by the experts in the Communicable Disease Branch, clinical experts in the relevant field, infectious disease and liver disease experts and the Director of Medical Services from the RAH as well as Dr Christley and signed off by Professor Phillips. By creating the idea that there is a cover-up, by saying that it may not be 30, it may be 300, the shadow minister is saying that the credibility of those honourable people is somehow impugned. He is attacking the credibility of outstanding health workers in South Australia for a political end.

There has been a very robust investigation into determining the list of 30 patients using the most up-to-date information and guidelines available. SA Health is more than happy to provide a briefing to the health shadow to go through this if he so chooses. Can I say to the shadow minister as kindly as I possibly can: it is all very well for him to go around our hospital and health sector saying to people he meets that he is different from Vickie Chapman, 'I am no Vickie Chapman,' or words to that effect. It is okay for him to say that and, I have to say, they like the fact that he is not Vickie Chapman; they do like that. However, he has to carry out those words with actions. He cannot be a hospital chaser in the media and a nice, sensitive, new age guy when he deals with staff from the hospitals, because they will see through it.

YOUTH JUSTICE SYSTEM

Mrs REDMOND (Heysen—Leader of the Opposition) (14:59): My question is to the Premier. Can the Premier advise why the government has failed to respond to the 43 unanimous recommendations of the select committee on the youth justice system, which were delivered to the government on 4 July 2005, bearing in mind that three members were Labor members of parliament, including yourself, Mr Speaker?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (14:59): The positioning of the Liberal Party by the Leader of the Opposition on the question of the Gang of 49 is remarkable. It is positioning that the former leader would not have engaged in. The Liberal approach to the Gang of 49 is all candy and no cane.

Mr WILLIAMS: I rise on a point of order, Mr Speaker. The question is about the response to a report to the government. It is nothing to do—and it is not within the Attorney-General's purview or responsibility to this house to comment on the Liberal Party.

Members interjecting:

The SPEAKER: Order! I do uphold the point of order. The Attorney must answer the substance of the question.

The Hon. M.J. ATKINSON: I have been going through the rehabilitation programs which members of the Gang of 49 are undergoing in youth detention, and I am astonished by the richness and breadth of those rehabilitation programs. For instance, the first offender that I see is undergoing victim awareness training (protective factors), decision making (offending choices), anger management (Violence Group Program), Journey of Healing, speech therapy, Challenging Offending Program—

Mr WILLIAMS: Point of order, Mr Speaker.

The Hon. M.J. ATKINSON: You don't want to hear it now?

The SPEAKER: There is a point of order. The member for MacKillop.

Mr WILLIAMS: The question was about the government's response to a report by a committee of this parliament from three to four years ago, before there was even mention of a Gang of 49. This talk about the Gang of 49—

The SPEAKER: Order!

Mr WILLIAMS: —has got nothing to do with the question.

The SPEAKER: Order! The member for MacKillop will take his seat. It is not for the chair to second guess a minister in answering the question and how they go about answering the question. As long as the minister is answering the substance of the question it is in order. No doubt it will become apparent to the house.

The Hon. M.J. ATKINSON: It will be joined up, sir. This offender is also undergoing one to one literacy and numeracy support at the Education Flexi Centre, and he has completed a Living Skills program.

Mrs Redmond interjecting:

The Hon. M.J. ATKINSON: Yes, that is the transition. Just because offenders who have undergone transition planning and transition programs to freedom from detention then go and reoffend does not mean there was no transition planning or there was no transition program. I am looking at other youth offenders. One has undergone the football program with the Ambassador for Youth Opportunity (Gavin Wanganeen), another goes to the weekly sexual health program group, another is undergoing drug and alcohol counselling and another is doing Cultural Identity—Journey to Respect.

Tens of millions of dollars of taxpayers' money is being spent on rehabilitation, not just for youth offenders but for adult offenders in our youth detention centres and in our prisons, and the Leader of the Opposition, like Oliver, says, 'We want more, sir, we want more.' The Leader of the Opposition, the parliamentary Liberal Party, does not want to bang these people up: she just wants to hug them. When we had debate on the question of youth parole and on serious youth reoffending, we had the parliamentary Liberal Party—and I am looking at the speaker now—saying that it was a violation of human rights—

Mrs Penfold interjecting:

Mr WILLIAMS: Point of order, Mr Speaker.

The Hon. M.J. ATKINSON: Yes, she proclaims herself—

The SPEAKER: Order! There is a point of order.

Mr WILLIAMS: Mr Speaker—

Ms Chapman interjecting:

The SPEAKER: Order!

Mr WILLIAMS: The Attorney-General is simply debating, again, about the Liberal Party and has not attempted to answer the question that was posed.

The SPEAKER: Order! The Attorney-General must not debate the question.

The Hon. M.J. ATKINSON: The member for Flinders told the house that it was a violation of human rights to put—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: The Attorney-General, sir, is defying your ruling straight up.

The SPEAKER: The Attorney must not debate the question.

The Hon. M.J. ATKINSON: The obligation of the Rann government is to the people of South Australia. The Rann government set up a dedicated inquiry into the so-called Gang of 49 and that resulted in Monsignor Cappo's To Break the Cycle report. That is our reference point for dealing with the Gang of 49. It is not some select committee on which the member for Heysen just happened to serve.

COMMUNITY PROTECTION PANEL

Ms CHAPMAN (Bragg) (15:05): My question is to the Attorney-General. How many youth offenders identified as part of the Gang of 49 have been under the management of the Community Protection Panel and how many has it returned to custody for non-compliance with the management arrangements? On 22 May last year, the Attorney-General announced that $5.6 million would be spent on a community protection panel which he claimed was to manage serious repeat offenders and, further, that the panel would, 'intensively case manage the so called 49 and return them to custody if they don't accept the offers that are given to them to turn away from crime'.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:06): I will be pleased to get the precise figure.

COMMUNITY PROTECTION PANEL

Ms CHAPMAN (Bragg) (15:06): Can the Attorney-General provide details of how much of the $5.6 million allocated to the Community Protection Panel has been spent and on what it has been spent?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:06): I am pleased to get that information for the member for Bragg, but remember this: in light of the criminal rampage that has been occurring in South Australia, all the parliamentary Liberal Party can say is, 'Spend more money on rehabilitation.' Something like $11.5 million over four years has been allocated by the Rann government—new money—to deal with this gang and I will be happy to get the outcomes of that expenditure for the member for Bragg, but the only response we get from the parliamentary Liberal Party is like we get from the member—

Mr WILLIAMS: I rise on a point of order. The Attorney-General is not responsible to this house for the Liberal Party—thank God!

The SPEAKER: The Attorney-General.

The Hon. M.J. ATKINSON: The policy of this government is that there are some offenders who are part of the Gang of 49 who may have been susceptible to rehabilitation when they were much younger and may again in the future be amenable to rehabilitation but are not currently amenable to rehabilitation. If I can use the words of Carole King in the *Tapestry* album, 'You can't argue with a man with a shotgun in his hand.' That is why we want to send those people into youth detention or to prison and the Leader of the Opposition does not.

COMMUNITY PROTECTION PANEL

Ms CHAPMAN (Bragg) (15:08): As a supplementary question, can the Attorney-General then advise when the Community Protection Panel was actually established, given his announcement to do it in May 2008?

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:09): I shall get the precise date for the member for Bragg.

MENTAL HEALTH WEEK

Ms SIMMONS (Morialta) (15:09): My question is to the Minister for Mental Health and Substance Abuse. Can the minister advise the house on events during Mental Health Week this year?

The Hon. J.D. LOMAX-SMITH (Adelaide—Minister for Education, Minister for Mental Health and Substance Abuse, Minister for Tourism, Minister for the City of Adelaide) (15:09): I thank the member for Morialta for her question and her advocacy for those patients with mental health issues and their families whom I know she has campaigned for many times within her electorate and has supported the reforms that the Rann government have implemented for the benefit of these families across the whole state. As she would know, last week was Mental Health Week which is an opportunity to put the spotlight on mental illness in our community and increase public awareness about the issues relating to these diseases. Each year this is done in a way which produces major events across the community to promote discussion and education about mental illness, its treatment and its prevention.

Statistically, as members would know, one in five members of our community will have the impact of mental health affect them individually at some stage during their life. Of course, for every member of the community who becomes afflicted by a mental illness, their whole family—their children, parents and siblings—is also affected by this disease.

More significant for some than the actual disease is the problem of stigmatisation and discrimination that they face when they discuss their treatment. That is why the theme for Mental Health Week this year was poignant in that the organisers challenged us to 'Open your mind. You can make the difference.' This means that we, as a community, are being asked to consider how we might help those people around us who are living with a mental illness.

The Rann government has committed more than $250 million since coming into office to rebuild, renew and restructure our mental health services and facilities across the state. We have started work on the Glenside and Noarlunga intermediate care centres—the first two of four centres planned for the metropolitan area. These centres are an integral part of the new stepped model of care as recommended by the Social Inclusion Board's Stepping Up report.

Intermediate care centres will help those patients who are becoming unwell hopefully well before they reach crisis point and the need for acute hospital care, avoiding that sort of hospitalisation. In addition, they can also support those patients with mental illness who are leaving hospital but need additional support to reintegrate within the community before they return home to normal life.

However, while this reform of our state's mental health system is significant, there is still much that can be done to reduce the stigma and discrimination for many people living with mental illness—the sort of discrimination they may experience daily. Many of the events in Mental Health Week had a focus on stigma reduction and were well received by those members of the community involved in those activities.

I had the pleasure of giving the awards for the Dr Margaret Tobin Award scheme. This is a poignant award, commemorating the life and reform agenda of Dr Margaret Tobin. For those who knew her well the choice of the award form was significant—a brooch designed by Zu Design in Gays Arcade—in that she loved these types of jewellery.

The community groups, families, carers and organisations that were involved in supporting those recovering from mental illness worked beyond expectations to receive these awards and I congratulate all of them on their tireless efforts. It was interesting to see that there were poetry competitions, songwriting competitions and, at one event I attended, we heard a song called 'Mulberry Road', an award-winning effort, written by artist Jayne West.

There were also art competitions and a music event at the Gov—that great music venue at the Governor Hindmarsh Hotel. There was a community cook-off and much talk about the impact of food and diet on people's wellbeing as well as exercise. All these issues are important, as are the opportunities to provide information, peer education and learning opportunities for those working with mental health issues, as well as supporting families and the broader community where these issues are significant.

This year again I thank the Mental Health Coalition. They have been involved in arranging these events—not just the venues but the speakers—guaranteeing that the information has been widely disseminated. I know that the member for Morialta was involved in these events and has been supportive throughout the time she has been in parliament. She has been a great advocate for reform in the mental health sector and the support needs of those families afflicted by mental illness, and I thank her for that advocacy.

SHARED SERVICES

Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (15:15): My question is to the Treasurer. What will be the effect on the state's finances and retention of the AAA credit rating due to the inability of the government's shared services reform to deliver the targeted savings? The shared services reform savings task, as set in the 2006-07 financial year budget, was $310 million for the period to 2012-13. The Auditor-General's Report released today identifies a shortfall of $124.574 million on this target.

The Hon. K.O. FOLEY (Port Adelaide—Deputy Premier, Treasurer, Minister for Industry and Trade, Minister for Federal/State Relations) (15:15): I thank the junior shadow minister for treasury and finance, or whatever his portfolio may be. I have to say that, as long as two or three mornings a week I am debating Rob Lucas on ABC Radio, and as long as Rob Lucas

is two or three times a week attacking the state's finances on TV, I consider him the shadow treasurer. If the opposition leader wants to make some adjustments to her portfolio line-up, she may well do so but, as far as I am concerned, the only person who is confronted—

Mr WILLIAMS: I rise on a point of order. This diatribe from the Treasurer has no relevance at all to the question.

The SPEAKER: Yes; the Treasurer will answer the substance of the question.

The Hon. K.O. FOLEY: Thank you, sir; that is probably a fair point, but I thought I would get it out there anyway. I have been upfront as recently as only a few days ago. I am not sure whether that was the day that Rob Lucas was attacking me, or it might have been Jan McMahon from the Public Service Association, but I have said upfront that shared services savings have taken longer to achieve than I would have liked. I have never pulled away from that. I can say that I am very confident that shared services will be a substantial success and that the work done by Damian Bourke and his team I think is very good indeed.

This is a mammoth exercise to bring together all the payroll, all the HR, all the purchasing and myriad other functions, including IT, into one entity. It is involving substantial efficiencies, reforms and change management, and there are hundreds and hundreds of public servants now working within the Shared Services entity whom we can be very proud of, because their motivation and team spirit are outstanding.

The savings are taking longer to achieve than had been expected. I do not know where the junior shadow minister has been, but it was in the last budget. I made reference in the last budget that we were not achieving the savings as quickly as we would have liked, and I have adjusted the settings accordingly in the forward estimates. I have adjusted the forward estimates accordingly, and our AAA credit rating has been reaffirmed. As of today I have announced that our target of 1,200 FTE Public Service positions to be taken out of the Public Service is bang on track. If anything, it is ahead of time.

When it comes to savings, this government has a record like no other: 92 per cent of the Smith review savings outlined close to the 2006 election: sold, delivered, done—92 per cent! Some $960 million of savings in the first Labor budget: delivered. Some $500 to $600 million in the second budget: delivered. What I have said is that after the next budget we will have a substantial task.

What I have to say to members opposite is that they will have to do a little bit better than saying they will cut advertising. The member for Stuart has said they want that money used on country roads; then Steven Wade in another place, whose head bobs up occasionally, said that that money can be used to build a Magill centre. We now have the leaders opposite saying—

Mr GRIFFITHS: I rise on a point of order, Mr Speaker. The Treasurer is clearly debating this point. My question was specifically about the shared services and the savings target not being met.

The SPEAKER: Order! There is no point of order.

The Hon. K.O. FOLEY: I have made it very clear, as I have done in each budget and in each midyear review, as we adjust and update where those savings are leading and what we expect to get. I have not hidden it. If it has taken the junior shadow in the finance portfolio to get something out of the Auditor-General's report, he is months behind the eight ball. I do not particularly like Rob Lucas and I do not have a particularly high regard for his experience as treasurer, but I have to say—

Mr GRIFFITHS: I rise on a point of order, Mr Speaker. The Treasurer continues to debate this matter. My question was specific.

