HOUSE OF ASSEMBLY

Wednesday 14 September 2011

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:00 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (11:01): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

SELECT COMMITTEE ON THE GRAIN HANDLING INDUSTRY

Mr BROCK (Frome) (11:02): I bring up the interim report of the committee.

Report received and ordered to be published.

Mr BROCK: I move:

That the interim report of the Select Committee on the Grain Handling Industry be noted.

First, I would like to congratulate and thank the select committee—two members of the opposition and two members from the government. It has had fantastic bipartisan support and has been very much a learning experience so far. We have gone all over the state to have some public discussions and consultations and we also have had quite a few hearings here in Parliament House. Sometimes we have talked with one person and we think we have something covered but it opens another one or two doors. This has been an absolutely fantastic select committee and, again, I congratulate all members and also the staff for assisting us to date.

The 2010-11 harvest was a record harvest in terms of total tonnes of grain but it was marred by poor management of the receival and classification of grain at sites managed by Viterra. The decision to not use falling numbers machines to test the quality of grain that may have been affected by moisture was a mistake. The subsequent confusion that was experienced by farmers was unnecessary. The reason given by Viterra for its decision was to speed up the movement of trucks, and it created a situation that could only be described as chaotic and probably failed to achieve any quicker movement of the trucks.

The fact that Viterra could refuse to provide the falling numbers tests has only highlighted a weakness in the grain classification system, an issue which needs to be addressed by the industry. It was this single issue that created such anger and frustration among the farmers across the whole state. The committee felt the disappointment that was expressed by so many people who had the courage to provide evidence at the public meetings across all of South Australia.

The inquiry has also taken evidence on a range of issues that are central to the future prosperity of the industry in a deregulated market. Those issues cover transport and storage infrastructure, research and development, access to port, rail and storage services, and the standard of facilities at grain receival sites. There are wider issues. It became apparent to the committee that there are deeper problems in the structure and management of the grain handling industry that need to be addressed.

Deregulation of the grain industry is generally accepted as a change that will benefit the industry in the long term. However, there are problems with the implementation of deregulation that cannot be ignored, and it is too simple to leave it to the market forces to sort out the problems. Deregulation, like any major change in public policy, needs to be monitored closely and, where necessary, altered to achieve the desired objectives.

The infrastructure and established practices for management of the harvest evolved over many years under the single desk concept and under the concept of a cooperative that was owned by the farmers. The changes required to maximise the benefits of deregulation will take time to evolve. There is currently no formal process for identifying and implementing these changes. On current evidence, the committee is concerned that deregulation may have introduced some benefits but there are some aspects of the industry that have been overlooked, such as the recognition of Australian grain as a premium product in world markets.

Some of the wider issues to be investigated by the committee include: infrastructure planning for roads, rail, ports and grain handling sites; provision of information regarding quantity and quality of stocks held by the bulk handling companies so that traders are able to provide a competitive service to the sellers (who are the farmers) and also the buyers; fair and open access to ports on terms that are transparent but provide a commercial return that takes account of investment and risk; management of an investment in road and rail infrastructure that can provide an efficient service to the industry; involvement of local government in planning for harvest (local government is often the front line when it comes to managing the roads, and in many cases it is responsible for the condition of these roads); and the control and direction of research funding within the industry—is the funding being directed to issues that will benefit the industry?

The committee's investigation on these issues will take into consideration the commercial and legal factors that underpin the rights of all parties involved in the grain industry. The objective is to establish parameters that will encourage development of a successful grain industry with a capacity to continue to be a major contributor to the economic and social wellbeing of South Australia and also Australia.

The committee welcomes the moves that have been indicated by Viterra in their post-harvest report, in particular the purchasing of falling numbers machines. However, there appears not to be any committed operational policy or statements as to how these machines may be accessed by growers who may have a concern with the grade of grain being classified at the sampling points at the storage sites.

There were various terms of reference, which I will just list here, and the report is self-explanatory and very detailed. The committee recommends:

- that Grain Trade Australia be required to mandate that in the case of a disputed grain classification, an objective measurement be made available to the farmer at the sampling point;
- that the relevant commonwealth and state ministers be requested to provide direction to the industry on the implementation and enforcement of a dispute resolution process that mandates the use of objective tests;
- that grain handling and storage operators be required to publish an annual management plan for receival sites prior to each harvest. The management plan is to be prepared in consultation with silo committees, local government and other relevant stakeholders; and
- that information regarding stock levels and grades be made available in a timely manner to farmers and traders to ensure transparency and fairness.

Those are the recommendations. However, there are further committee concerns and future directions which are to be further investigated.

The evidence before the committee indicates that the current regulations are not providing the basis for a vigorous and competitive market and there is need for the policymakers and industry to review recent changes to ensure the objectives of the regulations are being achieved.

The committee is yet to be convinced that appropriate and long-term research has been properly coordinated and directed to meet the demands of future markets. Submissions received by the committee have highlighted concerns within the industry about access to ports. The committee will seek further information from industry participants on this issue and will also consider the implications of the arrangements that have been proposed by Viterra as part of the negotiations with the ACCC which were to be released on 11 August 2011.

The committee also has concerns with the out-turn quality of grain from South Australia and the effect any adverse publicity arising from problems with the 2010-11 harvest may have on future sales. It believes that if objective assessment had been made available at receival sites during the 2010-11 harvest this would have provided a level of confidence in the market with regard to the out-turn quality of grain sourced from South Australia. The committee will continue its investigation on this issue during the next harvest.

The committee intends to investigate the adequacy of road and transport infrastructure in more detail, with the objective of ensuring there are appropriate planning and development processes or procedures available to support the changes that are necessary to ensure a viable basis for the industry.

The committee notes that deregulation of the industry will require rationalisation of existing infrastructure. The committee intends to investigate this issue in more detail with the objective of ensuring there are appropriate planning and development procedures available to support the changes that are necessary to provide a sound basis for this industry.

Also of concern, given the bumper harvest of 2010 and 2011, is that the committee has heard that carryover at the various storage sites will directly affect the capacity of the industry to receive the next harvest, which is also expected to be above average; and we can only hope that the grain industry does have another good year. While these views have not been included in the interim report, the committee will maintain a watching brief on the capacity of bulk handlers to receive the 2011-12 harvest. Madam Speaker, I commend the report to the parliament. I also thank the parliament for allowing me to chair this committee: it has been an absolute joy.

Mr BIGNELL (Mawson) (11:14): I also rise to support this interim report and to let the parliament and the people of South Australia know that we intend to work hard on having a final report some time after the 2011-12 harvest, because we want to make sure that we can get out there and see that the changes we have been assured by people in the grain industry will be made have, indeed, been made; and we have put Viterra on notice, in particular, that we do not want to see any repeats of what happened last harvest.

It was obvious from the heart-felt stories we heard as we travelled throughout all the regions in South Australia to listen to farmers and others involved in the harvest that things went awry last season. A lot of that had to do with the downgrading of classifications, and there was some quite obvious shortcomings in the way in which Viterra classified people's grain. The member for Hammond, the member for Frome and I recently went to Canada. We had 4½ days there and we travelled through three provinces of Canada. We met with Viterra and sat around their board table in Regina, and we made it quite clear that the Liberal Party here in South Australia, the Labor Party in South Australia and the Independent in the member for Frome would be keeping a close eye on what they were up to.

We took their assurances that they knew that they had done things not as well as they perhaps could have done. We took their word that they want to rebuild those relationships with the farming communities of South Australia, but we also told them that they had no place to hide, because every member in this house is a stakeholder in the grain industry. It means so much to our state's economy. We really need every dollar possible going into the pockets of farmers in our regions, into our regional economies and into our state economy and not to be shipped offshore. We do not want to see anyone short-changed.

The interim report addresses many of the classification issues and other issues under the terms of reference; but, as I said, we will be out there doing more. I really want to pay tribute to the courage of a lot of farmers throughout the state—people who spoke to us were close to tears at times. They really had been ripped off to the tune of tens of thousands of dollars in some cases, and in some cases much more money than that. Thank you to all those people who had the courage to come forward—some on the record, some off the record. It is not easy, and we did point out to all witnesses that, if they felt any intimidation from anyone, they were to report that to the parliament and we would take the appropriate action.

I would like to thank fellow committee members. It has been an absolute privilege and a pleasure to serve alongside the member for Frome (as our chair), the member for Light, the member for Hammond and the member for Chaffey. I would also like to thank those local members of parliament who sat in on our hearings in the regions. The member for Schubert was there, the member for Flinders was there and the member for Goyder was there when we went to the Yorke Peninsula. Thank you for giving up your time.

It was through the stories that we heard by going out into the regions on all sides of parliament that led to this being a committee that was formed with the support of both sides of the house, and, of course, the Independents, because we had all heard the stories and we all wanted to get to the bottom of it. One of the things we did in Canada was to meet with Earl Geddes, the Executive Director of the Canadian International Grains Institute. I really want to thank Earl for setting up a series of meetings that meant that we could do three provinces in 4½ days.

Earl did say to us that the main competitor they have in Asia is Australia, and that when the Australian Wheat Board disappeared so did all the posters in the mills and the other operations around Asia. He said that there is no doubt that Canada has had a leg-up by what has gone wrong in Australia. We need to make sure that things are corrected in the regions of South Australia, but

we also need to make sure that things at the end of the market are also improved, and we need to make sure that we as a state and the grain industry here are actually meeting the market in terms of the research that we do and the innovation that we do.

As I said, our group will continue to meet and will continue to keep an eye on things over the summer. I look forward to the final report being presented in this place next year. I would also like to thank the parliamentary staff, David Pegram and Rachel Stone, who worked on the committee with us and travelled the state with us, as well as John Parkinson, our research officer. Thank you very much for all your help. I also thank the Hansard staff who came with us around the state.

Mr PEDERICK (Hammond) (11:19): I fully endorse the comments by the member for Frome, the Chairman of this select committee, and the member for Mawson. This has been a great committee, and I am so glad that I managed to introduce this into the parliament on 9 March. From my research, we met 27 times, and we heard oral evidence from 115 witnesses and received 53 written submissions. That outlines just how important the grain industry is to this state. We note that it is the biggest export earner for this state, still well above mining, and it should be so recognised.

Before I go on with more remarks in relation to the interim report, I too would like to reflect on the cooperation between members of the committee. I salute the work of Geoff Brock, the chairman, and my co-members Tim Whetstone, the member for Chaffey; Leon Bignell, the member for Mawson; and Tony Piccolo, the member for Light. We certainly have worked well together and will continue to work well together so that we get a completely bipartisan outcome for the grain industry of this state, as we are all very serious about the future of that industry, and this committee is working exceptionally well.