The SPEAKER: Order! The Deputy Premier has been answering the question on shared services.

The Hon. K.O. FOLEY: I conclude by simply saying—and I am one of generosity—to the junior deputy—whatever his position—talk to Rob Lucas, get some ideas from Rob Lucas and learn from the experience of Rob Lucas. You could not go far wrong if you did.

BUSHFIRE PLANNING

Mr KENYON (Newland) (15:20): My question is to the Minister for Emergency Services. How is the government ensuring that South Australia has effective coordinated systems ready to deal with any potential emergency situation this bushfire season?

The Hon. M.J. WRIGHT (Lee—Minister for Police, Minister for Emergency Services, Minister for Recreation, Sport and Racing) (15:21): On 7 October, South Australia's police and emergency services put themselves to the test, dealing with a mock incident similar to that which occurred during the Black Saturday fires in Victoria. The simulation involved a scenario of catastrophic fire weather across most of the state and, during this period, the ignition of eight significant fires in the Mount Lofty Ranges, Lower Mid North, South-East, Riverland, Flinders, Yorke Peninsula, Lower Eyre Peninsula and West Coast fire districts. This was a robust, no holds barred test of our state's capacity to deal with a major emergency incident.

I visited the State Emergency Centre on the morning of the exercise and witnessed firsthand the exacting and professional manner in which the men and women of our police, fire and emergency services controlled and coordinated responding agencies across the state to this fictional catastrophic event. The atmosphere in the centre was palpable, as it was plain to see that Exercise Team Spirit 09 provided the state emergency services with valuable experience and insight into how they would respond to such a major threat.

While we were fortunate last year to escape similar fires to those that tragically occurred in Victoria, we must remember that the 2009 bushfire season is rapidly approaching and we must ensure we are as prepared as possible. Emergency preparedness is something the state government takes very seriously. The exercise was conducted to ensure that South Australia has effective, coordinated systems ready to deal with any potential emergency situation.

Other measures taken by the South Australian government include: $15.9 million for an Erickson air-crane to be based in South Australia during the fire danger season; $150 million for a digital upgrade of the government radio network; $12.4 million to establish and roll out a telephone based emergency warning system; a new national six-tier fire danger rating system, which includes a new category of catastrophic code red to warn communities of the risk of fires that are unpredictable, uncontrollable and fast moving; new native vegetation regulations that allow people to clear native vegetation within 20 metres of a building without approval; and increase cold burns, with a total of 28 prescribed burns proposed for spring 2009 and autumn 2010 seasons, covering a total area of 864 hectares.

Whilst the state government and emergency services are doing everything possible to be prepared for the upcoming bushfire season, ultimately it is the responsibility of each individual living in a high-risk area to be prepared to take protective action should a bushfire strike. For whatever reason, some people are under the impression that they are immune to any real threat and that a fire will magically deviate from their property. We all need to work together to ensure our state is as prepared as possible and is as safe as possible so that lives can be protected this bushfire season. I commend everyone involved with Exercise Team Spirit 09.

GANG OF 49

Mrs REDMOND (Heysen—Leader of the Opposition) (15:24): My question is for the Premier. Can the Premier advise whether he thinks it is appropriate for ministers to make public statements regarding the Gang of 49 when this is a matter currently with the police and the courts?

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:25): It seems extraordinary that the Leader of the Opposition would ask questions of ministers about the Gang of 49, but then apparently believes it is not appropriate for them to reply.

Members interjecting:

The SPEAKER: Order!

GANG OF 49

Mrs REDMOND (Heysen—Leader of the Opposition) (15:25): I have a supplementary question. I think the Premier may have misheard me. I asked about making public statements about the Gang of 49.

The Hon. M.D. RANN (Ramsay—Premier, Minister for Economic Development, Minister for Social Inclusion, Minister for the Arts, Minister for Sustainability and Climate Change) (15:25): Whatever happens in here is public. If you are asking a question of a minister and want them to reply, then you do not want them to reply because they should not be making it public, that does not make any sense at all. In fact, your own spokesperson on this issue was on radio this morning, I understand. The Leader of the Opposition was in the media yesterday about it. Maybe it is because the member for Bragg used words that perhaps the Leader of the Opposition would not have used; I do not know.

DETENTION, ABORIGINAL BOYS

Dr McFETRIDGE (Morphett) (15:26): Does the Minister for Aboriginal Affairs and Reconciliation agree with the comments made by the Attorney-General that the state Labor government believes that Aboriginal boys would have a 'better life behind bars'?

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:26): I am not certain that is an accurate description of what the Attorney-General said. I will say these things about the issue with which we have been confronted by the so-called Gang of 49. I know that is a media construction. I do not think it is a gang; I do not think they are all Aboriginal people; I do not think they are all young people. I know it has become a shorthand description for the difficulties that plague us with a small group of people who persistently offend.

It is perplexing not only for us as a government but also for the Aboriginal community. Monsignor David Cappo's work in the To Break the Cycle report drew heavily on his discussions with the Aboriginal community. They are shamed by this behaviour, when young members of their community behave in this fashion. All public policy makers are perplexed about the difficulties of dealing with people who, granted, may have had appalling lives. I know people who have practised in this area. When they see the wrap sheets for these people, they see young people who have been sexually abused, people who have been victims of cigarette butt burns and people who have been hit on the head with shovels.

These people have had horrible lives, but there are other interests at stake. Victims have had to look down the end of the barrel of a shotgun when going about their ordinary tasks in daily life. No-one is pretending that this is not an incredibly difficult public policy issue, but we have obligations to ensure our citizens are safe. We will continue to work with all those who are prepared to work with us to solve this difficult issue.

O'DONOGHUE, LOWITJA

Dr McFETRIDGE (Morphett) (15:28): I have a supplementary question. Will the minister ask the Attorney-General to apologise to Aboriginal leader Professor Lowitja O'Donoghue for saying on ABC Radio this morning, 'I do call her unrepresentative.'

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Environment and Conservation, Minister for Early Childhood Development, Minister for Aboriginal Affairs and Reconciliation, Minister Assisting the Premier in Cabinet Business and Public Sector Management) (15:28): I am sure that the Attorney-General and Lowitja O'Donoghue can manage their relationship. They are adults and I am sure if there are any issues that Lowitja O'Donoghue wants to agitate with the Attorney-General she will do so and they will be properly resolved.

CHILDREN IN STATE CARE

Mrs GERAGHTY (Torrens) (15:29): Will the Minister for Families and Communities inform the house about positive initiatives aimed at building the self-esteem and participation of children under the guardianship of the minister?

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:29): This government is committed to improving the lives of children and young people who come into care and providing them with positive experiences that will help them grow and learn, build their self-esteem and ensure they are able to participate in community activities.

Last week I attended two events, both of which are helping to open doors of opportunity for children in care and providing an avenue in which they can explore the full extent of their creativity

and talents. Last Tuesday I was honoured to open the Odd One Out art exhibition presented by Life Without Barriers at the Bliss Organic Cafe. Life Without Barriers is one of our important partners in caring for children who have suffered significant trauma. The theme of the exhibition, Odd One Out, is synonymous with the feelings and emotions experienced by most young people as they make their way through their adolescent years but, in particular, it can be a difficult time for children who come into care. The title was suggested by one of these young people. She said it is how she feels at times.

By helping young people explore their emotions through a piece of art and then putting that work on display, these young people are helped to subtly break down barriers and ignorance about their experiences. It is a tangible way in which they can develop an understanding of what young people in care are really feeling. For many of the artists the exhibition was the first time they had displayed their art works and received public acknowledgment for their efforts. It takes an enormous amount of courage to put their work on display. I met many of the young artists, and it was pleasing to hear them describe their pieces with enthusiasm, some telling me they have discovered they have an artistic flair they simply did not know they possessed. Until now, they had never been given the tools or support to try. It was incredibly rewarding to see the creativity and talents of these young people being encouraged.

This is the second year that Life Without Barriers has exhibited works by guardianship children and young people, produced under the guidance of art therapist and photographer Danielle Madsen. There is no doubt her commitment and dedication to these young people has been the catalyst for their involvement and the success of the artists.

Port Augusta was the venue for the second annual sports carnival for young people under guardianship. There has always been strong sporting rivalry between the Spencer Gulf cities, and last Thursday was no exception, as teams from Port Augusta, Whyalla and Port Pirie battled it out on the grounds of the Stirling North Primary School. Joining me was South Australia's Ambassador for Youth Opportunity and former AFL star, Gavin Wanganeen.

Around 100 young people participated in a range of events catering for tiny tots through to teenagers. It was quite a sight to see five year olds facing the challenge of the long jump, and the teenage girls well and truly out shot me at the shot put. It was a great opportunity again for the young people, foster and kinship carers and Families SA staff to get together and share their experiences. It was great to see the children so bright and enthusiastic, ready for a day of friendly rivalry.

I especially thank the staff of Families SA Whyalla and Port Augusta, who were there en masse; agencies such as UnitingCare Wesley Port Pirie, Aboriginal Family Support Services, Centacare, CREATE and, I think, St Johns were there; and the Lions Club of Port Augusta did a magnificent job in preparing a barbecue lunch. It was a mammoth task and went like clockwork. I also thank the staff and volunteers, as I mentioned previously, of the Life Without Barriers program. They do a great job and I do not think we can honour them enough for what they do in understanding very well the challenges of caring for guardianship children and the effort needed to turn around these young lives.

Our government knows the importance of providing opportunities for children in care that will foster their talent and create positive experiences. I know many of the young people are benefiting from the initiatives and improving their life skills and educational opportunities, as well as building their self-esteem, which is going to have a lasting impact on their lives for generations to come.

MAGILL TRAINING CENTRE

Mr GRIFFITHS (Goyder—Deputy Leader of the Opposition) (15:34): My question is to the Minister for Families and Communities.

The Hon. K.O. Foley: Steve, are you too scared to ask me questions?

Mr GRIFFITHS: No, it is an important one for elsewhere, Kevin. Can the minister advise how much of the proposed $1 million over two years allocated to the Magill Training Centre for upgrades will be left over to address the problem of what has been described as 'ongoing human rights abuses' at the centre after spending on a security and intercom system? On 9 September in the Budget and Finance Committee, Peter Bull from the Department for Families and Communities stated that only $1 million of the government's announced $5 million allocation from contingency funds for upgrades to Magill and Cavan would be spent on the Magill Training Centre, and that that

amount would be used primarily to address problems with security and an upgrade of the intercom system and not improving conditions for children in detention.

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:35): I know that members of the opposition are disappointed that we are building a new centre. I know they are disappointed—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —that we have been able to find within our own resources $67 million to build a new facility. We will have something like 96 places now rather than the 90 that would have come from the PPP and we have allocated money, as the shadow spokesperson said, to maintain and sustain Magill until we have the new facility ready for occupancy in late 2011, only a few months after what was the original occupancy date.

We have always said that we are putting money into Magill that will sustain it until we can move into the new centre, and that is what we will continue to do. If the member thinks for a minute that appropriate security and intercom systems are not about the safety and wellbeing of young people, he does not understand juvenile detention.

MOTORCYCLE GANG HEADQUARTERS

Mrs REDMOND (Heysen—Leader of the Opposition) (15:36): My question is to the Premier. Can the Premier advise the house how many bikie headquarters have been bulldozed to date? In a government press release of January 2006 the then police minister stated, 'It was this government who introduced the anti-fortification laws to tear down bikie headquarters.'

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (15:36): I am pleased to answer that question—

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: —because it was in my electorate of Croydon that the Rebels outlaw motorcycle club decided to buy the social club and sports centre of the Federated Gas Employees Industrial Union. That was on the corner of Chief Street and Second Street, Brompton. It is an area of Adelaide where you never see a Liberal. Let me respond to the member for Heysen.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: We did better than bulldozing. We prevented it being built altogether. After it was bombed in 1999 and the windows of houses along Chief Street, Brompton were blown out (and, indeed, the reverberations of the explosion could be heard where I lived in Kilkenny), the Rebels wanted to build a two-storey headquarters with nine metre high concrete tilt-up walls. I asked the then Liberal premier, John Olsen, and the Liberal minister for police, Robert Brokenshire, to do something about it, and they refused to. So, we introduced when we came to government anti-fortification laws. As a result, the Rebels headquarters at the corner of Chief Street and Second Street, Brompton was not built and, indeed, there is a legitimate business there to this day.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. ATKINSON: Mr Speaker, this is a government whose ministers don't use words like 'shit', 'wanker' and 'turd' live to radio. We are not the kind of government whose leader uses expressions like 'vinegar stroke', 'donkey punch' and—

Mr GRIFFITHS: I rise on a point of order, Mr Speaker. I am rather surprised by the words coming from the Attorney-General's mouth. I ask him to refer back to the question.

The SPEAKER: No doubt there is some relevance, which the Attorney-General will make apparent.

The Hon. M.J. ATKINSON: All I can say is that the Leader of the Opposition and the shadow attorney-general have potty mouths, like members of outlaw motorcycle gangs. But, be that as it may, our anti-fortification laws were used to remove excessive fortifications from a Rebels headquarters at Unit 1, 41 Wood Avenue, Brompton. Our fortification legislation succeeded. Furthermore, we went to the Supreme Court to remove razor wire, locked manholes and a cage around the house from Hells Angels' premises at Cromer in the Adelaide Hills, the home of Mr Osenkowski. There are three examples where our anti-fortification legislation has worked as intended.

BURNSIDE CITY COUNCIL

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Northern Suburbs, Minister for Housing, Minister for Ageing, Minister for Disability) (15:41): I table a copy of a ministerial statement relating to the Burnside City Council made earlier today in another place by my colleague the Hon. Gail Gago.

GRIEVANCE DEBATE

ADELAIDE HILLS RAIL FREIGHT LINE

The Hon. I.F. EVANS (Davenport) (15:41): In 2004 there was a freight train derailment at the Glenalta crossing in my electorate. In response to that derailment, I called on the then federal government to investigate moving the rail freight line to the north of Adelaide. That was in 2004. In 2007 the Mitcham council of its own initiative produced a report about saving the heart of Adelaide, and that was about moving the freight line to the north of the city.

In the lead-up to the 2007 federal election, I put to both Labor and Liberal candidates at a public meeting the question as to whether they would commit their parties to a $3 million study into moving the freight line north of Adelaide. Both parties committed. This week, although it is about ten or 11 weeks late, the federal Labor government held to that promise and released a report called the Adelaide Rail Freight Movement Study Discussion Paper, which is now out for public consultation.

The reason I speak about this matter again (because I have spoken on it three or four times in the parliament and brought it to the attention of the parliament) is because I see the long-term future of the freight line as a crucial decision for the federal government, and it has very important ramifications for the electorate of Davenport, and, indeed, a number of other electorates. The freight line cuts the electorate of Davenport essentially in half, and there are many issues relating to the freight line.

In particular, the electors of Davenport are very aware that, since the timber sleepers were changed to concrete sleepers over the past eight to 10 years, the concrete sleeper is far less flexible and far less absorbent of noise, and, as a result, when that is combined with trains that are now up to 1.8 kilometres long and therefore heavier and longer than previous trains, there is a high pitched squeal that reads over 100 decibels. It breaches every health guideline in Australia in relation to rail noise and, indeed, the World Health guidelines.

This is an important issue. I asked the current state government to test people living next to the line for the health impacts: it declined. I asked the current federal government to put in place a noise abatement program, such as that which residents around the airport receive, that is, double glazing, insulation, etc.: the government declined. This is an important issue. There are lots of benefits in moving the freight line north of the city. However, to the residents of Davenport—and I am writing to them this week—I say: 'Look at my website or contact my office and get a copy of the report.'

There are five or six options that the report deals with. It discounts two of them because of similarities to other schemes. There are, for instance, two schemes that propose to swing the freight line north of Truro or south of Truro so they picked the cheaper one of those and suggest they should look at investigating that. There is a proposal to do a half-and-half—that is, half maintain the existing route and half change the route—and they discount that for other reasons. There are three or four options involved in the discussion paper on which they want community feedback.

I give credit to the federal government: it has honoured its promise. I say to the community that this is your once-in-a-lifetime chance to put your case to the federal government and federal opposition, which I will be doing, saying that it should be moved, because there are some quality of

life issues for the people who live in the area and there are significant savings to the freight industry in moving the freight line out of the Adelaide Hills.

I am pleased that my lobbying over now five years has got it to this point and I would encourage those in the community to make submissions by 20 November, and I hope the electors of Davenport will take the opportunity to put pressure on the government—

The Hon. M.J. Atkinson: And re-elect you.

The Hon. I.F. EVANS: —and re-elect the person they think will do the best job for them.

CHILDHOOD OBESITY

Ms SIMMONS (Morialta) (15:46): I have been very privileged this year to meet with Monsieur Christophe Roy who is the director of EPODE and coordinator of the EPODE program throughout Europe. As a member of the Social Development Committee of the Parliament of South Australia who participated in the inquiry into childhood obesity, it was really interesting to discuss with him the origins of this program and how we might be able to introduce this to South Australia.

EPODE is a school-based nutrition information program initiated in 1992 in France, initially in two towns in the north—Fleurbaix and Laventie. The point of the program is that it is not just a school-based program but encourages the whole community in supporting children to make good choices themselves around food consumption. This includes the family but also the local shops, eating outlets and even the local council.

Dr Roy emphasised that EPODE has recognised nearly 20 years ago that childhood obesity was a serious public health concern that needed a concerted national effort to rectify, and I think Australia has been behind the eight ball in that and is suffering from only recent recognition of the epidemic that we now have. In France, it was recognised that the solution would be long-term but that, by targeting this population group, it has been possible to reverse the trend towards an increasingly overweight population by actions at the community level.

It has been highlighted that children in particular from lower socioeconomic groups are more prone to obesity. Whether that is the case in Australia, I actually question, but it is something that we obviously need to look at. The EPODE program does depend on mandatory health screening in schools with the weight and height of each child between five and 12 years being recorded annually and the BSI being calculated.

The knowledge-oriented approach has been successful at improving children's own knowledge of the characteristics of foods and nutrients, healthy eating habits and food-processing and also gets them to look at the labelling on food packaging. It is being implemented throughout the teaching syllabus. The teachers need to be trained by qualified nutritionists and dieticians and the curriculum is controlled by the regional board of education.

The classroom curriculum is supported by a range of practical crosscutting initiatives. The practical approach provokes pleasant, affordable and diversified food discovery meals in the school cafeterias, cooking classes, visits to farms and various food shops and family breakfasts.

In 2003, a health check was offered at home to supplement this program to families of children involved in the program. This included a fasting blood sample, a clinical examination and a questionnaire aimed at screening unhealthy habits such as smoking, physical inactivity and alcohol consumption. Following this, families were offered advice on healthy eating and physical activity and referrals to a GP for those identified as being overweight, having high blood pressure, a high level of sedentary behaviour, unhealthy eating habits, hyperlipidaemia and smokers.

It was found that from about 1999 onwards the community at large became increasingly committed to this EPODE program. Dieticians were employed to perform interventions in schools and hosted meetings in the towns for both children and adults. Town councils supported actions in favour of physical activity, new sporting facilities were built and sports educators were employed by the councils to promote physical activity in school and outside.

Walking to school days were organised, as were family activities. Various other local stakeholders such as GPs, pharmacists, shopkeepers, sporting and cultural associations also set up family activities focusing on a healthy lifestyle. Media involvement and positive press coverage has also been seen as crucial to the success of this program. The long-term results have shown that children living in communities involved in the program significantly buck the trend against the prevalence of overweight children in France and in the other European countries that have adopted EPODE.

Time expired.

FINNISS ELECTORATE

Mr PENGILLY (Finniss) (15:52): The old Chinese proverb 'May you live in interesting times' is never so applicable as it is currently on the South Coast, given the decisions of the past couple of weeks. The first decision I turn to is that of the $250 million Encounter Bay development proposal put up by the Makris Corporation which was approved subject to a number of encumbrances and other things put on it by the major project organisation.

The fact is that any local member in their right mind in this place would not turn their nose up at the opportunity to have $250 million invested in one project in their electorate, or I would be very surprised if they would anyway. Suffice to say that this project has taken some 2½ years to go through this major project status, and I believe that it has been about 4½ to 5 years since it was first thought about by the Makris Corporation, but we are yet to see it come to fruition. That will take a considerable period of time.

It has had a mixed reaction in the community, particularly the Victor Harbor business community. It has caused concern for some and it has been greeted with a great deal of gusto by others. That is always going to be the case in any community and Victor Harbor is no different. It is also of interest to me to note that the current redevelopment of the Victor Central Shopping Centre, which is making it about one-third bigger than it was, which is a considerable size, seems not to have attracted as much concern.

However, the major project status which has resulted in the Encounter Bay proposal has changed its scope considerably. There is quite a bit more development of a residential nature than there was and my understanding—and I will stand corrected on this—is that the 36,000 square metres originally envisaged has been drafted down to about 20,000 square metres, but I am willing to be corrected on that.

The other controversy down there is the proposed redevelopment of the Crown Hotel. This has also resulted in a lot of consternation and concern across the community of Victor Harbor. I recall that some years ago a proposal was put forward which was never proceeded with—whether it was agreed to, I am not sure. It was a six-storey proposal which would have gone ahead under the current guidelines.

However, the Victor Harbor council's development assessment committee has rejected the latest proposal to redevelop the Crown, and I am concerned and disappointed that the proponents did not put forward an application that complied with the criteria of the council's development plan in so far as it went over the height limit, and the development assessment panel had no option but to refuse it. There seems to be a little bit of confusion in the community as to how these processes take place, and that is something that I believe is probably a problem in many areas across the state, where people just do not understand the planning operations of councils and the development plans they have to abide by.

Let me say that I also would support some redevelopment of the Crown Hotel in Victor Harbor. I do not believe for one moment that the climate on Fleurieu Peninsula and around Victor Harbor will ever lend itself to being a Gold Coast; it is far from the Gold Coast climate-wise, but a good development there would be welcome, provided it met the criteria. It is interesting that a $100 million project was knocked off by the Victor Harbor council's development assessment panel purely because it did not comply, and in my view it acted appropriately. However, where all this ends is that the growth rate down on the south coast from Goolwa right through to the bluff at the southern end of Victor Harbor is expected to be so large that I do not see how the local authorities—

The DEPUTY SPEAKER: I was letting the honourable member finish his sentence, but his time has expired.

SAN GIORGIO CLUB

Ms CICCARELLO (Norwood) (15:57): Almost 12 years ago I spoke in this place for the very first time and recounted the vivid memories I had of my childhood in the small Italian town called San Giorgio La Molara. It therefore gave me great pleasure to recently attend the 34th anniversary reception for the San Giorgio Club and to launch a film on its history, appropriately entitled *The Long Road to Prosperity*. There are approximately 2,000 migrants and families from San Giorgio residing in South Australia, and the film was a fantastic celebration of the success of the community in making a new life here in South Australia.

What I particularly liked was the way the film depicted how well the migrants from San Giorgio had blended into the Australian way of life yet at the same time had retained their strong sense of self and heritage. I have a deep and abiding affection for San Giorgio La Molara and the simplicity of life that I enjoyed there as a child. Unfortunately, it was also a very poor town which, when coupled with heavy losses sustained during World War II, was simply not capable of sustaining a viable future for many of its citizens, and so my family, like many thousands of others, was forced to leave its home town and try to make a better life for ourselves in another country.

We came here with little more than a suitcase, no knowledge of the English language and a small amount of money but, meagre though these possessions were, nothing could extinguish our hopes or dim our dreams. We were also determined not to forget our history and culture, and so a small group of Sangiorgesi decided to establish a club.

As resolute as ever, they quickly formed a committee and bought an old church in Payneham to establish their clubrooms. The San Giorgio La Molara Community Centre was formed and became an incorporated body. When the neighbouring property also became available some years later, it was purchased by the community centre, which agreed to build a new hall on the site. Many of the Sangiorgesi are in the building and related trades, and they made a significant contribution to the building of the new hall. In fact, it is estimated that half the labour and materials were provided at no charge.

The new hall, which seats 400 people, was officially opened in 1993. However, the San Giorgio Club is so much more than mere bricks and mortar. For its many members over the years, it has been a warm and welcoming second home; a place to socialise with friends, eat good food and play cards, tombola and bocce. The integral role the community plays in the lives of our citizens, especially those who are of senior age, is well appreciated by everyone here. This is specially so for the 273 active members of the San Giorgio Club, the majority of whom are over the age of 70. In recognition of this, the club regularly offers meals and day trips for seniors as well as playing host to the very popular Friday sessions of pasta, bocce and bingo—and not necessarily in that order.

As well as its social activities, the club is also committed to ensuring that its members are adequately represented in the community, and to this end I commend the club for providing an office at no charge every Friday to the Patronato, which is an Italian organisation providing pension advice to the Italian community.

The future directions of the club are also looking very good. Discussions are currently taking place with the Coordinating Italian Committee about the hiring of the San Giorgio Hall, on a weekly basis, for the running of an aged-care program catering to the Italian community. This would be a great outcome and I intend to do everything I can to assist this becoming a reality. I am also pleased that the club's management committee is actively working on adopting a range of strategies to attract families and younger people to bolster its membership base. Any organisation is only as good as the sum of its members and the fact that the San Giorgio Club continues to provide a fabulous service is a proud testament to the three decades of hardworking men and women.

To this end also, a couple of years ago the club published a book which recounted the travels of the people from San Giorgio to South Australia. The book was written in English, Italian and the dialect of San Giorgio. This will be a testament to the contribution of the San Giorgio community in South Australia.

I take this opportunity to acknowledge and thank Mr Giorgio Trotta, the inaugural president of the San Giorgio Club for his vision and determination in establishing the club and to all those presidents, including the current president Giuseppe Mercuri, Giovanni Belperio and Giovanni Vorreisi, and committee members and volunteers since then who have generously and selflessly given their time and talents to the Italian community over the last 30 years. Thank you for making us feel so welcome in our adopted land but never letting us forget where we came from.

GOVERNMENT ADVERTISING

Mr VENNING (Schubert) (16:01): Just last week the Liberal Party announced that, when we win government in March next year, we will raise the land tax threshold from $110,000 to $250,000 to benefit about 57,000 property owners in South Australia. This plan will cost about $130 million over four years. The announcement caused an outcry from the government about how we would fund the plan when we are elected. The Treasurer said:

How are they going to pay for it? I mean we are still in a very difficult financial position here in South Australia…whilst I'm Treasurer we are very, very efficient in the way we manage our finances and there ain't much to be cut.

Let us examine some of the current government's spending habits in what our state Treasurer describes as 'a very difficult financial position' and see how efficient they really are. In the first six months of this year, the Rann Labor government spent $23 million on advertising—$23 million. That would go a long way to providing extra services and reducing taxes to benefit all South Australians. Efficient? I think not. That in itself would pay this land tax policy which we have put forward.

It gets worse. In the Treasurer's own words he said, 'We probably spend about $70 million a year across government on advertising.' So, as for funding a plan to cut taxes which will benefit many South Australians, it is clear that there is significant capacity to cut back on extravagant spending on government advertising and to better utilise those funds elsewhere.

During the last year of the Liberal government in 2001-02, government advertising expenditure was $20 million, which, some would say, is high enough, anyway. Since the Rann Labor government has been in power, the expenditure on government advertising has increased by $50 million per year—that is using the Treasurer's own estimates. How much do we not know about?

But the real story could be far worse, as was revealed a few weeks ago to a Legislative Council select committee. The figure publicly quoted by the Rann Labor government of $34 million last year for government advertising significantly understated the total cost. It only related to the cost of buying radio and television air time, not other costs associated with using advertising agencies, market research and staff costs. How much is hived away as general government expenditure?

It is not hard to see how the government has racked up such a massive advertising bill. Every time you turn on the TV or radio, there is some advertising featuring the Premier, whether it be the desalination plant advertisements which were broadcast a few months ago or whether it be the attempt to hard sell the new rail yards hospital to the people of South Australia.

When the Rann Labor government was elected to power in 2002, it made a direct promise that it would cut government advertising significantly. Now we know that just did not happen. Then again in the 2006-07 budget, it announced that it would cut government advertising by $9 million over three years. Then it decided it would delay these cuts and it has still not delivered this either.