I also compliment the staff who have been working with us on this committee: I note David Pegram, Rachel Stone, and John Parkinson, who does all the research work, and all the Hansard staff who have assisted us not only in this place but as we travelled around the state far and wide to record the transcripts of evidence, set up for meetings, pack up and move to the next meeting. As members of the committee would realise, we had some pretty fast moves some days. We chartered a plane over to Eyre Peninsula, moved around there for several days, and came back through Yorke Peninsula. We also met with farmers and marketers across the Upper North and met with growers in the South-East, the Murray Mallee and the Riverland. We have had a pretty fair go at making sure that everyone involved in the grain industry can have their say.

As the member for Frome, the chairman, indicated earlier, this committee was formed because of the angst caused to producers during the last harvest when the main operator of the grain handling industry in this state, Viterra, refused access to falling number machines. I have indicated in this place before that I was constantly on the phone to Paul Tierney. I have always acknowledged that Paul Tierney, the Corporate Affairs Manager for Viterra, would always ring me back if I did not get him in the first instance. I was almost pleading with him in December and during harvest to just give the farmers access so they knew they were getting the right quality. Viterra would not move its position.

Sadly, that has taken hundreds of millions of dollars out of regional South Australia that could have been passed on through the households and assisted in paying off land and in purchasing an upgrade of machinery. Sadly, that opportunity has been denied, but it looks like we are on the up. Viterra has indicated that it is purchasing 78 falling number machines, and it has stressed that this has been at the great cost of $4 million. That may be so, but I understand that Viterra also spent $2.6 million on its signage in the last 12 months, so I do not want too many tears shed over the $4 million when we have had over a 10 million tonne harvest come in. Most of that obviously has to go through the shipping stem of Viterra and out through the Viterra ports, which are an absolute monopoly.

In saying that I must congratulate the other operators who did operate in a difficult harvest. They are difficult harvests—wet harvests and sprouted grain—there is absolutely no doubt about it. I dealt with it in 1992 and 1993. South Australian Cooperative Bulk Handling managed to handle the situation then and get access to about 80 falling number machines. Viterra used the excuse that it would hold up the lines. I do not think holding up the queues was a good enough excuse. As I have indicated in this house before, people were managing to upgrade the rate per tonne for their grain by up to $130 by getting an upgrade in classification and going to a GrainFlow site and getting access to falling number machines. It certainly looks like the grain players—mainly Viterra—are the ones that would not give access to these machines. However, it looks like they are going to

give access, but we are yet to see the formal policy rules that will be in place for the use of those machines. I just hope they come into place immediately when grain is classified off-truck.

It is interesting to note that farmer deliveries were not classified with falling numbers but, if a third-party trader wanted to get their grain into a Viterra site, it would have had to go through a falling number machine. Also, when it is out-loaded onto a train, it has to go through a falling number machine. So, it absolutely fell down at the first-point delivery by the landholder.

I am very pleased that there were other options for many growers to deliver their grain. I just hope that the industry as a whole—not just Viterra, there are plenty of other players in the industry—take a good look at our interim report. As the Chair indicated, there is plenty of work to do. We want to have a very good look at the grains industry. We have more work to do on transport infrastructure, access to ports and the transparency of information, even though we have made recommendations about the transparency of information in this interim report.

Having been involved in the grain industry all my life, I have often said that you can have a grains committee go on for ever, but I am very pleased that we will still be in motion over the next harvest so that we can monitor events and see which of our recommendations are taken up.

I want to reflect on a couple of other things that have happened recently. One is the Canadian trip, which I thought was a fantastic insight into how the Canadian grain industry works. I would like to personally thank my Conservative political friend, Cliff Graydon. I met this man in London last year at the Commonwealth Parliamentary Association Conference. I gave him a call and said, 'We'd like to come to Canada and look at the industry.' He got in touch with Earl Geddes, the Executive Director of the Canadian International Grain Institute, and everything went from there. They did great work.

We went to Winnipeg, which is basically the centre of the Canadian grain industry. We met with representatives from the Canadian International Grain Institute, the Canadian Wheat Board and the Canadian Grains Commission. They have some great initiatives in place, where people can challenge classification.

The Canadian International Grain Institute, which does the research work, brings people in to see what they are doing with grain. It is taking the lead role, not just for any one particular body but for all the major players in Canada, and there is plenty of competition, with the Pattersons, the Cargills, the Louis Dreyfuses, the Richardsons, etc.

The trip provided a fantastic opportunity to get an insight into how things work in Canada. What intrigued me was that producers can still load their rail trucks—they call them cars—produce the cars at their local siding, if they book them, and send them in, fully trusting the Canadian Grain Commission's sampling and classification when it gets to the other end. They have a great system over there, and it works well. I think there is obviously an opportunity to perhaps down the track have a national oversight body in this country to make sure that we get it right and that we do not see the absolute stuff-up that occurred at the last harvest happen again.

I ran into a young casual Viterra classifier on Saturday night. She was pained in telling me the story about how they had to deal with different sprouting limits during the day that changed three times. She vowed and declared that she would not want to go back there again. So, that was the effect it had on staff, and we had those sorts of messages imparted to us during our tours around the state. So, let us just hope that that improves, because I think it was certainly an occupational health and safety issue in that staff had to sample grain only visually and not objectively.

We have the four recommendations there, and we certainly have other points that we are looking at into the future. I commend the interim report. I think the committee has done great work. I thank the committee and the staff, and I thank Hansard for what they have done as well.

Mr VENNING (Schubert) (11:29): First, as always, I will declare my interest as a grain grower and also that my brother is one of the two South Australian directors in Viterra which, of course, causes no end of family ructions in our house, particularly now that this company is listed on the stock market and is out there to protect its shareholders. In the old days, grain authorities looked after farmers. That is no longer the case. They look after the shareholders now, which they are obliged to do, of course, by the laws of this land.

I commend the committee for a job well done. I attended a few committee meetings. Well done to chairman Brock; he did a great job. I envy members of the committee because they would

have had a very good look at the country and met a lot of very fine people on their trip. There are four recommendations. The first one is:

That GTA be required to mandate that, in the case of a disputed grain classification, an objective measurement be made available to the farmer at the sampling point.

I totally agree. I could not agree more with that. This was the single biggest problem during the harvest, where farmers lost thousands and thousands of dollars by, in some cases, alleged mis-sampling and mis-classification of their grain. There were certainly some disputes.

I am very concerned that they did not do a deal with CBH, Western Australia, and get the falling numbers machines across the border. They were not using them because they had had a poor year. I am very pleased that they have now arranged to buy enough falling numbers machines for access to most farmers. So, that was the single biggest problem.

Also, I believe, as I heard in some of the evidence and read in some of the paperwork, that where a load is classified at a certain silo and when it cannot be delivered to that silo, the farmer should be able to take it on to another silo where it can be delivered without another classification.

What was happening was that they would get down to the next silo and be reclassified as something different, so they would have to go back again. Hopefully, that will be resolved, so that once it has been classified, with a certificate and a time limit on it, because we do not want anybody going home and unloading and reloading—there are ways, by putting a tape across the tail board of the truck even—so long as it is delivered in a timely manner that should be the case. Recommendation 2 is:

That the relevant Commonwealth and State Ministers be requested to provide direction to the industry on the implementation and enforcement of a dispute resolution process that mandates the use of objective tests.

I find this a bit confusing. It needs to be more specific in what it really means. How do the state and federal ministers get involved, and should that be regulated? Should that come under some legislation before this or the other house in Canberra? The third recommendation is:

That grain handling and storage operators be required to publish an annual management plan for receival sites prior to each harvest. The management plan is to be prepared in consultation with Silo Committees, Local Government and other relevant stakeholders.

Yes; but do not overreact. We are already seeing an overreaction. We do not need even more paperwork, more regulation and more bureaucracy, but we are seeing it, particularly with the safety regulations.

I am told that for me to go for my one or two trips a year to the silo, which I do out of tradition, I go in with the last load, I now have to go in with a vest and a hard hat, do a test and be authorised to go onto the site. What a lot of rubbish for my two trips, but if it is consistent with safety then I suppose I can understand.

During the harvest, I did go at night to the Wheat Board site and to my joy it was open until midnight. The Viterra site was closed. It was the middle of the night, there were people running around everywhere and I was happy to put a vest on so that I could be seen and so that I did not get flattened. We cannot afford a by-election in Schubert.

So, I am happy with that, but the hard hat, I think, is a bit over the top, particularly just to get out of the truck to go up into the sampling shed. Hard hats and vest—over the top.

Mr Bignell interjecting:

Mr VENNING: There was an accident, I understand, but I think that is a bit over the top. The fourth recommendation is:

That information re stock levels and grades be made available in a timely manner to farmers and traders to ensure transparency and fairness.

Yes; absolutely yes. That is the single most important recommendation on this paper, because everybody needs to know where the grain is.

Just because Viterra is a marketer—not only a marketer, they are also the handler—they should not have any extra competitive advantage over anyone else in knowing where the grain stocks are, the samplings and everything else. So, I think that is a very important recommendation: the access by third parties to that information. An addition to this, you might look into a further report, Mr Chairman, is in relation to the grain path from the various silos onto the ships. We have heard various accusations that the other third parties, if they can get access to the port, cannot get

access to the train or the weigh bin at the silo. There is always a problem that the third parties seem to have about getting access.

Whether this is just put up there as a smokescreen attacking a monopoly, which we have here, I do not know but I do know that the second biggest grain holder in the state, GrainFlow (now called Cargill), has hardly moved a grain at this point. Here we are six to eight weeks before harvest and they have hardly moved a grain. When I asked the question why not, they said, 'Well, we can't get trains.' The accusations that Genesee & Wyoming and Viterra have done deals, I cannot substantiate those, but these are the accusations floating around out there. You cannot get access, the cost is too high, and so the grain is still sitting there. I hope it moves in the next few weeks.

I appreciate the work done by David Pegram and Rachel Stone. Well done. They are two very good officers of this parliament. Remember that we no longer have a single desk in this state or a grower-owned cooperative to handle our crop or a grower-owned marketing body. Worse than that we have put them together and we have given them to a private entity, which I think was a very bad move.

We have made mistakes, farmers have made mistakes, particularly SAFF has made mistakes, but this is a direct result, I think, of that mistake. We now have to live with it, and I think that the committee has done a pretty fair job of saying, 'Hang on. This is what happened. This is what we are going to do, and we have to move on.' I support the motion and commend the committee's report.

Mr PICCOLO (Light) (11:37): I would like to make a couple of comments in relation to this matter in support of the receipt of the report. Firstly, I thank all the members of the committee and I concur with the member for Hammond that the committee has worked very well together, and I also thank the member for Frome for his leadership of the committee, and the parliamentary staff and the research officer who have provided valuable advice and assistance to the committee.