However, advertising is only one area of wastage by the Rann Labor government. Some of the bills ministers have amassed with extravagant and excessive entertaining are just ludicrous. It is a slap in the face to all South Australians and just demonstrates how arrogant the Rann Labor government has become. For example, the Treasurer tipping $63 in the Whiskey Blue nightclub in New York; drinks, including $18 a piece cocktails purchased after midnight; $29 for a glass of Moet—all on the public purse. I do not mind them doing this, I have done it myself, but there are times when you decide to use your own wallet and not the public's.

Reasonable use of ministerial credit cards and expense claims has always been supported by former Liberal and Labor governments, but this is beyond a joke. I would like to know what kind of ministerial business is being conducted in a nightclub at 1 o'clock in the morning. There was also a huge opportunity to reduce the cost of government in South Australia, the cost of government ministers' and premier's media relations officers, the multimillion dollar spin team and to cut the government's burgeoning public relations department. We heard the announcement today about 1,500 being laid off. Well, you are laying them off, but why did you put them on in the first place? Look at the cost.

It is quite clear that premier Rann has a complete and utter disregard for the people of South Australia who elected him to his position and who pay taxes to fund his excesses. The Rann Labor government's advertising is an example of an arrogant Premier and government increasingly becoming more out of touch with the priorities and expectations of South Australians. It seems that, as long as premier Rann and his Labor government are in power, they will continue to spend millions of taxpayers' dollars spinning their messages to South Australians. People here deserve better.

Time expired.

CENTRAL DISTRICT FOOTBALL CLUB

The Hon. L. STEVENS (Little Para) (16:07): From time to time in this place, particularly in the late 1990s and early 2000s, I spoke about the Central District Football Club. I have not done so in recent years because the club has continued to dominate and go from strength to strength in terms of its performance in the South Australian National Football League. However, today I am going to speak again about the club because its recent victory in the SANFL premiership broke a number of records for the club and deserves some recognition in this forum.

Everyone who is a follower of Australian Rules Football in South Australia would know that in the recent grand final Centrals defeated Sturt with a score of 13.14 to 7.12. I understand that they did this in front of the largest crowd for 10 years at a SANFL grand final.

The good thing about this game, and what was achieved by Centrals in winning it, is that Centrals has broken all records in terms of a South Australian club winning eight premierships in a decade, appearing in all grand finals in a decade and going into each grand final without having to play in the preliminary final. It is an outstanding achievement.

It is overwhelming for everyone who was there that day and all supporters of Central District to realise that it will take some time for any other club to match the club's achievement. I pay tribute to the coach, Roy Laird, and the players, who were led by co-captains Matthew Slade and Paul Thomas, and the Jack Oatey Medallist Trent Goodrem for a wonderful effort and a wonderful game.

The win is even more significant because it has occurred in Centrals' 50th anniversary year. It is a year in which the club has focused on its journey over 50 years. The dominance of the past decade has come with a lot of blood, sweat and tears over the preceding 40 years.

I draw members' attention to a fantastic publication called *Poms to Premiers—the History of the Central District Football Club*. It is an illustrated story of the Central District Football Club. The book, which is written by Robert Laidlaw and former player Robin Mulholland, catalogues the journey of the Central District Football Club to where it is today.

There are many good things in this book, including a foreword by our current Governor, His Excellency Rear Admiral Kevin Scarce. In his foreword he says:

> My association with the club started in the mid 1960s, mainly as a bench warmer in the under 15s side. Shortly after I left to join the Navy, dad became a colours steward and served with the club for the next decade, finishing under Gary Window as the league manager and committee member. Since my return to South Australia it has been a great privilege to continue my association with the Bulldogs as the club ambassador.

I have had a close association with the club in the nearly 16 years I have been a member of this house. I must say that I am full of admiration for the struggle that the club has endured, and the blood, sweat and tears that have been expended to reach this wonderful highlight.

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

A quorum having been formed:

FAIR WORK (COMMONWEALTH POWERS) BILL

In committee (resumed on motion).

(Continued from page 4186.)

Clause 2 passed.

Clause 3.

The Hon. P. CAICA: I move:

Page 5, line 25 [clause 3(a)]—After 'freedom of association' insert:

in the context of workplace relations,

The Hon. I.F. EVANS: The opposition received all the government amendments at 6.10 last night. We have not had an opportunity to get any feedback from any business organisations that may be impacted by them. The opposition will not be making comment on any of the amendments. We will consult between houses and deal with them in the upper house. It is obvious in this house we will not defeat any amendments, due to the numbers, so, rather than waste the house's time, the opposition will let the amendments flow and deal with them on their merits in the upper house. That is the position in relation to the amendments, at least.

Amendment carried.

The Hon. P. CAICA: I move:

Page 5, line 32 [clause 3(1)]—Before 'rights of entry' insert: 'union'

Page 6—

Line 6 [clause 3(1)]–After 'workplace relations' insert: 'or industrial relations'

Lines 11 and 12 [clause 3(2)]—Delete 'have the meaning that is set out in that Act' and substitute:

(other than in Division 2B of Part 1-3 of the Commonwealth Fair Work Act) have the meaning set out in that Act as in force on 1 July 2009

Lines 13 and 14 [clause 3(3)]—Delete subclause (3)

Amendments carried.

The Hon. I.F. EVANS: I have a question in relation to clause 3, which deals with the definitions and interpretations. Under the words 'express amendment' at the bottom of page 3, it says:

express amendment of the Commonwealth Fair Work Act means the direct amendment of the text of that Act (whether by the insertion, omission, repeal, substitution or relocation of words or matter) but does not include the enactment by a Commonwealth Act of a provision that has, or will have, substantive effect otherwise than as part of the text of the Commonwealth Fair Work Act;

To me, as a lay lawyer and humble builder, I think that means that if another act not called the Commonwealth Fair Work Act is amended that has an impact on the commonwealth Fair Work Act, then this act does not apply.

The Hon. P. CAICA: Of course, technically, what the honourable member said is correct, but the simple fact is that it would be outside of the framework and, in fact, it would not apply to the referral and would defeat the very purpose of the referral exercise.

The Hon. I.F. EVANS: Would the minister explain how this works? Is it then possible for a commonwealth government to introduce another piece of legislation, not called the commonwealth fair work act, that deals with industrial relations, and can it have an impact on the commonwealth Fair Work Act? In other words, what is the hierarchy? Can the commonwealth government introduce a bill that in the legislative hierarchy is higher than the commonwealth Fair Work Act, and therefore override any or all of the provisions of the commonwealth Fair Work Act? If that is not the case, what is the purpose of the definition that allows for other acts to be amended to deal with matters that might impact on the commonwealth Fair Work Act?

The Hon. P. CAICA: Of course, the commonwealth parliament has the powers to change and alter our legislation but, with respect, it can pass any bill that it wants. With respect to this particular matter, it refers and relates to the referring parties and, to that extent, it does not have an impact upon this legislation in regard to the agreement between the commonwealth and the referring parties.

The Hon. I.F. EVANS: I am sorry to ask questions about the power of the commonwealth government, but this is the only forum we have available to us to do this. Can the minister confirm to the house that it is not possible for the commonwealth to introduce legislation that affects industrial relations and simply puts a clause into the new bill (unnamed, but certainly not called the commonwealth fair work bill) that overrides the Fair Work Bill and therefore takes away the limited powers of the states under the Fair Work Bill? Is there any way the commonwealth can legislate out of its obligation by calling legislation something different? For instance, could it have a bill called commonwealth industrial relations bill, for want of a better name, and in that bill say that, 'For the referring states under the Fair Work Bill we are now going to do X'? So it is not in the Fair Work Bill, which is where we have our powers, but in another act. I am asking whether they can legislate through another act to rob us of our powers. I am not convinced that they cannot do that.

The Hon. P. CAICA: The specific answer to this question is no. It will not apply to the referring parties unless it occurs through this mechanism, that is, the referral bill. The concerns that the member has expressed are unfounded.

The Hon. I.F. EVANS: Can the minister put it in plainer English for me? I only went to a public school. Can the minister say it is not possible for the commonwealth to do that?

The Hon. P. CAICA: I will make it as clear as I possibly can—I am happy to answer a fourth question on this clause. It will not apply to the referring parties in the context of the scenario

that the member has put to us unless it is done through this particular mechanism, that mechanism being the referring party. Again, the answer is no, it cannot occur.

The Hon. I.F. EVANS: I am sorry to ask the minister more than three questions on this very long clause, but—

The Hon. P. Caica: You had enough time to ask questions previously and so did your party members. The whole idea is for you to be able to ask questions; I am not offended at all.

The Hon. I.F. EVANS: Okay. No, we will get this on the record.

The CHAIR: I am offended by standing orders, though, so we need to be careful.

The Hon. I.F. EVANS: You can do it by standing orders if you wish; it is all right. The minister raised the issue that the opposition was offered briefings and some people did not attend. That is quite true. However, this forum is public, not private, so I am going to take the opportunity, as the rules allow, to get on the public record as much as I can, just as the minister's party did in opposition, because there are business groups and other people out there who want to see the answers to a whole range of questions about how this will work, regardless of the private versions offered and the information given to us in private briefings. That is the reason for some of the questions.

Clause 3 on page 4 refers to 'local government' and 'local government sector employer', and it states:

> Local government sector employer means an employer that is—
>
> (c) any other entity established under the Local Government Act 1999; or...
>
> (e) any other entity established by a body referred to in a preceding paragraph;

I just want to understand, if a council wants to start a proprietary limited business, is it covered by the state scheme or the commonwealth scheme, given that local government comes under the state scheme and Pty Ltd businesses go under the federal scheme?

The Hon. P. CAICA: That matter will be addressed in an amendment to the government's statute amendments act that we will be dealing with after this matter. Yes, they would in fact be excluded. Again, we have gone through an extensive level of consultation with the Local Government Association, and we received only this morning correspondence from the Local Government Association that expressed the view that the bills provide for fair and reasonable transitional arrangements for councils and it supports the bills in their amended form. So, in answer to the member's question, the simple fact is that there will be an amendment that will deal with that in the next bill that we consider.

The Hon. I.F. EVANS: When the minister said that they will be excluded, does he mean excluded from the national scheme or the state scheme?

The Hon. P. CAICA: They would be excluded from the national scheme through regulation.

Clause as amended passed.

Clauses 4 to 7 passed.

Clause 8.

The Hon. I.F. EVANS: I just want make sure that my understanding of how this termination provision works is correct. Clause 8 talks about the effect of termination of amendment reference or transition reference before the initial reference. Clause 8(1)(a) states that it does not affect 'laws that were made under that reference before that termination (whether or not they have come into operation before that termination)'. I think it means that, if the federal government moves amendments to the commonwealth Fair Work Act and the state government decides it wishes to withdraw that reference in relation to the provision that is being amended, the amendments still stay in place and it is only future amendments to that reference that the withdrawal affects.

So, if the commonwealth moves to change unfair dismissal provisions that the state government does not like and the state government gives notice that it wants to withdraw its referral powers just on unfair dismissals, the law that applies is still the law that the state government did not like, but the withdrawal prevents the federal government from moving future amendments because the reference in relation to unfair dismissals has been withdrawn. I just want

to check that my understanding is right; that the law that you do not like still stays on the statute and still applies?

The Hon. P. CAICA: I thank the honourable member for his question in relation to effective termination. It would depend on the timing of the commonwealth amendment. It would certainly be our expectation that, with the three months' notice and then the notice applying to the commonwealth to deal with that, we would have entered into dialogue with the commonwealth on this matter. It allows the opportunity for dialogue between the state and the commonwealth to occur before they implement that change.

That is the very nature of what we have been trying to do, that is, to put these measures in place to make sure that the very concerns that have been expressed—not only by the opposition but by us—with respect to the preservation of the integrity of the referral remain in place.

The Hon. I.F. EVANS: Put aside the government's wish to use the mechanism to create dialogue and try to resolve the difference by conciliation or agreement between the parties. Explain to the committee a worst case scenario. Let us say that the state and commonwealth governments cannot agree. If they cannot agree, is my reading of the legislation right that the provision for which the state government does not agree remains in place? I draw the attention of the minister to clause 8(1)(a) and 8(1)(b). Clause 8(1)(b) provides:

the continued operation in the State of the Commonwealth Fair Work Act as in operation immediately before the termination—

so, just before you terminate the reference—

—or as subsequently amended...

So, post the suspension. The way in which I read it is that the commonwealth gets its way and therefore the law that you do not like remains in place. All you have done by withdrawing that reference is preserve a position for future amendments.

The Hon. P. CAICA: It depends on whether or not the law has been passed by the commonwealth and, if that is the case, we would say that, through engagement, we have the opportunity of stopping that. The amendment reference and termination provisions of this bill restrict future changes from removing agreed fundamental elements, including the scope of the national system. It is these provisions that expressly exclude the power to make amendments based on our referral with respect to continuing state law matters that are saved by section 27 of the Fair Work Act 2009, including, importantly, occupational health and safety, training and skills development, child labour, and so on with respect to the public sector, local government and any other excluded sectors.

This is achieved by including these matters in the definition of 'excluded subject matter' in the bill. The bill also links the amendment reference limitations to the statutory-based governance principles unanimously agreed to by the Workplace Relations Ministers Council on 23 May 2009. A translation of these principles is set out in the definition of the fundamental workplace relation principles as provided in clause 4 of the bill. The significance of these principles is that it will permit the amendment reference to be terminated in circumstances by South Australia whilst retaining our status as a referring state, and this is achieved as follows.

The bill allows for the termination of references by a proclamation of the South Australian Governor. This is a standard provision in referral legislation. In general terms, a period of six months notice is normally required to be given to the commonwealth if the state intends to terminate any of its references. Should South Australia do this in isolation from another referring state or states and where agreed national system principles have not been breached, South Australia would no longer be considered to be a referring state under the terms of the Fair Work Act 2009.

An example of the use of the termination reference, although unlikely ever to occur, could be if a future federal government sought in a hostile manner to expand the scope of the commonwealth laws to take over all or most of the continuing state's laws. The proposed provisions would enable the South Australian government to provide six months' notice to the commonwealth government of its intention to terminate. The reference would result in South Australia no longer being considered to be a referring state. Referring states, of course, have specific rights within the national system.

It would also involve recreating an industrial relations system for those returning to the state system. Of course, this step would not be considered lightly and would be considered only as

an absolute last resort. However, the bill also provides for a termination of the amendment reference if the Governor in the proclamation giving effect to the termination declares that, in his or her opinion, the Fair Work Act 2009 has been or indeed will be amended in a manner that is inconsistent in one or more of the relevant fundamental workplace relations principles.