I will not mention all the things that have already been covered by other speakers because I do not think it is helpful, but I would like to make a couple of comments. Firstly, I would like to respond to the member for Schubert in his ongoing attack of SAFF. Whatever Venning's problem is with the Farmers Federation, it is their problem, but I must confess that—

Ms Chapman: The member for Schubert, thank you.

Mr PICCOLO: Sorry, the member for Schubert. Sorry. What did I say?

An honourable member: Venning.

Mr PICCOLO: Whatever the problem the Venning family has with SAFF is a private matter and they should deal with it. One gets a little tired of every opportunity where the member for Schubert gets up—even in giving evidence to the committee he had a go at SAFF. I would have thought that SAFF actually speaks more for that industry than the Venning family do, and certainly the evidence to the committee would suggest that, too.

Mr Venning: What a poisonous twist!

Mr PICCOLO: You raised it.

Mr Venning interjecting:

The SPEAKER: Order!

Mr PICCOLO: Hold on. You—

The SPEAKER: There will be no arguments across the floor in this place.

Mr PICCOLO: The member for Schubert opens a door, then he closes it once he wants to.

Mr Venning interjecting:

The SPEAKER: Order, the member for Schubert! And member for Light, back to your speech.

Mr PICCOLO: Thank you, Madam Speaker. A couple of things I think are important are that, firstly, I disagree with the member for Schubert. I do not think we should trivialise occupational health and safety, and the way he portrayed that—if he wants to have his traditional one visit to the silos, that is his problem. Other people go more than once. We should never underestimate the

importance of making sure that our people who work in these sites are kept safe. Every year you hear of one person or another who actually loses their life on farms or in the farming area, and it is a very sad loss for the families and a great loss to the community. So, for the member for Schubert to stand up and trivialise what is an important issue is quite disgraceful.

Getting back to the report, one of the important things this report highlights (and our inquiry highlighted) was the issue of market failure and the power of a one market player, which I think is one of the critical issues we need to address as a committee. It is quite clear from the evidence put before this committee that the lack of competition, and particularly lack of competition for the whole supply chain, is actually holding back the industry and it is hurting farmers in quite a big way.

First, I wish to talk about recommendation 2, regarding the importance of having a dispute resolution process. Secondly, point no. 1, in terms of future directions, indicates that current regulations are not providing the base for a rigorous and competitive market.

For this industry to survive and to be sustainable in the long term, we need to have a very competitive environment for farmers to get a fair go. For farmers to get a fair go, they need to be not necessarily price takers but be able to compete in the marketplace with a number of people in the whole supply chain. Unfortunately, the evidence suggests that we do not have that. Farmers are having difficulties in terms of storage, handling and also getting their products onto ships for export.

One thing we can do as a committee is to help improve competition in the whole industry, then I think we would have achieved a great deal. Whether we do it at the federal or state level needs to be decided, but my view would be that, if we cannot get our federal colleagues to do anything, we have every right to do something at the state level and lead the way in reform, as we are trying to lead the way in reform in other areas. Hopefully, the other party will come on board on that issue.

Mr Griffiths interjecting:

Mr PICCOLO: Thank you; we will come back again. I think the committee will have to turn its mind to some sort of legislative framework. I agree that we do not want to reregulate the industry, but we need to make sure that we have the appropriate legislative framework which actually promotes competition in the marketplace, because that competition will lead to a sustainable industry and help farmers and our rural communities.

Mr VAN HOLST PELLEKAAN (Stuart) (11:41): I will just say a few words. I was not a member of this committee, but I am very fortunate in the electorate of Stuart to represent some absolutely outstanding grain-growing parts of this state. I also represent some areas that are generally considered to be marginal country, and many people growing grain in the electorate of Stuart are outside of Goyder's line.

I will not go over the things that have already been said, other than just to highlight that I know from speaking to all members of the committee that it was a piece of work that was entered into in a very bipartisan fashion, and I commend all members, including the Chair (the member for Frome), for that.

Highlighting, obviously, how very, very important safety issues are, and never wanting to discount that, my fear is that, as years progress, companies like Viterra may choose to use safety regulations to squeeze out smaller grain growers, and to make their operations extremely difficult for small grain growers from marginal areas to access. I really do worry about regulations such as having registered drivers and already some vehicles are not allowed to drop off grain at Viterra sites. Having said that, I have always respected and supported safety regulations, but if we move to a world where small deliveries are not allowed into grain receival sites, this will have an exceptionally damaging impact on farms throughout Australia and certainly many within the electorate of Stuart.

You can imagine a situation where, if under the guise of safety regulations, small deliveries of 5,000, 10,000 or maybe even up to 15,0000 tonnes are not allowed into Viterra or other receival sites. That will have a dreadful impact on many farmers. They would have no choice—because the small farms obviously cannot afford to buy their own trucks all the time—but to move to contractors. Contractors would have no choice but to require full loads on their larger trucks, and this is something that, for many farmers in the electorate of Stuart, would be quite impossible to meet. I do really worry that, as time goes on, it will be very difficult.

You can see a situation where, to shorten the queues, a grain receiver might say, 'You can only drop off 15,000 or 20,000 tonnes as an absolute minimum,' and then pushing farmers out of business in that sort of situation. I would just like to put on the record that I worry that that might be coming and I will certainly do everything I can to fight against it. I have already seen and we are seeing as we speak the demolition of very small silos all around the state. I would hate to see grain receiving companies' commercial interests and their commercial gains, under the guise of safety, to really, really damage some of the small farmers, the poorer farmers, the people who need the most help.

Mr BROCK (Frome) (11:46): I thank all the speakers for their input. I take on board the comments of all the speakers. There is a lot more work for the select committee to do. We indicated that at the start. There are a lot more issues with port access, rail access, and infrastructure, so we will look at that.

Motion carried.

Mr BROCK: By leave, I move:

That the time for bringing up the final report of the committee be extended until Wednesday 23 November 2011.

Motion carried.

MEMBER'S REMARKS

Mr VENNING (Schubert) (11:47): I seek leave to make a personal explanation.

Leave granted.

Mr VENNING: I wish to make a personal explanation. I believe that the member for Light has totally misrepresented me and, worse than that, my family. I did not single out SAFF for criticism. I put all farmers in that criticism. Farmers first—and that also includes me to take the criticism as well. I didn't single out only SAFF. I also feel that it is grossly unfair to bring my family into this. What I do and say is my responsibility—

Mr Piccolo interjecting:

Mr PENGILLY: Point of order: can I ask that the member for Light sits in an appropriate seat if he wants to interject when the member for Schubert is making a personal explanation?

The SPEAKER: Thank you, that's all you need to say. Member for Light, if you want to interject can you please return to your seat? I'm sorry, I didn't notice he was there. Member for Schubert.

Mr VENNING: I also feel that it is grossly unfair to bring my family into this. What I do and say in this place is my responsibility, and it is very—

The Hon. P.F. CONLON: Point of order: this is not an opportunity to re-debate the matter: it is an opportunity to give a factual explanation.

Mr Pederick: That's what he's doing.

The Hon. P.F. CONLON: Well, I think the member is going beyond that when he thinks about what is fair, because what is fair is a value judgement, okay? That is the difference.

The SPEAKER: Member for Schubert, you really need to rebut what has been said.

Mr VENNING: What I say is my responsibility in this place, and I do not think it is right that any member's family should be brought into the debate.

PUBLIC WORKS COMMITTEE: NORTHFIELD CORRECTIONAL FACILITIES INFRASTRUCTURE UPGRADE

Mrs VLAHOS (Taylor) (11:49): I move:

That the 407th report of the committee, entitled Northfield Correctional Facilities Infrastructure Upgrade, be noted.

In the government's 2010-11 budget the Department for Correctional Services was allocated $43.45 million to upgrade the prison infrastructure facilities at the Northfield Correctional Facilitates, comprising the Yatala Labour Prison, Adelaide Women's Prison and the Adelaide Pre-Release Centre.

The upgrade of the infrastructure, facilities and security systems at the Northfield sites is critical in ensuring that these sites continue to provide appropriate secure accommodation for the immediate future. The upgrade will provide additional flexibility for the management of the prisoners with high dependency needs and supervision relating to mental and physical impairments.

The Northfield upgrade project is designed to improve infrastructure, security and facilities at the Northfield sites for ongoing operations for the immediate future; provide high dependency accommodation that will provide flexibility within the prison system and appropriate accommodation for the management of people with mental and physical disabilities; upgrade of the existing facilities to include health centre, kitchen facilities at the Yatala Labour Prison and the Adelaide Women's Prison to provide facilities to meet the current codes of standards and reduce risks associated with these services; improve the control of visitors, staff and vehicles accessing these prisons; upgrade existing electronic and physical security systems to increase safety and security of the prisons; reduce the ability of contraband to enter the prison, which is an important feature the minister has been dealing with in recent years; and reduce potential self-harm by prisoners.

Works were planned to commence in September 2011, with the project completion in 2013. Indeed, the Public Works Committee will be touring the Northfield site shortly. Given the above, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

Mr PENGILLY (Finniss) (11:52): The opposition supports this project, clearly. It is good that we are going to visit the facility in the very new future. The whole issue of incarceration and prisons and everything is of great interest to me. We are very happy to support the project.

Motion carried.

PUBLIC WORKS COMMITTEE: GLEN OSMOND METROPOLITAN FIRE STATION

Mrs VLAHOS (Taylor) (11:53): I move:

That the 409th report of the committee, on the new Glen Osmond Metropolitan Fire Station, be noted.

Motion carried.

NATURAL RESOURCES COMMITTEE: BUSHFIRE INQUIRY

The Hon. S.W. KEY (Ashford) (11:55): I move:

That the 58th report of the committee, entitled Bushfire Inquiry, be noted.

This is the final report of the committee's inquiry into bushfires in South Australia. I am pleased to be able to say that, since the committee's interim report tabled on 20 November 2009, South Australia has not seen any major bushfires. Since the interim report, there have been a number of significant developments.

For example, July 2010 saw the royal commission into the Victoria bushfires completed. The royal commission came up with a number of recommendations broadly relevant to South Australia. However, a number of witnesses emphasised that it was important to acknowledge the differences and not expect that all Victorian responses to the Black Saturday fires would be appropriate for South Australia. For example, committee members heard that South Australia has better building standards, different topography and that the Adelaide Hills fire risk situation is actually closer to the Canberra situation rather than the Victorian situation. This means that the lessons from the Canberra fires, our witnesses believe, would be much more relevant to us.