The termination of the amendment reference in this context would require three months' notice and have the effect that the commonwealth would not, after the date of effect of the proclamation, be able to rely on South Australia's referral to enact amendments to the Fair Work Act 2009. Future amendments would not apply to non-constitutional employers and employees in South Australia pending the resolution of the issues by the parliament.

I make that point because I think it was an issue the honourable member raised this morning—'pending the resolution of the issues by the parliament'. For example, the termination of the amendment reference may be considered if a future commonwealth government chose to abolish the unfair dismissal system, as was used as an example in its entirety. In that situation, South Australia, where feasible, could issue a proclamation giving at least three months' notice to the commonwealth of the intention to suspend the amendment reference so that the termination was effective prior to the commonwealth amended provisions coming into force. If it were not possible for the termination of the amendment reference to be in place before the proposed amendment is enacted, the commonwealth could not rely on South Australia's amendment reference to make further amendments to the Fair Work Act 2009 affecting unincorporated employers and employees in this state.

In these circumstances, South Australia continues to be a referring state. The use of this termination provision would then be reported to parliament, and it would be for parliament to determine whether to remove or amend the amendment reference. The bill also enables the Governor to give notice of the termination of the amendment reference and later revoke the termination. This would permit the withdrawal of the termination should an alternative be agreed in the intervening period. The objective is for these provisions never to be utilised, but they are a necessary option as a discipline so that changes to the fundamental principles do not occur in the first place or can be resolved by the parties before they are operational.

The Hon. I.F. EVANS: I think I got that; that was very quick. In the last section of your contribution, you said that it would prevent further amendments. My understanding of the position is that it is when the government seeks to give three months' notice in regard to one of the principles that might be amended rather than the six months' notice withdrawing out of the whole system. So, put the six months' notice aside for a minute: we are talking about the three months' notice.

The three months' notice provision is a withdrawal provision that can be used where the federal government seeks to amend one of the key principles. The minister uses the example of unfair dismissals. The minister says, 'Well, we've got this provision in so it creates dialogue.' I accept that. At the end of the dialogue, at the end of the three months, there is no agreement between the commonwealth and state. When there is no agreement between the commonwealth and state, the state then withdraws.

The minister mentions that it might come to parliament. I do not see in the bill that it has to come to parliament so I assume that is at the discretion of the minister or the cabinet but nowhere in the bill can I see that that matter has to come to the parliament. If that is the minister's intention, he might want to move an amendment between the houses, because a future minister may not have the same goodwill towards that principle as this minister.

To come back to the point: three months' notice is given and the two parties cannot agree. Suppose it is to do with unfair dismissal. The commonwealth already amends the legislation. My understanding of the way this legislation is drafted is that the clause that you do not agree with remains in the commonwealth legislation and still applies to all of the state's private sector. The only position the government is preserving by using the three month withdrawal provision is to stop future amendments. That is the way the briefing was given to me.

If that is right, then there is nothing stopping a federal government, over a period of 15 to 20 years, simply picking them off one at a time: unfair dismissals, today; training, three years' time; occupational health and safety, five years' time. There is nothing to stop that because the individual state government has to make the decision: is it worth withdrawing? Is it then worth withdrawing using the six month provision—withdrawing out of the whole system—on the basis of one of the principles?

As I mentioned in my second reading contribution, this bill is nothing more than a 'slowly, slowly, catchee monkey' approach by those who seek to centralise everything in Canberra, so I need a clear answer in relation to the issue. If the commonwealth and state cannot agree after the three months' notice has been given and the three months has ended, and the commonwealth has already enacted amendments to its bill, my understanding is that those amendments stay in place and still apply to all of the private sector in South Australia. The only thing that the state government has preserved is that future amendments that it may not like are prevented from occurring and the non-corporations in South Australia then come under a state system just for that reference that has been withdrawn. That is my understanding of the briefing that was given to me.

The Hon. P. CAICA: I thank the member for his question. We need to clarify something to start off with and that was the member's reference to training and occupational health and safety for example. They have not been referred, so they stay within the state jurisdiction. If we go back to the unfair dismissal example that you provided, that is probably a more logical example to give than the others you did because they are not affected by this because they are not referred matters and are retained by the state jurisdiction.

Certainly, our state's expectation would be that, providing that notice has been given under the IGA—that is, through the agreement that we have reached with the commonwealth—we would be able to stop any amendment that is being contemplated which we disagree with or which we believe is in conflict with the spirit and the nature of the agreement that we have.

If, indeed, the matter has been introduced, if you like, or notice has been given, under the agreements of the IGA, we are able to prevent that proceeding and, of course, in regard to the other issue, we would say, 'Well, that won't proceed because that is being done under the notice.' If in fact it is not done under the notice and the relationship has broken down to that extent, it would be our intention to report that matter to parliament. That is what this provides for—to report it to parliament—because, at the end of the day, only parliament can change the law if it is our intention to change the law as it relates to the IR system in which we have agreed to participate. I hope that makes some type of semblance of sense to you, with respect to the way I have responded to that, and I am happy to clarify any aspect of it if I have not done a good job.

Clause passed.

Clause 9.

The Hon. I.F. EVANS: This deals with the period for termination of references. We have touched on the six-month provision, which is the total withdrawal provision, and earlier we touched on the three-month provision, so I will not go into great detail about this. I note that this termination of references is specifically restricted to the commonwealth Fair Work Act. If other legislation imposes great costs on businesses associated with the act—for instance, penalties or something in a stand-alone bill—then we cannot complain about that. I also note that the commonwealth Fair Work Act as provided by clause 9(2)(b)(i):

> is proposed to be amended (by an amendment introduced into the Parliament of the Commonwealth by a Commonwealth Minister);

Pray tell, what happens to a private member's amendment, an opposition amendment or a government backbencher's amendment that gets passed? What powers do we have, given that this is restricted only to those amendments moved by a commonwealth minister? It is not unknown for parliaments to be hung parliaments. What would happen, for instance, if the commonwealth found itself in a hung parliament situation and the Independent member holding the balance of power said that they want to introduce amendments to change the act. Do I read it correctly in saying that this does not then apply because they are not amendments moved by a commonwealth minister?

The Hon. P. CAICA: You are correct in reading it that the proposed amendment would be introduced to parliament by a commonwealth minister. We can only deal with the referral of the powers here. With respect to your specific example, the commonwealth has a requirement to engage and consult with us with respect to any circumstances that may evolve in regard to a commonwealth parliament that might look significantly different than the one that occurs today, and those provisions are embedded within the agreement.

The Hon. I.F. EVANS: In relation to the three-month notice provision, that provision deals with whether something is inconsistent with one or more of the fundamental workplace relations principles. Every business organisation I have managed to speak to in relation to this bill is

opposed to this clause. They say it is a mess and that it would be unworkable. If you believe the government's rhetoric, it says it wants to go to a national system to make it easier for business, to give everyone certainty and make things more efficient. Then it says it does not want that nasty federal government setting policies that it does not like, so in case it does we will have a clawback provision on a set of fundamental workplace relations principles which are outlined in the act.

If the federal government moves to change one of those to a position that the state government of the day does not like, we can give three months' notice and withdraw if the negotiations do not go as the minister suggests they might. Let's say it is a Brumby-Howard example with the River Murray. Even though Mr Howard offered $10 billion, Mr Brumby just could not agree. So, let's say it is that sort of circumstance.

The easiest example to use here is unfair dismissal. The government's proposal is that then it withdraws its reference with three months' notice for unfair dismissal and then it has to set up a whole state system for the 30 per cent of businesses and non-corporations just to deal with unfair dismissal, and everything else is still under the federal system under the three-month withdrawal provision.

Every single business association has read the legislation that way; that is how I read the legislation. That was the briefing to me. If the state government believes in flicking it to the commonwealth to make it easier, why would you want to set up a system where for only 30 per cent you will deal with one provision of the act? The business community would argue that this complicates it further. For instance, retailers (excluding non-corporation retailers) would be under the federal system for everything except unfair dismissal. How confusing would that be for a retailer or a business because you would be under two systems? At least currently you are under one system or the other. I am asking the minister why they have designed the system that way. Every business association I have dealt with has raised this as an issue. They say it is unworkable and say that, if you are going to refer it, why not just refer it?

The Hon. P. CAICA: The first point is that the business sector has expressed some reservations about this clause but none of the members of the business community I have dealt with have opposed it. They have expressed reservations about it. In fact, none we have spoken to would hold the same views as the member for Davenport because it has been explained to them, and I will explain it in a very clear way. We use the example that was provided by the member for Davenport with respect to unfair dismissal or any other matter that is dealt with through the referral system. The simple fact is that it preserves the law that is in place at that time. That applies, that day will apply the next day. I hope that clarifies that situation.

The Hon. I.F. EVANS: So, let me understand this, because I think you have just given me the answer to the question I asked 10 minutes ago. So it preserves the commonwealth law in place. That is the law that we do not like and the law we are withdrawing from; yes?

The Hon. P. CAICA: If we have a chance we can cut it off, to stop that proceeding before it applies.

The Hon. I.F. EVANS: What is the mechanism to stop it proceeding? It is not clear to me from the briefing. The way it was explained to me in the briefing, because I remember that I was quite surprised when I was informed of this, was that, once the amendment was moved, even if it had not passed at the time of the withdrawal, it still applied. I argued at the time that that seemed unusual, because it locked in the bad law. So, with the three months referral, if it is the Brumby Howard example and you cannot agree, what law is locked in: the law that was in place at the time of the notification or the law that is amended? If you withdraw proposed amendments that you are upset about and are not yet passed, is it that amendment that is locked in or the law at the time of the notification of withdrawal?

At what point, what law is locked in? Then, given that that law is locked in, whichever model it is, what powers does the state then have, given that you have withdrawn that reference? Can the state then override the commonwealth law, or are we simply stuck with the law, and all we have done is say the commonwealth can no longer amend it? Can we amend it to something we like, or are we just stuck with the bad law that we did not like?

The Hon. P. CAICA: I think the question asked earlier was about seeking guarantees to be able to stop it. Should we have given notice to withdraw the amendment before it applies, it would be the law that existed. Should the amendment be passed, it will be the law that applies with respect to that amendment. What we would be saying here too is that, if the relationship between the state and commonwealth had got to this extent that these were the shenanigans that were

going on, I and I expect you if you are ever in this position again will be coming to the parliament to report the matter to make sure that changes are made to rectify it. Just to clarify that, it is the law at the time of the termination when that termination takes effect.

Clause passed.

Schedule 1.

The CHAIR: If the minister moves his amendment in total I will manage the debate section by section.

The Hon. P. CAICA: I move:

Schedule 1—Delete Schedule 1 and substitute:

Schedule 1—Text to be included in the provisions of the Commonwealth Fair Work Act

Division 2B—Application of this Act in States that refer matters after 1 July 2009 but on or before 1 January 2010

30K—Meaning of terms used in this Division

(1) In this Division:

amendment reference of a State means the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection 30L(4).

excluded subject matter means any of the following matters:

(a) a matter dealt with in a law referred to in subsection 27(1A) of this Act;

(b) superannuation;

(c) workers compensation;

(d) occupational health and safety;

(e) matters relating to outworkers (within the ordinary meaning of the term);

(f) child labour;

(g) training arrangements;

(h) long service leave;

(i) leave for victims of crime;

(j) attendance for service on a jury, or for emergency service duties;

(k) declaration, prescription or substitution of public holidays;

(l) the following matters relating to provision of essential services or to situations of emergency:

(i) directions to perform work (including to perform work at a particular time or place, or in a particular way);

(ii) directions not to perform work (including not to perform work at a particular time or place, or in a particular way);

(m) regulation of any of the following:

(i) employee associations;

(ii) employer associations;

(iii) members of employee associations or of employer associations;

(n) workplace surveillance;

(o) business trading hours;

(p) claims for enforcement of contracts of employment, except so far as a law of a State provides for the variation or setting aside of rights and obligations arising under a contract of employment, or another arrangement for employment, that a court or tribunal finds is unfair;

(q) rights or remedies incidental to a matter referred to in a preceding paragraph of this definition;

except to the extent that this Act as originally enacted deals with the matter (directly or indirectly), or requires or permits instruments made or given effect under this Act so to deal with the matter.

express amendment means the direct amendment of the text of this Act (whether by the insertion, omission, repeal, substitution or relocation of words or matter), but does not include the enactment by a Commonwealth Act of a provision that has, or will have, substantive effect otherwise than as part of the text of this Act.

fundamental workplace relations principles: see subsection 30L(9).

initial reference of a State means the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection 30L(3).

law enforcement officer means:

(a) a member of a police force or police service; or

(b) a person appointed to a position for the purpose of being trained as a member of a police force or police service; or

(c) a person who has the powers and duties of a member of a police force or police service;

and, without limiting paragraphs (a), (b) and (c), includes a police reservist, a police recruit, a police cadet, a junior constable, a police medical officer, a special constable, an ancillary constable or a protective services officer.

local government employee, of a State, means:

(a) an employee of a local government employer of the State; or

(b) any other employee in the State of a kind specified in the regulations.

local government employer, of a State, means an employer that is:

(a) a body corporate that is established for a local government purpose by or under a law of a State; or

(b) a body corporate in which a body to which paragraph (a) applies has, or 2 or more such bodies together have, a controlling interest; or

(c) a person who employs individuals for the purposes of an unincorporated body that is established for a local government purpose by or under a law of a State; or

(d) any other body corporate that is a local government body in the State of a kind specified in the regulations; or

(e) any other person who employs individuals for the purposes of an unincorporated body that is a local government body in the State of a kind specified in the regulations.

referral law, of a State, means the law of the State that refers matters, as mentioned in subsection 30L(1), to the Parliament of the Commonwealth.

referred provisions means the provisions of this Division to the extent to which they deal with matters that are included in the legislative powers of the Parliaments of the States.

referred subject matters means any of the following:

(a) terms and conditions of employment, including any of the following:

(i) minimum terms and conditions of employment, (including employment standards and minimum wages);

(ii) terms and conditions of employment contained in instruments (including instruments such as awards, determinations and enterprise-level agreements);

(iii) bargaining in relation to terms and conditions of employment;

(iv) the effect of a transfer of business on terms and conditions of employment;

(b) terms and conditions under which an outworker entity may arrange for work to be performed for the entity (directly or indirectly), if the work is of a kind that is often performed by outworkers;

(c) rights and responsibilities of persons, including employees, employers, independent contractors, outworkers, outworker entities, associations of employees or associations of employers, being rights and responsibilities relating to any of the following:

(i) freedom of association in the context of workplace relations, and related protections;

(ii) protection from discrimination relating to employment;

(iii) termination of employment;

(iv) industrial action;

(v) protection from payment of fees for services related to bargaining;

(vi) sham independent contractor arrangements;

(vii) standing down employees without pay;

(viii) union rights of entry and rights of access to records;

(d) compliance with, and enforcement of, this Act;

(e) the administration of this Act;

(f) the application of this Act;

(g) matters incidental or ancillary to the operation of this Act or of instruments made or given effect under this Act;

but does not include any excluded subject matter.

referring State: see section 30L.