Members of this house would be aware that, in the recent budget, the Treasurer (Hon. Jack Snelling) announced $23 million of funding to help protect South Australians from the impact of fires. These funds will improve the bushfire readiness and response capabilities of the Department of Environment and Natural Resources, including 56 firefighters, purchasing new equipment, and providing additional resources and accreditation courses to the CFS and the state emergency volunteers. Members of the Natural Resources Committee strongly support this allocation of additional funds towards managing bushfires.

In finalising this report, the Natural Resources Committee sought additional evidence on natural disasters and followed up on issues outlined in the interim report, including verge parking in the Mitcham hills. In our interim report we suggested allowing verge parking, which is presently illegal under the national road rules, in preference to kerb parking. Members felt that verge parking was a common-sense approach to reducing road congestion and facilitating access for fire units

and emergency services during the fire danger season. Two years later, verge parking is still not allowed, but thankfully remains generally unenforced if done in a sensible way.

A matter the committee members were pleased to hear was that the Mitcham council had implemented a trial involving painting a solid yellow line to indicate 'no parking' down one side of narrow roads identified by the CFS as likely to present fire unit access problems in the event of a bushfire. The committee applauds Mitcham council and the CFS for implementing this simple, common-sense and potentially life-saving measure, and looks forward to seeing it rolled out for other high-risk roads in the Mitcham hills in the lead-up to fire danger season. Committee members understand that, presently, only 15 streets out of a potential 47 streets identified by the CFS have been marked up. I seek leave to continue my remarks.

Leave granted; debate adjourned.

RAILWAYS (OPERATIONS AND ACCESS) (ACCESS REGIME REVIEW) AMENDMENT BILL

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (11:59): Obtained leave and introduced a bill for an act to amend the Railways (Operations and Access) Act 1997. Read a first time.

The Hon. P.F. CONLON (Elder—Minister for Transport, Minister for Infrastructure) (12:00): I move:

That this bill be now read a second time.

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

Leave granted.

In February 2006, COAG signed the Competition and Infrastructure Reform Agreement (CIRA) to provide a simpler and consistent national system of economic regulation for nationally significant infrastructure including ports, railways and other export related infrastructure. The agreed reforms aim to reduce regulatory uncertainty and compliance costs for owners, users and investors in significant infrastructure and to support the efficient use of national infrastructure.

The CIRA required South Australia to ensure that its rail access regime was consistent with the principles in the CIRA and to submit an application to the National Competition Council (NCC) for certification of the regime as an effective access regime under the *Trade Practices Act 1974* (Cth) (now the *Competition and Consumer Act 2010* (Cth)) by the end of 2010.

An application for the certification of the South Australian rail access regime as an effective regime for a period of 10 years was submitted to the NCC on 29 December 2010. The NCC released its draft recommendation on the certification application on 16 March 2011.

The NCC recommended the regime be certified for a period of five years. The Council expressed the view that satisfaction of the requirement for periodic review of the need for access regulation to apply to a particular service would be stronger if the South Australian Government were to formalise a requirement for the Essential Services Commission of South Australia (ESCOSA) to review the railway services covered by the regime on a regular basis. The NCC has advised that certification for a period of 10 years would be considered if the *Railways (Operations and Access) Act 1997* was amended to formalise this requirement.

As a 10 year certification period would offer greater regulatory certainty to access seekers and providers, the SA Government signalled to the NCC its intention to introduce an amendment to the *Railways (Operations and Access) Act 1997* to include a mechanism requiring ESCOSA to conduct five yearly reviews of the South Australian rail access regime.

The amendment Bill requires ESCOSA to conduct five yearly reviews of the South Australian rail access regime.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Railways (Operations and Access) Act 1997*

4—Insertion of section 7A—Review and expiry of access regime

This clause proposes to insert a new section 7A that provides that the regulator (the Essential Services Commission established under the *Essential Services Commission Act 2002*) must conduct a review of the operators and railway services subject to the access regime to determine whether or not the access regime should continue to apply. Such a review must be undertaken in the last year of each prescribed period, the first of which concludes on 30 October 2015, with each successive prescribed period being five years.

The public will be notified of each review by notice in a newspaper circulating generally throughout the State and any submissions made in response to the notice must be considered by the regulator along with other forms of public consultation.

On completing a review the regulator must report to the Minister with a recommendation on whether the access regime should continue or not for a further prescribed period. The Minister must have copies of the report laid before both Houses of Parliament and must have the regulator's recommendation published in the Gazette.

Proposed subsection (6) has the effect that the access regime automatically expires at the end of a prescribed period unless a review under the section has been completed with a recommendation for the continuation of the access regime and the period of its operation has also been extended by regulation.

Debate adjourned on motion of Mr Griffiths.

ZERO WASTE SA (MISCELLANEOUS) AMENDMENT BILL

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (12:02): Obtained leave and introduced a bill for an act to amend the Zero Waste SA Act 2004. Read a first time.

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (12:03): I move:

That this bill be now read a second time.

The Zero Waste SA (Miscellaneous) Amendment Bill 2011 amends the Zero Waste SA Act 2004—an act that has, since 2004, represented the legislative underpinning for the state's waste management objectives and practices. This bill seeks to make two amendments to that act.

First, the bill seeks to clarify that the Public Finance and Audit Act 1987 applies when Zero Waste SA is performing or exercising its functions or powers, including in connection with the management, investment and application of the Waste to Resources Fund. This measure resolves the uncertainty that has arisen in recent times as to whether or not the Treasurer's instructions apply in those circumstances and will ensure that Zero Waste SA's financial management practices are consistent with financial management practices across the state.

Secondly, the bill introduces a power of delegation for Zero Waste SA. It has come to light recently that the absence in the act of such a power of delegation is resulting in a degree of inefficiency in the administration of that act. Powers of delegation may be found in the legislation of many other statutory boards and authorities and it is now considered appropriate to include one in this act.

This bill proposes to provide Zero Waste SA with the power to delegate any of its functions or powers to a person or committee. It will enable a function or power to be delegated to the Chief Executive of Zero Waste SA and further delegated to a Public Service employee should the need arise. It is anticipated that this measure will result in the streamlining of Zero Waste SA's administrative practices.

The amendments contained in this bill will assist the Board of Zero Waste SA and the Office of Zero Waste SA in the delivery of outcomes in accordance with the Zero Waste SA business plan and in progressing South Australia's Waste Strategy in a timely and efficient manner. I commend the bill to members.

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

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Zero Waste SA Act 2004*

3—Insertion of section 7A

This clause inserts section 7A into the principal Act.

7A—Application of *Public Finance and Audit Act 1987*

This section will ensure that the *Public Finance and Audit Act 1987* applies when Zero Waste SA is performing or exercising its functions or powers (including in connection with the management, investment and application of the Waste to Resources Fund). For example, when Zero Waste SA is using money from the Fund, it must do so in accordance with any relevant Treasurer's instructions and any other relevant provisions under the Public Finance and Audit Act.

4—Insertion of section 13A

This clause inserts section 13A into the principal Act.

13A—Delegation

This section will give Zero Waste SA the power to delegate a function or power (except a function or power prescribed by regulation) to a person or committee. For example, it will enable a power or function to be delegated to the CEO of Zero Waste SA and then further delegated to a Public Service employee should that be necessary.

Debate adjourned on motion of Mr Pederick.

SMALL BUSINESS COMMISSIONER BILL

Adjourned debate on second reading.

(Continued from 13 September 2011.)

Mr GRIFFITHS (Goyder) (12:06): I indicate that I am in the final stages of my comments on the Small Business Commissioner Bill, having to my surprise discovered that I had been on my feet for some 38 minutes yesterday evening talking about this. At the time of the adjournment yesterday I was in the process of putting before the house a copy of the words from an email received by me, and indeed all the members of this chamber and of the Legislative Council, from Mr Stephen Giles, who is the chairman of the Franchise Council of Australia. I was part way through that, so I—

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: The minister's presence is noted all the time. I was part way through that, so I will continue that before making some closing remarks. Mr Giles says:

In addition to the FCA and the SSCA, the Law Council of Australia has expressed concerns when alerted to the differences between the initial version of the Bill and the Bill currently before Parliament.

Specifically the Bill currently being debated contains the following additional sections, neither of which was contained in the version of the Bill circulated for public comment—

earlier this year—

- a completely new section enabling the enactment by regulation of an 'industry code' and the declaration that contravention of an industry code is to be subject to a civil penalty; and
- a new and draconian penalty regime that goes well beyond current powers in the SA Fair Trading Act or the Federal Competition and Consumer Act.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: I am only repeating someone else's words, minister. He continues:

It is not appropriate that these provisions should be enacted. It is even less appropriate that these provisions should be introduced without the opportunity for proper industry consultation and extensive debate. The FCA is gravely concerned that Parliament may be misled as to the current level of support for the Bill.

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: Minister, I would be surprised if you have not actually also received this email. Mr Giles' email continues:

There are other concerns that have been raised when similar legislation was proposed in Western Australia, and which led to the WA Government to decide not to proceed. Not least was the estimated cost of not less than $4m over 4 years. The FCA's concerns have been raised in detailed submissions to the SA inquiry into franchising—

I point out that there has been an extension to the initial inquiry that the minister was chairing, and the Economics and Finance Committee is about to submit to this chamber a report detailing the

results of that supplementary inquiry into franchising and the impact of the code changes that occurred in July of last year, which were sought by the member for Light and myself when we were still both members of that committee. The Franchise Council of Australia's concerns have been raised in detailed submissions to the SA inquiry into franchising, and they remain current and valid. Continuing on from Mr Giles:

> The FCA is concerned to see the small business sector in South Australia prosper. This bill, if enacted, will have exactly the opposite effect, and will see South Australia isolated from the rest of the country. The enactment of a bill based on the Victorian model could be supported under the COAG harmonisation process, but this bill goes far beyond that model and directly overlaps with the existing comprehensive federal regulatory regime. The substantial amendments from the initial draft noted above are clearly intended to introduce state-based franchising legislation via the back door, in a non-transparent and totally inappropriate way. Substantive law should be introduced transparently, with due consultation and in legislation that is subject to appropriate parliamentary debate. This bill, assuming it is constitutionally sound, will enable the introduction of substantive legislation by regulation. That is contrary to proper parliamentary process.
>
> The [Franchise Council of Australia] calls upon the parliament of South Australia to oppose the bill. At the very least it should be withdrawn for proper consultation with the small business sector. In an amended form it would be likely to gain significant support.

Interesting words.

The Hon. A. Koutsantonis: Are you going to read out the Farmers Federation submission as well?

Mr GRIFFITHS: No; I am just updating the house. You got the opportunity to talk about the 57 submissions. I want to finalise this with a few words, and reinforce the fact—as I expressed last night—that franchising changes should occur by way of changes to the national code, not on state-by-state-based opportunities. I have a great fear that that would create a situation in which South Australia would be seen as not being a place to invest. I certainly do not want that to occur, and the opposition does not want that to occur.

It is important to highlight a few things. The Liberal Party, by virtue of many of its members, and not just parliamentary members but lay members, has a significant small-business background. Many members in this chamber operated small businesses or have family associations with small businesses, going back several generations in some cases. They are committed to the success of small business and would never propose or support legislation that would in any way have a negative impact on small business. We see ourselves very clearly as a party that will do all in its power to support small business opportunities in South Australia and ensure its greatest possible level of success.

The minister quoted himself in estimates earlier this year. I believe the words were, 'It is not the government's job to make business succeed.' I respect that business has the sole responsibility to work as hard as it can in the best possible way to provide quality service and product, but there is a role for government to support success. The minister nods his head in acknowledgement. There is obviously a role for the government to support success.

Supporting success comes in many different ways, though. It can be focused—as you have done—on assisting with a mediation service or middle person (which, as I see it, is what the commissioner will be) to help in resolving issues. It can be at the front end of small business, with small-business initiatives—start-up businesses, generational transfer, economic challenges that are occurring around the world—where that level of support is needed. It is in a that area that I am quite fearful that the support that does not exist is what small-business truly needs. It is for that reason that the Liberal Party has chosen not to support this piece of legislation.

There will be a lot of debate about individual clauses of the bill, and I again reinforce the fact that I understand how the numbers work in this chamber. It is my role to ensure that I seek clarification on quite a significant number of points. I do admit that some of those were provided at the briefings, but I want to make sure that the minister puts the issues on the record as well, because it is important that there is scrutiny of any piece of legislation.

We have not taken the decision on this bill lightly, and I do respect that a level of criticism may come from people who are uninformed on the reasons behind the position we have taken. However, we have taken the decision not to support this bill because of two things. First, we are very concerned about the franchising aspects and how that will impact upon how South Australia is viewed and investment opportunities that will come down; and, secondly, that small business needs support in a different field to what the minister has proposed.

I am grateful, in fact, that there is $1.5 million in support being put towards small business, which is on top of a very small level that is in direct programs from within the budget. But, again, I enforce on behalf of the Liberal Party—and no doubt other members will take up similar issues—that it is the wrong end of the spectrum. There are opportunities for small business to grow. It needs government support, it needs government mentoring, it needs programs in place, it needs people available to assist them to grow, to help with a vision, and to help make that vision a reality.

There are services already available from associations in a commercial sense that can help with mediation for issues and resolve disputes, and that, sadly, seems to be the total focus of the role. For those many reasons that we have espoused over the last 45 minutes or so, I confirm on behalf of the Liberal Party that we cannot support the bill in its current form.

Mr PENGILLY (Finniss) (12:15): I support the member for Goyder's remarks. I read with interest the debate in yesterday's *Hansard* and the interjections that were thrown his way; however, that is part of the cut and thrust of the chamber. I can only think that this has been drafted by the new Chairman Mao from the STA, Peter Malinauskas. This is where this is coming from. Anytime I hear that the Labor Party is wanting to try and help small business, I shudder, because I can tell you I have more questions and comments and criticisms come to me about the government's performance in the way of small business from my electorate than almost anything else, with the exception of Housing SA customers.

So, it was with a great deal of interest that I read the media release from the Franchise Council of Australia, and I think it is worth reading that into the record today:

> Koutsantonis continues to ignore objections to de-facto franchising bill
>
> 13 September 2011
>
> The Franchise Council of Australia (FCA) is disappointed the South Australian Government appears intent on introducing back-door franchising legislation through its Small Business Commissioner Bill 2011, especially as the 57 public submissions to the Bill have never been made publicly available.
>
> The FCA has made clear its objection to the undeclared franchising-related elements of the Bill, being pushed by Small Business Minister, Tom Koutsantonis.
>
> 'Yet Mr Koutsantonis says today that the sector wants this legislation,' says FCA Executive Director Steve Wright.
>
> The Commonwealth and other States have considered and rejected the franchising-related moves Mr Koutsantonis intends to implement. The Bill in its current form is disconcerting news for the $9 billion South Australian franchise sector and the thousands of franchisees and employees who work in it.
>
> Mr Koutsantonis says the Bill mirrors the Victorian Small Business Commissioner model. But the truth is it goes much further—to the point it is actually a de-facto franchising bill, with heavy new penalties and the potential for different rules to those which exist in the rest of the nation.
>
> If Mr Koutsantonis thinks this will inspire franchising small business growth in SA, he is mistaken. He needs to pull back from this anti-franchising approach and return to what the Victorian, NSW and WA Governments have recognised is the sensible approach—a Small Business Commissioner Office which focuses on quick, affordable dispute resolution, not one which sets up an expensive quasi-tribunal.
>
> Small business needs reduced red tape, not a new big-stick bureaucracy which the WA Government estimates would cost taxpayers millions of dollars a year to run. SA already trails the rest of the nation in terms of business confidence. Mr Koutsantonis' Bill will make the situation worse, not better.

It worries me that this government seems to meddle in what it is incapable of having a lot of knowledge about. If this was being handled by the minister for primary industries, Mr O'Brien, who at least has some understanding of small business, I would possibly be a little more comfortable. However, the Liberal Party is going to reject this bill. It will be interesting to see what happens in the upper house. I read the comments in *The Advertiser* this morning attributed to minor parties. They may seek to get further advice before they deal with this, once it ultimately goes through this house. I think they may need to reconsider their position.

All this will do is make it more cumbersome and clumsy for small business in South Australia. It will not help in any way, shape or form. It is a fool of a bill put up by a fool of a government being run by the SDA. I urge the house to reject this bill.

Mr BIGNELL (Mawson) (12:20): I rise to support this bill. I have a copy of the Franchise Council of Australia's media release, sent out yesterday, in which they obviously do not want this bill to proceed, and the Liberal Party has been keen to jump on board and declare its opposition to the bill, as well. It is a little bit like the tobacco industry coming out and asking that health warnings not be put on tobacco products. The Franchise Council of Australia and the big franchise owners in

this country, and in other places in the world, are big business. The small businesspeople—the people we want to protect through this bill—are the franchisees.

I want to go through an example of one case from my electorate. This constituent, who is a franchisee of a well-known company with franchises throughout Australia and in three other countries, sought my assistance regarding his concerns about alleged breaches of a franchise agreement by the company. The gentleman has been a franchisee with this company for 18 years. He was held out as a model franchisee by the company and has won awards in various categories in recognition of his achievements over the years.

Some five years ago, the franchisor encouraged groups of franchisees to invest their own money to set up a central production facility in each state to service the needs of the franchisees in each state. The constituent saw trouble looming with the South Australian facility and asked the franchisor for assistance along the lines of what was being provided in other states. This request was denied.

A different franchisee negotiated with the franchisor to purchase the South Australian central production facility and operate in my constituent's territory without any reference to him and, in fact, to operate in competition with him. Although the constituent reluctantly consented to the sale, he did so on the grounds that conditions were to be put in place which would protect his business.

A sale was agreed to without any reference to the constituent. The constituent's signature appeared as a witness on the new agreement. He claims that the back sheet of the sale contract he had signed was instead placed onto the back of the variation to the franchise agreement instructed between the purchaser and the franchisor. This and other methods used by the company are, if true, illegal and unethical, and the franchisor did nothing to protect the integrity of my constituent's pre-existing franchise agreement.

Following this sale, almost overnight sales in my constituent's franchise hit an 11-year low. The constituent took legal action to recover money from other directors of the facility; a settlement was reached between the constituent and the other directors. However, although the franchisor was not party to this action, the CEO offered all parties an amount of money to settle but told the opposition lawyers not to settle until he had extracted immunity from my constituent that he would not take legal action against the company in relation to the breach of the franchise agreement. This was not given.

The company denied and continued to deny that it had breached the constituent's franchise agreement, although during this long and complicated process no fewer than seven lawyers have looked at the case and said there was a clear breach of the agreement. The constituent tried to make contact with the board but was thwarted by the CEO and told that nothing goes to the board without him first scrutinising it.

Finally, the constituent laid his complaints about both the legal aspects of the case and the conduct of the CEO direct to the chairman. He received a short reply saying that the company does everything to protect the integrity of their franchise agreements, and the allocated territories, and that they have great faith in the CEO and any further communications are to go through the CEO. In essence, they appointed the CEO to investigate complaints against himself.

I then wrote to the chairman complaining about how the case had been handled and the bullying tactics of the CEO. He stated the company had carried out two investigations into the allegations and found no wrongdoing; however, they never spoke to their franchisee. My concerns about bullying were not addressed by speaking to the complainant but by writing to me in defence of the CEO and the company. I addressed the matter of their responsibility towards the production facility; this was dismissed by saying it was a matter between the individual franchisees and not the franchisor.

On the matter of the contract between them and the purchaser of the production facility in which the constituent's signature appeared as a witness and is claimed to be fraudulent, the chairman suggested that my constituent should take it up with the other party.

This stonewalling has been going on for a number of years and it is my opinion that the company is continuing to bully the constituent into submission. This has had a huge impact on the constituent who has done no wrong whatsoever and has followed the franchise agreement to the letter. The constituent is keen to be able to commence meaningful negotiations in good faith with the company regarding these issues. In the current regulatory environment there is the opportunity

for mediation but this is costly and leads to unethical franchisors bleeding franchisees financially dry and then choosing to ignore the recommendations of the mediation process. In fact, the franchisor in this case has told the constituent that it will not give an undertaking that it would accept a mediator's recommendation—but my constituent would be more than happy to do so.

The Small Business Commissioner Bill, in particular section 5(1)(d), gives the commissioner, through the minister, the capacity to prescribe a mandatory industry-specific code and enforce civil penalties for breaches of such a code. I have not named the franchisor at this stage because of the wish of the franchisee who is hopeful that, one day, this will be resolved.

When you buy a franchise, what you are buying is guidance and assistance. The constituent has been paying thousands of dollars each month and has been on the receiving end of actions from the franchise company and its CEO, which, if proven to be true, are unfair and illegal and put his business at risk. The passage of this bill will go a long way towards bringing to account unscrupulous operators whose unfair, unethical and sometimes illegal practices are harming small businesses in our state.

That is just one example of one person in the electorate of Mawson. I was fortunate enough, in the previous parliament, to be on the Economic and Finance Committee where the member for Light persuaded us to have an inquiry into franchise agreements throughout the state. That sort of spread and we heard evidence from people throughout the country—experts. We heard time and time again about franchisees who had been done over by the franchisor. We know that does not happen all the time and there are a lot of people doing very well with great relationships between the franchisor and the franchisee, but as legislators we need to bring in protection for the people who are most at risk.