State public sector employee, of a State, means:

(a) an employee of a State public sector employer of the State; or

(b) any other employee in the State of a kind specified in the regulations;

and includes a law enforcement officer of the State.

State public sector employer, of a State, means an employer that is:

(a) the State, the Governor of the State or a Minister of the State; or

(b) a body corporate that is established for a public purpose by or under a law of the State, by the Governor of the State or by a Minister of the State; or

(c) a body corporate in which the State has a controlling interest; or

(d) a person who employs individuals for the purposes of an unincorporated body that is established for a public purpose by or under a law of the State, by the Governor of the State or by a Minister of the State; or

(e) any other employer in the State of a kind specified in the regulations;

and includes a holder of an office of the State whom the State's referral law provides is to be taken, for the purposes of this Act, to be an employer of law enforcement officers of the State.

transition reference of a State means the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection 30L(5).

(2) Words or phrases in the definition of *excluded subject matter* in subsection (1), or in the definition of *referred subject matters* in subsection (1), that are defined in this Act (other than in this Division) have, in that definition, the meanings set out in this Act as in force on 1 July 2009.

30L—Meaning of *referring State*

Reference of matters by State Parliament to Commonwealth Parliament

(1) A State is a *referring State* if the Parliament of the State has, after 1 July 2009 but on or before 1 January 2010, referred the matters covered by subsections (3), (4) and (5) in relation to the State to the Parliament of the Commonwealth for the purposes of paragraph 51(xxxvii) of the Constitution:

(a) if and to the extent that the matters are not otherwise included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference under paragraph 51(xxxvii) of the Constitution); and

(b) if and to the extent that the matters are included in the legislative powers of the Parliament of the State.

This subsection has effect subject to subsection (6).

(2) A State is a *referring State* even if:

(a) the State's referral law provides that the reference to the Parliament of the Commonwealth of any or all of the matters covered by subsections (3), (4) and (5) is to terminate in particular circumstances; or

(b) the State's referral law provides that particular matters, or all matters, relating to State public sector employees, or State public sector employers, of the State are not included in any or all of the matters covered by subsections (3), (4) and (5); or

(c) the State's referral law provides that particular matters, or all matters, relating to local government employees, or local government employers, of the State are not included in any or all of the matters covered by subsections (3), (4) and (5).

Reference covering referred provisions

(3) This subsection covers the matters to which the referred provisions relate to the extent of making laws with respect to those matters by amending this Act, as originally enacted, and as subsequently amended by amendments enacted at any time before the State's referral law commenced, to include the referred provisions.

Reference covering amendments

(4) This subsection covers the referred subject matters to the extent of making laws with respect to those matters by making express amendments of this Act.

Reference covering transitional matters

(5) This subsection covers making laws with respect to the transition from the regime provided for by:

(a) the *Workplace Relations Act 1996* (as it continues to apply because of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*); or

(b) a law of a State relating to workplace relations or industrial relations;

to the regime provided for by this Act.

Effect of termination of reference

(6) Despite anything to the contrary in a referral law of a State, a State ceases to be a *referring State* if any or all of the following occurs:

(a) the State's initial reference terminates;

(b) the State's amendment reference terminates, and neither of subsections (7) and (8) apply to the termination;

(c) the State's transition reference terminates.

(7) A State does not cease to be a *referring State* because of the termination of its amendment reference if:

(a) the termination is effected by the Governor of that State fixing a day by proclamation as the day on which the reference terminates; and

(b) the day fixed is no earlier than the first day after the end of the period of 6 months beginning on the day on which the proclamation is published; and

(c) that State's amendment reference, and the amendment reference of every other referring State (other than a referring State that has terminated its amendment reference in the circumstances referred to in subsection (8)), terminate on the same day.

(8) A State does not cease to be a *referring State* because of the termination of its amendment reference if:

(a) the termination is effected by the Governor of that State fixing a day by proclamation as the day on which the reference terminates; and

(b) the day fixed is no earlier than the first day after the end of the period of 3 months beginning on the day on which the proclamation is published; and

(c) the Governor of that State, as part of the proclamation by which the termination is to be effected, declares that, in the opinion of the Governor, this Act:

(i) is proposed to be amended (by an amendment introduced into the Parliament by a Minister); or

(ii) has been amended;

in a manner that is inconsistent with one or more of the fundamental workplace relations principles.

(9) The following are the *fundamental workplace relations principles*:

(a) that this Act should provide for, and continue to provide for, the following:

(i) a strong, simple and enforceable safety net of minimum employment standards;

(ii) genuine rights and responsibilities to ensure fairness, choice and representation at work, including the freedom to choose whether or not to join and be represented by a union or participate in collective activities;

(iii) collective bargaining at the enterprise level with no provision for individual statutory agreements;

(iv) fair and effective remedies available through an independent umpire;

(v) protection from unfair dismissal;

(b) that there should be, and continue to be, in connection with the operation of this Act, the following:

(i) an independent tribunal system;

(ii) an independent authority able to assist employers and employees within a national workplace relations system.

30M—Extended meaning of *national system employee*

(1) A *national system employee* includes:

(a) any individual in a State that is a referring State because of this Division so far as he or she is employed, or usually employed, as described in paragraph 30N(1)(a), except on a vocational placement; and

(b) a law enforcement officer of the State to whom subsection 30P(1) applies.

(2) This section does not limit the operation of section 13 (which defines a national system employee).

Note—

Section 30S may limit the extent to which this section extends the meaning of *national system employee*.

30N—Extended meaning of *national system employer*

(1) A *national system employer* includes:

(a) any person in a State that is a referring State because of this Division so far as the person employs, or usually employs, an individual; and

(b) a holder of an office to whom subsection 30P(2) applies.

(2) This section does not limit the operation of section 14 (which defines a national system employer).

Note—

Section 30S may limit the extent to which this section extends the meaning of *national system employer*.

30P—Extended ordinary meanings of *employee* and *employer*

(1) A reference in this Act to an employee with its ordinary meaning includes a reference to a law enforcement officer of a referring State if the State's referral law so provides for the purposes of that law.

(2) A reference in this Act to an employer with its ordinary meaning includes a reference to a holder of an office of a State if the State's referral law provides, for the purposes of that law, that the holder of the office is taken to be the employer of a law enforcement officer of the State.

(3) This section does not limit the operation of section 15 (which deals with references to employee and employer with their ordinary meanings).

Note—

Section 30S may limit the extent to which this section extends the meanings of *employee* and *employer*.

30Q—Extended meaning of *outworker entity*

(1) An *outworker entity* includes a person, other than in the person's capacity as a national system employer, so far as:

(a) the person arranges for work to be performed for the person (either directly or indirectly); and

(b) the work is of a kind that is often performed by outworkers; and

(c) one or more of the following applies:

(i) at the time the arrangement is made, one or more parties to the arrangement is in a State that is a referring State because of this Division;

(ii) the work is to be performed in a State that is a referring State because of this Division;

(iii) the person referred to in paragraph (a) carries on an activity (whether of a commercial, governmental or other nature) in a State that is a referring State because of this Division, and the work is reasonably likely to be performed in that State;

(iv) the person referred to in paragraph (a) carries on an activity (whether of a commercial, governmental or other nature) in a State that is a referring State because of this Division, and the work is to be performed in connection with that activity.

(2) This section does not limit the operation of the definition of *outworker entity* in section 12.

Note—

Section 30S may limit the extent to which this section extends the meaning of *outworker entity*.

30R—General protections

(1) Part 3-1 (which deals with general protections) applies to action taken in a State that is a referring State because of this Division.

(2) This section applies despite section 337 (which limits the application of Part 3-1), and does not limit the operation of sections 338 and 339 (which set out the application of that Part).

Note—

Section 30S may limit the extent to which this section extends the application of Part 3-1.

30S—Division only has effect if supported by reference

A provision of this Division has effect in relation to a State that is a referring State because of this Division only to the extent that the State's referral law refers to the Parliament of the Commonwealth the matters mentioned in subsection 30L(1) that result in the Parliament of the Commonwealth having sufficient legislative power for the provision so to have effect.

The amendments to the bill all arise from continuing consultation between South Australia, the commonwealth and other referring governments. In order to accommodate the marginally different statutory starting points of all the referring jurisdictions, including Victoria, which is already in the system, it has become necessary to adjust the agreed referral text, schedule 1 in this bill, and to make some consequential changes.

The amendments are technical and do not change any of the scope or substance of the existing referral bill in any way. It is also important to note that, as part of this process, the other states referring at this time are proposing to adopt the approach to the amendment reference and termination arrangements as originally agreed between South Australia and the commonwealth and as set out in the bill presently before the house.

Amendment No. 6, which are dealing with now, seeks to insert a revised schedule 1, as now agreed between South Australia and the commonwealth. As previously advised, the amendments are technical and do not change any of the scope or substance of the existing referral bill in any way.

I have discussed most of the changes to the schedule as part of the consideration of amendments Nos. 1 to 5. Without repeating those explanations, the other changes in schedule 1 relate to the following:

- confirmation of the schedule will apply to all states referring between 1 July 2009 or on or before 1 January 2010—this is to distinguish from the earlier (original) Victorian referral and confirm that any jurisdiction not taking this window of opportunity to complete their referral will be required to establish a separate referral arrangement;

- consolidation of the definitions of amendment and express amendment into a new definition of the term express amendment;
- amendments to the definition of local government employer and statute public sector employer to confirm that they also include unincorporated bodies—this is already covered by our existing definitions; and
- consequential changes to the inclusion of law enforcement officers within the schedule including so as to confirm that they need not be referred by a (referring) state, which is the approach being taken by South Australia.

The Hon. I.F. EVANS: I have one question on section 30M, which provides:

A national system employee includes any individual in a State that is a referring State because of this Division so far as he or she is employed, or usually employed, as described in subsection 30N(1), except on a vocational placement.

Does that mean that someone on a vocational placement is not part of the national system?

The Hon. P. CAICA: As I have expressed, this has taken a great degree of dialogue between the commonwealth and the referring states. This was incorporated to accommodate Queensland, so it will have different referring matters in respect of this particular schedule, and it is certainly, as we mentioned earlier, not our intention to refer matters in respect of vocational placement as they occur in South Australia.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments.

Bill read a third time and passed.

STATUTES AMENDMENT (NATIONAL INDUSTRIAL RELATIONS SYSTEM) BILL

Adjourned debate on second reading.

(Continued from 9 September 2009. Page 3783.)

The Hon. I.F. EVANS (Davenport) (17:03): I indicate that I am the lead speaker on this matter. The minister will know that this debate will not take as long as the last one. This is the Statutes Amendment (National Industrial Relations System) Bill 2009, the second bill of the package that tries to establish a national industrial relations system. It deals with some transitional and consequential amendments to state laws. The bill provides for transitional arrangements for those employers and employees referring back to the state system and consequential changes to state law, and it updates the South Australian laws to reflect reference to recent changes to some commonwealth law. The bill provides for recognition under the state act for all agreements for local government made under the federal act. This will include federal awards and agreements.

The government argues that, to remove doubt, the bill also recognises all agreements by local government made in the state system from the 2006 to 2009 period inclusive. These two provisions apparently cover councils which went to the federal system and should not have or, indeed, stayed in the state system and should not have. Unregistered agreements and MOUs are not recognised in the bill, but the transitional provisions will allow scope for the parties to legitimise these arrangements. The Industrial Relations Commission will have the power to resolve differences in the transitional arrangements. They will also be able to vary or revoke on application any term of provision of a transitioning award or enterprise bargaining provision. The government says that it was the approach used in 2006 when dealing with certain aspects of the public sector transition into the state scheme.

All agreements transitioning into the state jurisdiction from 1 January 2010 will operate subject to minimum standards in the state Fair Work Act 1994. They will have a sunset clause in two years or the normal life of the agreement, whichever comes first. At this time, they must be renegotiated. Federal awards relevant to local government will be recognised under the state law by regulation from 1 January 2010. The legislation also deals with the bargaining process that is in progress at the time of the transition. If not approved by Fair Work Australia by 31 December 2009, it will be concluded by the state commission.

With regard to the public sector, most government business enterprises will be covered by the state industrial relations system. There will be dual appointments to the federal and state

commissions. Lucky for those people who can get it, and I suspect I know who they might be. The state Industrial Relations Court will be an eligible court under the federal system as well. The bill re-establishes the discretionary approach to the awarding of costs apparently.

The government continues its attack on the Exclusive Brethren and the Exclusive Brethren lose the restriction on right of entry of unions in the state act as that provision does not apply in the federal act. It is unfortunate that the government did not consult the Exclusive Brethren at all about their particular provision. I spoke to them this morning and they confirm that they have not been consulted on this matter. Regardless of your view of an organisation, if you are going to take away their right, then you would think a common courtesy would be to at least consult with them.

I do not have many questions on this bill. I have no need to go into committee, unless the government has amendments to this one as well. No?

The Hon. P. Caica interjecting:

The Hon. I.F. EVANS: You do; okay. The minister in his reply might want to explain why they have taken a decision that agreements transitioning in the state jurisdiction as of 1 January 2010 will operate subject to the minimum standards of the state Fair Work Act, but they will have a sunset clause of two years or the normal life of the agreement, whichever is the earlier. I am wondering why the government will not let those agreements run their normal course; why they are forcing them to renegotiate at the end of two years? I am not sure why they want to put people through that pain, but that is what the government has decided to do.

During the briefing I asked the minister what cost saving there was to the taxpayer as a result of this package. The minister's advice to me at the time was that he had not calculated the cost saving, even though cabinet had signed off on the legislation. It was introduced into the parliament but the government had not yet established the cost saving. Will the minister inform the house of the cost saving to the taxpayer per year of the total package? If the minister answers those two questions, I do not need to go into committee.

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (17:08): I will conclude the debate and, in so doing, attempt to answer satisfactorily the questions of the shadow spokesperson. I have some amendments to move, so we will need to go into committee. Hopefully, we will do it quickly. I will be relatively brief in summing up this bill as many issues were canvassed in my response to the Fair Work (Commonwealth Powers) Bill 2009, the referral bill on which the house recently concluded debate.

I record my thanks for the contributions that have been made on this bill and the previous bill. I emphasise the necessity for parliament to expeditiously consider this important bill. The government appreciates more than anything else the level of cooperation from both the business sector and the union sector in the consultation process with respect to the ongoing development of this bill and the transitional arrangements as they relate to the subsequent agreement that was struck with the commonwealth. It has been a fine example of many sectors that are stakeholders within the industrial relations system working well together.

In closing, my remarks will update members about further constructive developments that have occurred since the bill was introduced last month. I will not repeat this information in view of the urgency associated with the passage of the bills. This parliament's timely consideration of these bills will enable the commonwealth parliament to debate the acceptance of the referral of industrial relations powers. I am advised that the commonwealth minister will introduce a bill to accept our referral and make technical and other necessary changes to the Fair Work Act 2009 in the week commencing 19 October 2009. The commonwealth bill will also provide for transitional arrangements for employers and employees who are currently under the South Australian IR system to move to the federal jurisdiction.

With respect to the question asked by the member for Davenport, there will be that two year preservation because it will not be the job of this bill to change the working conditions that are the subject of an agreement. Terms and conditions of employment encompassed within an agreement will continue to exist for the life of that particular agreement or the two year period, whichever comes first, in order to ensure certainty with respect to the employment conditions for those people who will be transitioning from one jurisdiction to the other.

The Deputy Prime Minister (Hon. Julia Gillard) has confirmed that, amongst the changes to the commonwealth legislation, there will be certain amendments that reflect our intended

participation in the national system as a partner; and I reinforce the point 'as a partner'. In particular, I advise the house that the commonwealth laws will recognise that the South Australian minister will be given standing to make representations to Fair Work Australia in the public interest.

The legislation will also be amended to encourage the heads of Fair Work Australia and our state commission to work together for the effective utilisation of the dual appointees shared by the two tribunals. Further, the role of the Industrial Relations Court was highlighted as an eligible court for the national system. Matters will be enhanced by permitting appeals from decisions of magistrates on such matters to be heard by a judge of the court rather than immediate appeal only to the Federal Court. All these changes have been sought by this government and supported by local stakeholders in order to contribute to a genuine and effective national system.

I also take this opportunity to expand on the explanation I provided in my second reading explanation about the ongoing role of the Industrial Relations Commission of South Australia and Fair Work Australia in completing collective bargaining processes for the local government sector that is returning to the state IR system on 1 January 2010. Where a bargaining process was commenced in the federal system and not approved by Fair Work Australia by 31 December 2009, in my initial remarks I advised that the state commission would conclude the approval process in the state system. While clause 5 of Schedule 1 of this bill empowers the state commission to complete the approval process for incomplete bargaining agreements in some circumstances, it is appropriate that I also draw members' attention to clause 4 of this schedule which provides an efficient mechanism for Fair Work Australia to complete the approval process under certain conditions.

Members will appreciate the ongoing consultation being held with other governments and local stakeholders around establishing a single national IR system for the private sector. I foreshadow at this point a number of minor amendments that the government will move during the committee stage of the bill. They relate, first, to clause 8(6) to include individual transitional employment agreements (ITEAs), along with Australian Workplace Agreements (AWAs) as federal instruments not given continuing effect under the South Australian Fair Work Act 1994. I will canvass the reason for this approach.

We will also move an amendment to remove the declaration of SA Water as a non-national system employer. I will provide further information on that matter, should the opposition spokesperson require it. In order to provide further certainty or coverage for local government corporations and to permit further time for us to consult with that sector on the entities to be excluded, the government intends to amend the bill to enable those entities to be confirmed by regulation.

The honourable member made his point earlier, and I presume he speaks on behalf of the opposition, knowing full well that a comment was made earlier about anomalies that might exist on both sides of the house. I hope the opposition will support these historic bills which will go a long way towards finally bringing about a single national IR system for the private sector in this country.

I appreciate the cooperation we have received from both employers and employee associations in South Australia with respect to reaching this position. Quite frankly, we would not be where we are today if it was not for their collective cooperation.

In concluding, I also thank parliamentary counsel, in particular Richard Dennis, for the outstanding work he has done that has been recognised not only in this state but also at the commonwealth level with respect to the work that needs to be done in relation to its bill. Also, I thank the staff of SafeWork SA, in particular, Mr Peter Hampton and Miss Marie Boland, for the outstanding work they have done; along with the members of my office staff who have worked very diligently towards this result.

I will answer the second question that was raised that related specifically to the costs involved. Participating in the national system will not result in any extra costs to the South Australian taxpayer. Specifically, there are no additional costs to the public sector arising from participation in the national system. On the contrary, there are, potentially, significant cost savings over time associated with South Australia's participation in the national system, with the state government no longer being required to fully finance certain elements of a state industrial relations infrastructure to support the regulation of private sector employers.

Through cooperative arrangements, the commonwealth will fund the provision of supplementary inspectorate, education and compliance services within the national system, using the resources of SafeWork SA. These resources, of course, are still required because of the

continuation of certain state legislation, as we have mentioned, including occupational health and safety, outworkers, shop trading hours and public holidays; and the need to administer those and other state laws.

Specifically, there will be cost savings or additional income to South Australia associated with: reducing SafeWork SA's appropriation funding for IR staffing; contributions from the commonwealth to assist with local service delivery of education enforcement services by SafeWork SA under contract of the fair work ombudsman for compliance and related services and transitional education visits; contributions from the commonwealth to assist with the operation of the Industrial Relations Commission of SA; and maintaining an already downsized commission.

The full details of the net financial benefits to South Australia are currently being assessed and, regrettably, I cannot give a definitive answer at this point in time. It is safe to say that, from our perspective, we have entered into what would be, on any fair assessment, an acceptable arrangement.

Bill read a second time.

In committee.

Clauses 1 to 29 passed.

Clause 30.

The Hon. P. CAICA: I move:

Page 12, line 11 [clause 30, inserted Schedule 2, clause 1]—Delete 'or a pre-reform AWA' and substitute:

, a pre-reform AWA or an Individual Transitional Employment Agreement

Page 14, line 12 [clause 30, inserted Schedule 2A, clause 1]—Delete 'or a pre-reform AWA' and substitute:

, a pre-reform AWA or an Individual Transitional Employment Agreement

Amendments carried; clause as amended passed.

Clause 31 passed.

Clause 32.

The Hon. P. CAICA: I move:

Page 17, line 26 [clause 32, inserted section 302A(1)]—After 'local government sector employer' insert:

brought within the ambit of this subsection by the regulations (either by being specifically prescribed or by being a member of a prescribed class)

I can provide explanations, but it appears we have some agreement on these amendments.

Amendment carried; clause as amended passed.

Clauses 33 to 41 passed.

Clause 42.

The Hon. P. CAICA: I move:

Page 20, lines 17 to 22—Delete clause 42

Amendment carried; clause as amended passed.

Remaining clauses (43 to 48) passed, schedule and title passed.

Bill reported with amendments.

The Hon. P. CAICA (Colton—Minister for Agriculture, Food and Fisheries, Minister for Industrial Relations, Minister for Forests, Minister for Regional Development) (17:21): I move:

That this bill be now read a third time.

The Hon. I.F. EVANS (Davenport) (17:21): I take the opportunity to thank the minister's staff for their briefings, and parliamentary counsel for their work. It is a highly technical bill, so it was good to have their input. I thank those officers of SafeWork SA who had input; and, to those officers who might find themselves in federal roles in the future, I wish them all the best in their new career.

Bill read a third time and passed.

INTERVENTION ORDERS (PREVENTION OF ABUSE) BILL

Adjourned debate on second reading.

(Continued from 10 September 2009. Page 3951.)

Ms CHAPMAN (Bragg) (17:23): I indicate that the opposition will be supporting this bill. We have tabled some amendments, and I think the Attorney was provided with a copy just a few moments ago. For the purposes of this debate, I will be the lead speaker on behalf of the opposition and I indicate that, in the circumstances, having just given notice to the government of the foreshadowed amendments, it would be perfectly reasonable to assume that he will need to have some time to consider them and if there needs to be an adjournment of the final consideration of this bill the opposition will work with the government in facilitating that.

This bill was introduced by the Attorney-General on 10 September 2009, I think it is fair to say, after a gestation period of a couple of years. It is a bill to provide interventional and associated problem gambling and tenancy orders in cases of both domestic and non-domestic abuse. It repeals the Domestic Violence Act 1994 and parts of the Summary Procedure Act 1921 and some consequential amendments to other acts. It is fair to say that some of the features of both the Domestic Violence Act and the Summary Procedure Act—in particular, the personal restraining orders—have been retained and have placed us in the last decade or so under the protection—potentially victims thereof—of the more limited relationship that they have covered.

In November 2006, the government committed to a review of all rape and sexual assault and domestic violence laws. As I recall, Liesl Chapman (who I think was then a member of the Crown Law Office) was appointed by the government to review rape and other sexual assault legislation. That ultimately culminated in bills that came before this house, which have been passed, for improvements in circumstances of prosecuting perpetrators of offences. That has been welcomed, and one would hope that that is now effective in the community not only as a deterrent but also to ensure that there is better access to the criminal courts and more successful prosecutions ultimately with the protection of those who are victims of assault.

Maurine Pyke QC was then commissioned to prepare and release a discussion paper, which she did in February 2007, which was to consider the options for reform in respect of the management of domestic violence. During the course of that, consideration was to be given to a number of issues, to which I will refer in a moment. Similarly, Victoria conducted a review resulting in the Family Violence Protection Act in 2008. So, alongside of each other these states have undertaken significant reviews. Other states in proceeding years have amended their legislation and that then formed quite a significant and I think rich resource of relatively new legislation around the country for Ms Pyke to review and to assist in the discussion by considering legislation that had been produced in other jurisdictions.

The discussion paper outlined a number of aspects for review, some of which were the usual aspects and some of which were quite new and had been considered in different ways by the other jurisdictions. The discussion paper included, I think, 11 main features. One was to identify and come up with a clear set of objects and principles that need to be considered when courts were going to be asked to deal with this big issue. The second was to look at whether the definition of 'domestic violence' and the grounds for making restraining orders should be extended beyond what was historically the usual physical, emotional and psychological abuse.

The third was to look at to whom this law was to apply, that is, the nature of the relationships outside of the domestic common relationships of husband and wife or cohabiting partners in personal relationships and to look at more extended family relationships and incorporating a broader aspect of that, as to other intimate or even carer relationships.

The fourth was to look at, I think for the first time in a comprehensive way, the experiences of children as both victims and perpetrators. Much has been written about their involvement in domestic violence over the years, but this review took a very serious look at how they should be involved both as victims and perpetrators.

The fifth point was to look at other options as to how we might deal with perpetrators, in particular, the removal of the perpetrator from the family home. This is something that has had a long history of debate. No. 6 was to consider the powers of the police to investigate and to intervene. The police have played a very important role over a long time in domestic violence legislation as the people responsible to impose, protect and clean up a number of the messes.

Consideration was to be given as to whether they should have a much greater and particular involvement in the intervention order powers.

No. 7 relates to consideration of some of the procedural difficulties with the process of complaint in summons and whether we could look at more simplified procedures. No. 8 was to consider the issue of the offence of aiding and abetting, and whether this offence should apply to a person where that person is subject to the order. No. 9 was to look at issues relating to the penalties for offenders, that is, escalating ranges of penalties and exacerbating and mitigating factors as to penalty and the like. It would be unusual for any review not to look at that aspect.

No. 10 was to discuss the interface of the family violence orders made in the state courts and then, on the other hand, the parenting and other orders made by courts exercising jurisdiction under the Family Law Act. That has been a tension over the years which has brought some challenges. I think there has been a genuine attempt at mutual respect of the jurisdictions but to try to have mechanisms to ensure that, even if there is overlap, there is a capacity for that to work efficiently and effectively for the protection of victims, and particularly children.

No. 11, of course, was to consider how any reform would then be followed by community education programs. I extend and place on the record my appreciation for the work undertaken by Ms Pyke. I have had the opportunity to work in legal practice with her. She is highly regarded in her field, and I think that the government chose wisely in seeking her to undertake this review. Certainly her report is comprehensive. In a nutshell, this legislation does two things which are somewhat different ultimately from this review. The first is that it very much extends the definition of what is abuse and what is to be deemed abuse for the purposes of attracting the protections to which I will refer later.

Certainly it reflects that, in addition to physical injury and emotional and psychological harm, there is now significant reference to damage to property and unreasonable and non-consensual denial of financial, social and personal autonomy. A second aspect of this expansion of 'protection' is to apply to a much more extended area of relationships between not just spouses and partners but grandparents, siblings and, as I referred to in the review, the carer-and-person-cared-for relationship. Recommendations to expand that have been taken up.

It is a major expansion as to what type of conduct this law will apply to, and a second aspect of that is who it will apply to. The second major area of reform which forms the basis of this legislation is a new regime for intervention orders. Particularly as this legislation proposes to cover a much greater field for a much greater ambit of conduct and behaviour, I think it is important that we get this right. What the government has proposed is that we will have intervention orders, which we already have to the extent of protecting.

They are able to be granted by courts to restrain a person from doing something or requiring something to be done for the protection of a person where there has been an act or a threat of an act of abuse. This legislation will go further, either to make a direction for certain behaviour to cease or to direct certain conduct or a mandatory action to be undertaken. The extension is that it will be for the protection of a person having been suspected of or defending and/or committing an act of abuse on any child; that is, to prohibit contact with a person by texting, telephoning or emailing, as well as prohibitions on proximity and exclusion from the family home, etc. It also includes the surrender of weapons or articles.