I am not surprised to read the Franchise Council of Australia's media release which it put out yesterday. As I said at the start of the speech, it is a little bit like the tobacco companies reaching out and saying, 'Please don't put those health warnings on the sides of cigarette packets; cigarettes are healthy and they will do you no harm and so we should not have those health warnings.'

I will always do the very best I can to stick up for the little person in my electorate and that is what I am doing in this case. This fight with the particular franchisee I mention today has been going on for more than a year now and I hope that, through the successful passage of this bill, people like him will have somewhere to turn in their time of need, when they are being bled dry and seeing not only their years and years of work going down the tube but their future in terms of superannuation and the life they have set up for themselves also going down the tube. I am always going to stick up for the little guy and it is for that reason that I commend the Small Business Commissioner Bill to the house.

Mr MARSHALL (Norwood) (12:28): I rise to speak to the Small Business Commissioner Bill 2011. Portfolios are often evaluated on the size of their budget and when we look at the Office of Small Business it only has an annual budget of $1.9 million and just a handful of people, and so some might think that this is not a particularly important portfolio for the minister. However, this is completely and utterly wrong. The simple fact is that, despite the small budget allocated to this sector, it is one of the most important portfolios for this state government.

In fact, the minister has spoken at length (as have many of his colleagues on the government side) in recent days about the importance of this sector. We see numbers like 138,000 small businesses in South Australia; we hear statistics that this represents 96 per cent of all private sector establishments in this state—and these statistics are all true. However, more than that, the simple fact is that the small business sector and the family business sector is the engine room of the South Australian economy.

We have a Premier who is always batting on about the importance of the mining sector and always talking about the importance of the defence sector, and these are two vitally important sectors of our economy. But make no mistake: the small business sector and the family business sector are the real engine room that drives our economy forward.

We do not have the big corporate offices that exist interstate in Sydney and Melbourne; we do not have the big resource sector like they have in Queensland and Western Australia. What we have is the dedicated and committed family business and small business sector here in South Australia. If the Premier is going to have any chance of reaching his audacious goal of creating 100,000 jobs in this term of the government, then he had better recognise the importance of this sector.

This is in fact the first piece of legislation that this minister has brought to the parliament relating to small business since he was elevated to this role and so, of course, it is with much anticipation that we have received this piece of legislation. He has been planning it for 18 months, so of course we expected a grand reform. We expected a great commitment by this government to this important sector. What a huge disappointment this minister has been. What a huge disappointment this piece of legislation is to the people of this important sector. I refer specifically to the bill which says that it is a bill for:

> An act to establish the office of the Small Business Commissioner; to provide for the powers and functions of the Commissioner; to make associated amendments to the *Fair Trading Act 1987* and *Retail Commercial Leases Act 1995*; and for other purposes.

Make no mistake: this is just another state bureaucrat and another layer of state government bureaucracy. I ask you and I ask the minister: what has informed this new piece of legislation that he has introduced? I could not find any evidence of information that was provided to him that would actually inform him that this was the number one issue that needed to be addressed by the small business and family business sectors in South Australia.

I did a bit of digging, though, and I thought it was actually good to have a look at what other pieces of information this government had brought into the realm over recent years and I stumbled across this fantastic document: the South Australian Small Business Statement. This was released in the lead-up to the 2010 election. It was done by the previous minister, the Hon. Paul Holloway, who was the minister for small business at the time and, by and large, this is actually a good document.

Of course, it starts off with the obligatory sort of motherhood statements, the first one from the Premier, of course: 'Our government is committed to ensuring South Australia is the most forward-looking, resilient, dynamic and sustainable "small business" state in Australia.' Who could fault the Premier for that statement? Of course then we have messages from the minister; we have messages from the Chairman of the Business Development Council.

The first chapter is completely and utterly dedicated to the size and importance of the sector and I will not labour any of those points, but I refer to the very next sector in this impressive statement, and this is not some dusty tome that was delivered to the government 28 years ago. This is the most recent and only commitment this government has actually made to the small business sector that I am going to be referring to.

The first chapter is entitled 'Communicating with small business', and what is the very first heading? Any guesses? The BECs. The business enterprise centres. So, how has the government responded to this important item that the government themselves released? Of course, it has all already been announced that they have cut all funding to the nine business enterprise centres in metropolitan and suburban areas. That funding of $1.35 million finished on 1 July 2011.

So, let's go to the second item in this impressive document. The second item is Regional Development Australia. I had to check with my colleague: how is the government going in terms of its commitment to this very important area? Guess what? They have flagged that they are cutting the funding to this important area, in fact, with the removal of $4.083 million in funding support for the eight Regional Development Australia boards operating in regional areas. Oh, dear, that is a bit of a blow, isn't it?

Basically, we can look at the document which has informed the previous minister when he went out to extensive consultation to develop a small business commitment and strategy for the state, he talks about the BECs and the importance of the RDAs but what does the new minister do as soon as he gets himself into the seat? He cuts the funding. It is great that the government wants to stand and make all these outrageous platitudes to the sector—it is so important. The member for Mawson a little bit earlier today said, 'Guess what, I'm going to be standing up for small business.' Well, let me ask the member for Mawson: did he go to the minister and say, 'Reinstate the funding for the BECs'? Did he go to the minister and say, 'Reinstate the funding for the RDA's? No, he did not.

Let us go to the very next sector of this report. The very next sector relates to the importance of the family business sector to South Australia. This is something I do know a little bit about because I was formerly chairman of the South Australian branch of Family Business Australia. This is a sector that I come from and I know it well. I was intimately involved with the application to the government for the thinker in residence, Dr Dennis Jaffe, to come out to address this important issue.

One of the two key elements of this thinker in residence report was 'a dedicated family business development manager within the Department of Trade and Economic Development responsible for developing and coordinating support for family businesses across this state'. So, again, I thought, 'This document is gold. I love this document. Let's have a look at where that person sits at the moment.' So I made some inquiries, and you will never guess what. This person has gone as well! Apparently, there was a bit of a vacancy. So I wrote to the new head of the Department of Trade and Economic Development, one of Rann's mates, Lance Worrall, and I asked him about the business development manager—

The DEPUTY SPEAKER: Order! Member for Norwood, you will address people by their proper titles.

Mr MARSHALL: Sorry, Madam Deputy Speaker. I refer to Lance Worrall, the Chief Executive—

The DEPUTY SPEAKER: No, the Premier.

Mr MARSHALL: Sorry, the Premier, the Hon. Mike Rann—who is a constituent of mine in Norwood, of course, so I should be extremely respectful.

The DEPUTY SPEAKER: I accept your apology.

Mr MARSHALL: Thank you very much, Madam Deputy Speaker. I received this fantastic response which said, 'Following the recent restructure of the Department of Trade and Economic Development, the role of family business development manager ceased,' with no further explanation. It is a catalogue of neglect for this important sector.

We looked at what this sector identified as the key issues it wanted the government to address, and let us list them in order: family business is No. 1, payroll tax is No. 2; and red tape reduction is No. 3. They are the top three issues identified in this report, so I thought, 'Where is the reference to a small business commissioner?' I read the entire document—and I commend it to the minister because it is excellent reading. I read the entire document, and I could not find anywhere in it any reference to a small business commissioner.

I thought, 'Maybe I've missed something.' My electorate officer said, 'You can type in an expression in a search bar and it will come up any time it is mentioned in the document.' Well, blow me down, guess what? There was not one solitary reference in the entire document to the mainstay of this minister's first 18 months in the chair. What an absolute disgrace! He should hang his head in shame—and while he is hanging his head in shame he should take a look at that report and maybe have a quick flick through it.

The Hon. A. Koutsantonis: This is devastating stuff.

Mr MARSHALL: It is devastating. Let's actually have a look at what we are going to get from this incredible report which the minister has presented to us. First, he says, 'One of the principal roles of the small business commissioner is to provide those business operators who have limited bargaining power, time and resources with the ability to access timely, low-cost dispute resolution services designed to avoid a costly litigation process that currently exists.' They are costly because the government refuses to accept the change which has been suggested by me to the Magistrates Court small claims jurisdiction. It is expensive for businesses to access timely and cost-effective legal dispute resolution. It is very costly in this state.

However, I put it to you that if we actually changed the threshold of the small claims jurisdiction from $6,000 (which was set back in 1991) and if they moved it to somewhere near where every other state in Australia actually exists (Queensland sits at $25,000 at the moment; we are at $6,000, a little bit of disparity there) then we would be able to go some way to addressing this issue. It is not good enough to say 'What we're going to do is put on another bureaucrat. We're going to put on another layer of bureaucracy.' The minister goes on to say:

> Small business often feels powerless when dealing with state and local government bodies.

Absolutely they feel powerless because they are dealing with your government's complete inability to address the needs of this important sector. He goes on to say, and this is just so wishy-washy:

> It is envisaged that businesses would make use of existing mechanisms—

Wait on, aren't we talking about something new here?

> but the commissioner would become involved in instances where the provision of assistance would be useful and likely to lead to better outcomes.

What is this actually all about? I will tell you what it is about: his friend, the member for Light, has got a bee in his bonnet about franchising, and fair enough. Why doesn't he actually bring a bill to this house talking about the issue of franchising? Instead, we have got this awkward and complex amalgam of two issues. If they are serious about the franchising bring it back as a separate bill and we will actually take a look at this.

This is nothing more than a cynical cost-cutting measure. The services they will be providing can adequately be provided through the Small Claims Court, the BECs and through ministers (like the minister opposite) doing what they are supposed to do—go out and engage with this important sector, the people who actually exist in this important sector—

Members interjecting:

The DEPUTY SPEAKER: Would you like to make a point of order or—

An honourable member: Just keep going.

Mr MARSHALL: Thank you, Madam Deputy Speaker. The people who exist in this important sector are, indeed, the heroes of the South Australian economy. These are the people who go out, take out a mortgage and put their house on the line. They employ people and they drive our economy. These are the heroes of our South Australian economy, and it is not good enough to put up this piece of legislation. This is nothing more than a minister pushing through legislation that he can use to promote his 18 months in the job. It is a token.

The minister would do a lot better to get out and speak to the people on the front line, roll up his sleeves and find out what they really want—and he would find that the Small Business Commissioner would not feature in their top 50 requirements.

Mr HAMILTON-SMITH (Waite) (12:42): I rise not only as the shadow minister for industry and trade and defence industries but also as a former small business person to urge the house not to support this bill but to support other measures that will genuinely help small business. Before coming into this place I employed around 120 people in six businesses in two states. Mine was not only a services-related business but also it had a property development and construction component.

I employed builders, tradespeople, electricians, plumbers and handymen. I also employed office staff and a host of childcare workers, including teachers. I can tell you that, when payroll is about 60 to 65 per cent of your cost inputs, you are very focused as a small business person on the needs of your business. I can assure the minister that, as someone who has employed a large number of South Australians, generally when you go to the mailbox and if something is not a cheque you tend to put it in the 'pending' tray and work out how you are going to get through the next week.