Again, the intervention orders now are to deal with a much greater number of forms of intimidatory behaviour, if I can put it in a general sense, because modern technology means other than just physically threatening someone. We already know that it has been done over the telephone and other forms of communication. Texting now is something that we hear a lot about in respect of schoolyard bullying. Not surprisingly, the generation Z children are the majority of victims of this at the moment. Clearly, this legislation anticipates, as it should, that this is a form of communication that can be offensive and threatening and needs to be protected against, and therefore it has been extended.

The grounds to issue these intervention orders are now extended to be anticipatory—that is, there does not need to be any prior act of abuse or in fact a threat in that regard. If the circumstances are sufficient, then an order can be made to protect another party even if there has not been some prior act of abuse commissioned. The new initiative by the government in this bill—

The Hon. M.J. Atkinson: Aren't all initiatives new?

Ms CHAPMAN: No. It proposes that both the police and the court have the capacity to issue interim intervention orders. Currently, the processes under the Domestic Violence Act and Summary Procedures Act provide only for a court to determine this.

The proposal is that police who have the rank of sergeant or above (although in some circumstances an investigating officer of a much lower rank can apply but with the written or telephone authorisation of the more senior officer) can come into this process and can grant an interim intervention order. In fact, the bill provides that they will even have power to hold the defendant in some form of custody for up to two hours (or even longer with the court's permission) to enable them to actually make the order—presumably to ring the superior officer and get approval to make the order.

I am assuming, from what I have read in the second reading explanation, that that will enable them to hold the defendant in a police car or hold them in the garden or somewhere without formally arresting them, because they have not committed any offence—remember, these are anticipatory—giving them the ability to say, 'You have to wait here until I go and ring my superior officer' and proceed with that.

The police, under this bill, will also have additional powers to hold and detain the defendants to prevent further abuse and protect the other party. In this case, it can be up to six hours or longer with a court order where they are holding somebody where there is a suspected breach. They can, of course, arrest and detain them first in custody without a warrant of suspected breach of an order for up to 24 hours, not including a weekend or public holiday, and they can be held for up to three days over a long weekend.

Anyone needing protection following an act of domestic or personal abuse may apply including a child over 14 years or the police or relatives, so it is quite an extensive group. Information from the public sector agencies may be required to be released as to the whereabouts of the defendant. There is clearly an opening up of access to information, an opportunity to seek protection before something serious happens and the power to determine whether at least an interim order is made is now to be extended to senior police personnel.

There are certain processes past that where, when a matter comes to court, the court can ultimately confirm an interim order. The court can issue an interim order, an intervention order or substitute it, or the court can dismiss the application and revoke the interim order. There are certain requirements in respect of service and there is also an initiative to deal with something which had been previously potentially a problem in some cases where all orders are to continue until revoked—that is where a fixed term order arrangement is not provided for.

There are measures to help victims of abuse to either leave the home sooner or stay in their home. That is the power to prohibit a perpetrator from being at or near the home if they own or rent it, and the court or police may also order the defendant to return specific personal property to a protected person. The Youth Court will be the forum to hear applications made by children and if children breach an intervention order—which one would hope would be a rare occasion—then that would also be heard by the Youth Court.

There are also obligations for other relevant public sector agencies such as Families and Communities, Education and Housing SA to be notified and I think, quite sensibly, there is also a continuation of prohibition of publication of court proceedings. There are a number of occasions, particularly when children are involved, whether it is in criminal cases or family law cases, where there are very strict rules in respect of publication. In fact, it is prohibited except in certain circumstances, and for a good reason, which I am sure is well known to the house.

Concerning the consultation that the opposition has undertaken in respect of these reforms, a number of what we think are important, interested parties had not been consulted since the publication of the bill but may well have been invited to make a contribution during the development and to comment on the discussion and options for reform that were published back in February 2007. However, we had made some inquiry as to the development of the reform in Victoria culminating in its legislation.

That, I think, was important particularly for the foreshadowed amendments that we have indicated that we will progress as to the use of police for interim intervention orders, because we will be proposing a different system.

The government provided us with a briefing on this bill and we appreciate those who gave of their time in doing that. It is fair to say that, in considering Ms Pyke's review, the government has

picked up many of her recommendations in this bill, and they will have the opposition's support. But something she did not recommend is the proposal that the police have power to issue interim orders. I think that is important because it raises the question of the novelty of the government's approach on this. If we felt it was meritorious, then it would have our support notwithstanding its novelty.

It is interesting to note that the Victorian Law Reform Commission (I think it was the commission but it may have been a committee) undertook a review of its legislation and considered whether the police should have the power to make short-term intervention orders rather than having to apply to a Magistrates Court for after hours orders. On balance, that commission believed that it was more appropriate for the Magistrates Court to make the interim orders outside business hours rather than the police. It commented that it may need to be reconsidered if the Magistrates Court did not implement an efficient system for making intervention orders after hours, but it still made the decision that it was a matter for the jurisdiction of the court, not the police.

I said earlier that the police, probably from time immemorial, have had significant involvement over a number of decades in managing difficult situations where domestic violence has arisen. They are the frontline people who are called out to deal with many of these cases, and they are difficult. It is not as though they do not have intimate knowledge of what happens in these situations, but the opposition shares the view of the Victorian Law Reform Commission that those roles of adjudicator as well as enforcer of an order should be separated and that it should remain with the courts.

The review by Ms Pyke recommended consideration of the Western Australian model, which provides the power to police officers to make orders for a very short period (usually 24 hours). This is in the nature of providing a cooling off period and it is a different approach. It is one where the police would not be making an interim order which could last days or, in fact, a week. It is one where the police would have the power to remove the offender from a situation where others are at risk of abuse. For a short period of time, they would have the power to direct that they stay away from the protected person.

In Western Australia they are obligated to make accommodation or some kind of sleeping quarters available to the person that they have removed. I understand there is a men's respite house in Western Australia—and possibly a women's respite house, although I am not sure—to facilitate that. Ms Pyke recommended that as an option to be considered favourably. In line with that, the opposition proposes amendments to this bill to remove the interim intervention orders available to police officers but to insert a model which enables members of the police force to act in a manner which has been called a time out order, which is the description which has been foreshadowed.

There is significant data to support the reason why this legislation needed to be reviewed, updated and expanded; the opposition accepts that. We have had some submissions from people who have been concerned about excessive public statement on women as victims. It is true that, during the course of these debates, other victims including children and men have been overlooked in the statistics. I remember hearing recently that eight women were killed in domestic violence situations in the past eight months or so but, over the same time, I think two children and four men died in domestic violence situations.

We need to be conscious of the fact that there are many victims in these situations and different genders and age groups need to be protected. Without detailing a number of other statistics in this regard, we accept the review wholeheartedly and we welcome the government's initiative in bringing forward this legislation. One thing was raised during the course of the government briefing which I was a little concerned about.

We had heard that the government was going to put in $868,000 into an anti-violence education and advertising campaign, which I have started to hear on the radio; I think it was the Don't Cross the Line campaign. Meritorious as that may be, one thing that really concerns me is that the implementation and expected commencement date of this legislation, even if we pass it straight away, will be some 12 months away. The reason given for that is that, if we utilise police services particularly to become involved as the arbiters and issuers of these interim orders, they will need to have special training and so on—and I would not doubt that; of course they would.

If the government considers our amendments and removes them from the responsibility that is proposed to be put on them in that regard, this would not be necessary and we would be able to bring in this legislation pretty much straight away. We are already lagging behind the other

states, so it is important that our reforms are not only passed in this house but actually implemented. We would not want another year delay in the protection, well intentioned and worthy as much of it is, for the 12 months that was foreshadowed. I would ask the Attorney to reconsider that aspect.

I indicate that a number of groups have contacted the opposition which have been concerned about the plight of victims in family situations. We have not yet heard from all of the stakeholders. I think the carers association is one which we do need to hear from, so there may be other amendments that we will need to consider in another place, but otherwise I indicate that the government's bill will be supported, with the amendments foreshadowed.

The Hon. M.J. ATKINSON (Croydon—Attorney-General, Minister for Justice, Minister for Multicultural Affairs, Minister for Veterans' Affairs) (17:57): I am most grateful for the member for Bragg's thorough analysis of the bill and for the parliamentary Liberal Party's bipartisan support.

Bill read a second time.

In committee.

Clause 1 passed.

Progress reported; committee to sit again.

[Sitting extended beyond 18:00 on motion of Hon. M.J. Atkinson]

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

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

No. 1. Clause 5, page 5, line 4 [clause 5(3), inserted subsection (4)]—

Delete 'subsection (2)' and substitute:

subsections (2) and (3)

No. 2. Clause 5, page 5, lines 14 to 18 [clause 5(3), inserted subsection (5)]—

Delete inserted subsection (5) and substitute:

(5) If a copy of the roll is provided to a person under this section, a person who uses that copy of the roll, or information contained in that copy of the roll, for a purpose other than—

(a) the carrying out of functions of a member of the Parliament of the State or the Commonwealth or a council constituted under the Local Government Act 1999; or

(b) the distribution of matter calculated to affect the result of a State, Commonwealth or local government election or purposes related to the holding of such elections,

is guilty of an offence .

Maximum penalty: $10,000.

No. 3. Clause 7, page 5, line 39 [clause 7(5), inserted subsection (6)]—

After 'Parliament' insert:

or is a nominated candidate for an election

No. 4. Clause 8, page 6, after lines 5 to 11 [clause 8, inserted section 31A(1)]—

Delete subsection (1) and substitute:

(1) A person may apply for enrolment under this section if the person—

(a) is in South Australia and has lived in South Australia for a continuous period of 1 month prior to the date of the application for enrolment; and

(b) qualifies for enrolment under section 29(1)(a), (b) and (d) but does not qualify for enrolment under section 29(1)(c) because he or she does not have a fixed place of residence (whether within the State or elsewhere).

No. 5. Clause 8, page 6, lines 17 to 19 [clause 8(3)]—

Delete subclause (3)

No. 6. Clause 8, page 6, lines 26 to 33 [clause 8, inserted section 31A(4)(c)]—

Delete paragraph (c) and substitute:

(c) the Electoral Commissioner will cause the name of the person to be entered on the roll—

(i) for the subdivision for which the person last had an entitlement to be enrolled; or

(ii) if the person has never had such an entitlement, for a subdivision for which any of the person's next of kin is enrolled; or

(iii) if neither subparagraph (i) nor subparagraph (ii) applies, for the subdivision in which the person was born; or

(iv) if none of subparagraphs (i), (ii) and (iii) applies, the subdivision with which the person has the closest connection.

No. 7. Clause 8, page 6, lines 35 and 36 [clause 8, inserted section 31A(5)]—

Delete 'and after taking into account any address specified under subsection (3)'

No. 8. Clause 9, page 9, line 11 [clause 9(3), inserted subsection (3)]—

Delete 'member' and substitute:

person

No. 9. Clause 9, page 9, line 15 [clause 9(3), inserted subsection (4)(a)]—

Delete paragraph (a) and substitute:

(a) a person who is relied on by 2 or more political parties may nominate the party entitled to rely on the person, but if a party is not nominated after the Electoral Commissioner has, in accordance with the regulations, given the person an opportunity to do so, the person is not entitled to be relied on by any of those parties;

No. 10. Clause 9, page 9, line 24 [clause 9(3), inserted subsection (4)(b)]—

Delete 'member or members' and substitute:

person or persons

No. 11. Clause 23, page 15, lines 10 to 14 [clause 23, inserted section 66(5)]—

Delete subsection (5) and substitute:

(5) The presiding officer at each polling booth must—

(a) ensure that, in relation to a House of Assembly election, posters prepared under subsection (1)(a) are displayed in each voting compartment; and

(b) ensure that all other posters and booklets prepared under subsection (1) are displayed or made available (as the case may be) in a prominent position in the polling booth and in accordance with any direction issued by the Electoral Commissioner.

No. 12. Clause 40, page 23, lines 16 to 38, page 24, lines 1 to 20—

Delete inserted section 112C

No. 13. Clause 43, page 25, lines 12 to 36 [clause 43(2), (3), and (4)]—

Delete subclauses (2), (3) and (4)

No. 14. Clause 44, page 26, after line 2—Insert:

(a1) Section 116(1)—after 'written form,' insert:

in a journal published in electronic form on the Internet

No. 15. Clause 44, page 26, line 4—

Delete 'by publication or'

No. 16. Clause 44, page 26, line 10 [Clause 44(3)]—

Delete ', or an electronic publication on the Internet,' and substitute:

(including a journal published in electronic form on the Internet)

No. 17. Clause 44, page 26, line 11 [clause 44(4)]—

Delete subclause (4) and substitute:

(4) Section 116(2)(c)—delete paragraph (c) and substitute:

(c) the publication in a journal (including a journal published in electronic form on the Internet) of an article, letter, report or other matter if—

(i) the name and address (not being a post office box) of a person who takes responsibility for the publication of the material is provided to the publisher of the journal and retained by the publisher for a period of 6 months after the end of the election period; and

(ii) the journal contains a statement of the name and postcode of the person who takes responsibility for the publication of the material;

(ca) the publication of a letter (otherwise than as described in paragraph (c)) that contains the name and address (not being a post office box) of the author of the letter;

No. 18. Clause 46, page 26, lines 22 to 31—

Delete clause 46

No. 19. Schedule 1, page 27, line 25 [Schedule 1, clause 4(2)]—

Delete '2010' and substitute:

2011

Consideration in committee.

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

That the Legislative Council's amendments be agreed to.

Mr HANNA: I take it then that we are addressing these amendments en bloc. I approve.

Ms CHAPMAN: I indicate the Liberal Party supports the amendments made after wide deliberation in another place, and I am pleased the Attorney-General has agreed to accept the same.

Motion carried.

LIQUOR LICENSING (PRODUCERS, RESPONSIBLE SERVICE AND OTHER MATTERS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STATUTES AMENDMENT (ELECTRICITY AND GAS—INFORMATION MANAGEMENT AND RETAILER OF LAST RESORT) BILL

The Legislative Council agreed to the bill without any amendment.

NATIONAL GAS (SOUTH AUSTRALIA) (SHORT TERM TRADING MARKET) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

At 18:01 the house adjourned until Wednesday 14 October 2009 at 11:00.