I can tell you that, by the time you have paid your WorkCover levies, your superannuation charges, paid your suppliers and made sure that the wages are in order, by the time you have done all that, you have had a very, very, busy week. One of the reasons I came into this place was to try to pursue ways to ensure that state and federal governments were more supportive of small businesses. I can tell you that mortgaging your house to buy a business, then growing the business and taking the risks associated with maintaining that business are onerous.

I agree with the former speaker, the member for Norwood, that small business people are the unsung heroes of this economy, and South Australia ranks very highly in the ratio of employment that falls within companies of one to 50 employees. Compared with other nations in the OECD, we have an above average rate of participation by employees in small business. It is very important. That said, business is a tough place and it is a case of buyer beware. It is a case of getting out there and knowing your stuff. It is a case of being diligent and making sure that as you run your business you cover all bases. How do you do that? You seek advice and guidance from others in the business. You might seek advice and guidance from an industry association.

I was national secretary of the Confederation of Child Care, the industry association with thousands of members across the country, and I remember lobbying federal politicians—in fact, the former Labor government prior to 1996—on a raft of issues but also organising networking opportunities so that the businesses could learn from one another about the problems they face. There is franchising within the childcare sector across the country. There are all of the problems and many of the issues that have been raised during the course of this debate, so it is a very good example.

I was also editor of a national industry magazine and state president of an industry association, so I have had a very good grounding in these issues, which has led me to the view that the proposal here for the creation of an office of the small business commissioner will not really do much to help small business. I appreciate that the minister is trying to bring change to the portfolio, and the feedback I get from the department, from my multiple and thousands of sources (I have thousands of sources in the department, but there are fewer than 100 staff—it is funny), is that the minister is very enthusiastic and has brought energy to the portfolio but that we need to focus on the things that will actually deliver results for small business.

I do not think this will deliver results; I think it will introduce a new layer of bureaucracy, a small business commissioner, into processes that already exist. Let me give the minister some examples. If there is a dispute between a builder and a customer, the master builders have a process for mediation where the person, whether it is a small business if it is a civil matter or a private entity, can go to the MBA, sit down with the builder and pay for the process. There is a mediation process.

A lot of small business associations have these mediation processes and they are effective. They are paid for by the parties, as I understand this process will need to be paid for by the parties. It seems to me that the government is trying to introduce a layer or process in the form of a small business commissioner for resolution of disputes that will superimpose on top of processes that industry associations already have in place.

The Hon. A. Koutsantonis interjecting:

Mr HAMILTON-SMITH: The minister in his response can pick up some of the issues I am raising. I urge all small businesses to consider joining the relevant association. If they are an electrician, a plumber, a retailer—in whatever business you choose to name—I urge them to join the relevant industry association, because that is a way for them to learn and for them to have access to services that may help them with disputes and particularly give them access to information.

Larger industry associations, like Business SA (and there are others), also host an array of services for their members—the motor traders, the civil contractors, and so it goes on. One of my concerns with the proposal is that the minister will impose a public servant to do what industry associations are already doing, and my experience with business is that it is best to leave it to business. Unless there is a compelling need to impose a new process or new office on top of small business, then do not do it, let business sort itself out.

I also make the point that the small claims court is awash with dispute resolutions between small businesses and small businesses and their customers. You only need to go down there and listen to proceedings. People are not getting paid, franchising agreements have been mentioned; there are all sorts of disputes which are referred to the courts.

A mediation process is available through the legal and court process, which also needs to be used. These processes have weight and authority, and I am not sure why we would duplicate those of the associations and the courts by imposing or creating a small business commissioner. I note that it is being done in a couple of other states, but just because it has been done in another state does not mean that it needs to be done here. We need to look at the requirement for this on its merits and we need to act only if there is a perceived benefit, if it is good and if it works for South Australia.

If there is money to be spent—and I think we are talking about millions of dollars to be spent on this office over the years ahead—can I urge the minister to spend it on the things that are really important to small business, like getting their taxation down, getting their WorkCover levies down, and by seeking to reverse some of the more punitive aspects of federal Labor's industrial relations reforms, which the retail industry is screaming about?

These reforms have caused burdens to be placed not only on businesses but on workers in regard to penalty rates, weekend work and so on. One only needs to look at the current commentary in the media space to see that both workers and employers are unhappy with the arrangements. We need to cut the amount of red tape, forms and licences that businesses have to endure. We could extend that to not only land tax but taxes on motorists, insurance tax, conveyancing tax and payroll tax.

If there is money to spend, I urge the minister to spend it on tax reform, because that will really help small business; that will get their costs down. Do not spend it on hiring new public

servants and public officers to duplicate what the private sector, its associations or the courts are already doing.

I have visited small business sites. One that stands out in my memory in particular is an earthmoving business bidding for work on the Northern Expressway and the desalination plant. A man explained to me in very simple language that, compared to a business in Melbourne or Queensland (a site the same size as his), he was paying significantly more land tax on the property site, he was paying significantly more to buy and register vehicles and he was paying significantly more in WorkCover fees. I have the schedule here.

Salvage and recycling businesses are paying a 6.1 per cent levy rate, antique and used goods retailing businesses are paying 4 per cent. For heaven's sake, why? Road freight transport businesses are paying a 7.5 per cent levy rate, water transport terminals, 5.1 per cent, and stevedoring, 5.2 per cent. The average levy rate, when you include GST—and I note the government often leaves that off—is still around 3 per cent.

The fact of the matter is that we need to fix the WorkCover system, we need to get taxes down for these small businesses, we need to reverse the worst aspects of the Labor's industrial relations reforms and we need to cut the burden of red tape on businesses. That will really help small business. So, I simply say that, if there is money to spend, let us spend it in those areas, not on creating a new bureaucrat. I am not into bashing public servants; they do a wonderful job, but we are essentially talking about an official who will be duplicating—for the reasons I have mentioned—functions performed by others and, again, the government will be taking its advice from a public servant.

In matters to do with small business, the government needs to take its advice from small business and from industry associations. Take your advice from the people who are creating the jobs, creating the investment and making things happen in South Australia. Do not take your advice from public servants behind closed doors alone—important though that advice is—get out there and meet people at the coalface.

Issues have been raised by the members for Mawson and Light, and by others, about franchising. I understand and can relate to some of the concerns that have been raised about franchising. There are disputes between franchisees and franchisors, but I say to the minister: you need to speak to both sides of the equation.

It is not an easy life for a franchisor to ensure that franchisees are meeting their commitments, that the brand is being maintained, that the quality of the product is being sustained and that the business for all of the other franchisees is being protected and not ripped down by certain franchisees hurting other franchisees. I seek leave to continue my remarks. I understand the minister has a matter that he wants to bring before the house.

Leave granted; debate adjourned.

EDUCATION AND EARLY CHILDHOOD SERVICES (REGISTRATION AND STANDARDS) BILL

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (12:56): Obtained leave and introduced a bill for an act to provide for a national legislative scheme regulating the provision of education and care services; to make provision for local matters associated with the provision of education and care services; to ensure the provision of quality education services to children in the state by providing for the registration of providers of such services; to regulate the provision of education services and early childhood services for the purpose of maintaining high standards of competence and conduct by providers; to make related amendments to other acts; and for other purposes. Read a first time.

The Hon. J.W. WEATHERILL (Cheltenham—Minister for Education, Minister for Early Childhood Development, Minister for Science and Information Economy) (12:57): 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 *Education and Early Childhood Services (Registration and Standards) Bill 2011* (the Bill) will provide a new modern legislative framework for the registration and regulation of all education and early childhood services in South Australia. This Bill is part of this Government's ongoing commitment to the reform of our education and early childhood legislation including the *Education Act 1972* and *Children's Services Act 1985*, which are now 39 and

26 years old respectively. The Bill will provide a legislative framework that underpins a streamlined approach to supporting the effective and efficient delivery of quality services to maximise benefits for children, their families and communities.

It is essential that we support parents by ensuring their chosen early childhood education and care services are of a high quality and provide the right foundation for children and young people. This has always been a priority for this Government. Australian and international research clearly demonstrates the importance of the early years in a child's brain development and on their future intellectual and social potential. We know that children who have access to stimulating and nurturing environments have better outcomes throughout their life, including enhanced self-esteem, improved educational outcomes and fewer health and social problems.

The lifelong benefits of quality early childhood education and care are well documented and the Bill helps South Australia fulfil its obligation to ensure children are given the best possible start in life.

The South Australian Government signalled its intention to improve outcomes in the regulation of education and early childhood services when the second legislation reform discussion paper was released for public consultation in 2008. This sought the South Australian education and early childhood sectors' and the broader community's views to help inform the drafting of legislation to support a quality education and care system for children and young people and this State's future. The discussion paper stressed that a collaborative partnership between sectors and communities involved in the education and care of children and young people is the hallmark of our approach to the delivery of quality education and early childhood services in South Australia.

The discussion paper proposed establishing a clearer, simpler, and more coherent legal framework for regulating the services that educate and care for children. The basis for the Bill is the strong feedback received in support of this approach.

As this Government has argued since that time, there is increasing recognition both at the State and national level of the need for legislative frameworks that support, not hinder, the effective and efficient delivery of services to maximise benefits for communities. Reducing red tape and focussing on how services can better assist families, children and communities is at the heart of this reform.

The Bill is the product of a two-year process of development through extensive consultation. An initial draft of the Bill was released for public consultation in October 2009. Over the intervening period it has been re-cast to address the scope and application of the commitments South Australia has made nationally under the Council of Australian Governments (COAG) in regard to the early years. The Bill has been the subject of intensive targeted consultation during the first half of this year. This has resulted in a number of improvements based on detailed and valuable input from stakeholders, particularly the Independent and Catholic schooling and early childhood sectors.

Consistent with the approach to consultation taken over the development of the Bill, all stakeholders have been invited to provide advice relating to the matters which will fall within the scope of subordinate legislation under this Bill. It is important to note that their input into this process will be vital in shaping any prescribed matters developed under the new Act.

The Bill provides the legislative underpinning for nationally consistent standards to ensure quality education and care is provided in long day care, family day care, preschool and out of school hours care services. These national standards were agreed by COAG in December 2009 and articulated in the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care (National Partnership Agreement), to which South Australia is a party. This Agreement includes the introduction of the new National Quality Standard through National Regulations. These cover seven quality areas:

- educational program and practice;
- children's health and safety;
- physical environment;
- staffing arrangements;
- relationships with Children;
- collaborative partnerships with families and communities;
- leadership and service management.

Key features of the scheme will be improved staff-to-child ratios, which will give each child more individual care and attention, higher staff qualifications, which will ensure staff have the skills to lead activities that help children learn, develop and participate fully in the programs on offer and a transparent ratings system which will give parents access to information about the quality of services so they can make more informed choices about the services their children attend

The foundation of this COAG Agreement was the establishment of a jointly governed, unified National Quality Framework for early childhood education and care and school-age care to replace existing separate licensing and quality assurance processes administered by States and Territories and the Commonwealth.

Australian Governments have agreed that the National Quality Framework will become operational from 1 January 2012 and will include a national system of provider and service approvals and supervisor certificates, the staged introduction of improved staff-to-child ratios and staff qualifications, the introduction of a quality assessment and rating system based on a National Quality Standard and the establishment of a new national body to oversee the implementation of the Framework.

The legislative approach taken in this State through the Bill is designed to have a positive impact on providers of all education and care services ensuring the regulatory framework is implemented and applied consistently across Australia. The Bill will streamline and enhance the regulatory system within this State by providing for the application in South Australia of the *Education and Care Services National Law Act 2010* (the National Law) as a law of the State of South Australia, as well as the regulation of other early childhood services not within the scope of the national early childhood reforms and the registration of both Government and non-Government schools in South Australia.

The National Law establishes the elements of the National Quality Framework, including adoption and transition processes, application processes and monitoring and compliance requirements. The National Law also sets out the roles and responsibilities of the Australian Children's Education and Care Quality Authority (ACECQA) and the Regulatory Authorities for the States and Territories. The new South Australian Regulatory Authority will be responsible for matters including approving persons and services that provide education and care, monitoring compliance with the National Law and assessing and publicly rating services against the new National Quality Standard.

Under the National Quality Framework, an approval to provide an education and care service is valid in all participating jurisdictions. This means a person or organisation will not have to receive separate approval for each State or Territory in which they wish to operate.

The National Law provides for a certification process for supervisors of a service, whereby the holder of a supervisor certificate is deemed fit proper to manage the day-to-day operation of a service. Like approved providers, these supervisors will have their certification recognised nationwide. This is an important reform as Australia's workforce becomes ever more mobile.

The National Law will also provide, in certain circumstances, for a system of waivers which will allow early childhood providers to operate and deliver services to their communities under strictly controlled conditions if they do not fully meet a standard.

In regard to family day care, it is the scheme, not the individual family day educator, that will be subject to provider and service approval. This will be a change for South Australia. The Department of Education and Children's Services (DECS) is currently the sole sponsor of family day care in this State and officers of the department will continue to regulate family day care educators within DECS schemes while being regulated themselves under the National Law. The Bill also provides for the regulation of individual family day care educators who are not part of a scheme.

To further reduce regulatory burden, existing approved providers and services and certified supervisors will be moved over in a seamless transition from the old system to the new.

The regulations which will be made under the National Law are currently being finalised following extensive national consultations. These regulations will provide further detail on the National Quality Standard, the assessment and rating system, staff to child ratios and fees associated with the National Quality Framework. As provided for in the National Law these will be made by the Ministerial Council for Education, Early Childhood Development and Youth Affairs and subject to parliamentary processes required in each jurisdiction. In South Australia these and any other required regulations will be tabled in Parliament once the legislation has been enacted.

Passage of this Bill, which applies the National Quality Framework in South Australia, reaffirms the high priority that this Government places on the health, welfare, safety and education of our children.

The Bill will also replace the myriad of regulatory systems under which providers of education and early childhood services currently operate. The Bill replaces the current Non-Government Schools Registration Board with the Education and Early Childhood Services Registration and Standards Board (the new Board).

Under the legislation the new Board will build on the excellent work undertaken to date by the Non-Government Schools Registration Board, while extending the regulatory system to all government schools, as well as preschools, out of school hours care, family day care and child care services in its role as the Regulatory Authority under the National Law. The new Board will also regulate the residual early childhood services not covered under the National Law, thereby effectively linking the administration of regulation of all services, within a single independent regulatory authority for all education and care services.

This system will eradicate the requirement for a single service provider who provides a range of services to relate to multiple regulatory bodies under a range of legislation. The National Partnership Agreement anticipates that in the future some residual early childhood services will move within the full scope of the National Law. The approach taken in the Bill of having broad structural consistency will support a smooth transition and minimise the impact on service providers if this occurs. The introduction of a single National Quality Standard for nationally regulated services will ensure the same quality standards are met by services across Australia.

The Bill establishes the new Board with a large degree of autonomy, which is balanced with a limited power for the Minister to give written direction to the Board. The Minister may not give a direction in relation to the registration of a school, determination of criteria for registration, particular proceedings before the Board or a complaint, and any direction given is required to be laid before Parliament.

The Bill establishes Board membership that is reflective of the services it will oversee. Board members will bring with them the experience and knowledge of the various services and sectors the Board will regulate. The Bill also provides for the appointment of skilled, high level staff who understand and will be the first point of contact for providers in the relevant sectors. The Early Childhood Services, non-Government Schools and Government Schools Registrars will work together with the Board and the sectors in the best interests of children and our community.

Together with application of the National Law, the objects of the Bill are to ensure the provision of quality education and early childhood services and the high standards of competence and conduct of providers of such services through a system of registration of schools. The provisions in the Bill that cover school registration improve on the current provisions in the *Education Act 1972* that relate to non-Government schools, while setting out minimum entry requirements for the provision of schooling services.

When enacted, the Bill will repeal the provisions in Part 5 of the *Education Act 1972* (the Education Act) which date back to the early 1980's. These provisions were inserted into the Education Act to regulate a considerably smaller non-Government schooling sector. It is widely acknowledged that these provisions no longer provide an appropriate foundation and do not cover public schools. The consultations undertaken have identified a need for greater clarity around the role, function and operation of the regulatory functions currently undertaken by the Non-Government Schools Registration Board. The Bill continues this Government's approach to removing the outdated legislative provisions in the Education Act and locating them appropriately in relevant legation. The Bill will also repeal relevant sections of the *Children's Services Act 1985* which relate to the regulation of early childhood services, as these matters will fall within the ambit of the new South Australian Education and Early Childhood Services (Registration and Standards) Act.

Other key features of the Bill include:

- sound objects and principles to guide the Board and the operation of the Act;
- clauses to adopt the National Law as a law of South Australia, together with transitional and savings provisions to ensure a smooth changeover for services;
- functions of the Board in relation to regulation of schools and early childhood services, including approving requirements for registration, maintenance of registers and preparation and endorsement of codes of conduct;
- complaints handling processes, including the explicit provision for complaints to be referred back to schools in particular circumstances;
- provisions required to effectively support the maintenance of high standards, including offences and disciplinary proceedings, with specific protections for members of school governing authorities who are volunteers;
- provision of a range of compliance options ensuring the most appropriate and proportional response to issues that may arise, including powers for officers authorised by the Board to conduct investigations in relation to complaints;
- protections for those regulated by the Act, including the right to internal and external review of decisions of the regulator which guarantee the principles of natural justice apply at the same time as ensuring the safety, health and wellbeing of children.

The principles of best practice regulation, of integration, of proportionality and efficiency, of responsiveness and flexibility, of transparency and accountability, of independence, of mutual responsibility, of consistency and cooperation with an awareness of the broader regulatory environment are all reflected in the Bill. The regulatory approach taken in this Bill is outcomes focussed, while maintaining the minimum standards for the safety and welfare of children and young people.

The passage of this Bill will enable South Australia to maintain its place nationally in leading and implementing progressive reforms. The National Law was passed by the Victorian Parliament on 5 October 2010. New South Wales passed legislation to apply the National Law on 23 November 2010. The Australian Capital Territory introduced a Bill to apply this legislation on 7 April of this year. All other State and Territory Governments will be moving to enact the reforms embodied in the National Law.

This is ground breaking legislation, which will best underpin the delivery of our schooling and early childhood services, particularly those integrated services which provide a range of services from birth to the end of schooling.

This Bill will help to ensure that South Australians have confidence in the quality of all education, care and early childhood services for children and young people and for South Australia's future.

We are well on the road to legislative reform in the best interests of young South Australians.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in this measure.

4—Early childhood services

This clause defines 'early childhood services' for the purposes of the Act. Those services include in-home care services (ie baby sitting services), occasional care services and rural or mobile care services. The scope of those services is to be set out in the regulations.

These services are not the same as education and care services within the meaning of the *Education and Care Services National Law (South Australia)*, and are regulated under Part 3 of the measure rather than the National Law.

5—Parts of Act not to apply in relation to certain services

This clause provides that certain parts of the measure (being parts dealing with schools and residual early childhood services) do not apply to services that are to be regulated under the *Education and Care Services National Law (South Australia)*.

6—Governing authority

This clause sets out who or what is the governing authority of a school.

7—Limitation of liability for volunteer members of governing authorities

This clause limits when a volunteer member of a school's governing authority can be liable for a prescribed offence (defined in subsection (2) of the section). For a volunteer to be liable, a prosecutor must first prove that the volunteer acted in a manner contemplated by the clause.

8—Responsible authorities

This clause sets out who is the responsible authority for various schools or classes of school. A responsible authority accepts liability for certain conduct on the part of a school if that school is not incorporated.

9—Objects and principles

This clause sets out the objects and principles for the measure. Further matters are set out in the *Education and Care Services National Law (South Australia)* as they relate to that Law.

Part 2—Adoption of *Education and Care Services National Law*

10—Application of *Education and Care Services National Law*

This clause applies the *Education and Care Services National Law* as a law of this State.

However, that National Law can be modified by or under this measure and will apply as so modified.

11—Exclusion of legislation of this jurisdiction

This clause excludes the operation of specified legislation to the *Education and Care Services National Law (South Australia)*. The effect of the excluded legislation is preserved, however, by provisions in the National Law.

12—Meaning of certain terms in *Education and Care Services National Law (South Australia)* for the purposes of this jurisdiction

This clause defines terms used in the *Education and Care Services National Law (South Australia)* in respect of its application in this State.

13—Penalty at end of provision

This clause makes clear that a penalty specified in the *Education and Care Services National Law (South Australia)* is a maximum penalty.

14—Tabling of annual report

This clause requires the Minister to table in Parliament the annual reports of the National Authority under the *Education and Care Services National Law (South Australia)*.

Part 3—Application of *Education and Care Services National Law (South Australia)* to residual early childhood services providers

15—Application of *Education and Care Services National Law (South Australia)* to residual early childhood services providers

This clause applies the *Education and Care Services National Law (South Australia)*, as modified by Schedule 1 of the measure, to residual early childhood services providers. Those providers provide services that would not otherwise be covered by the national law.

16—Exemption from certain provisions of *Education and Care Services National Law (South Australia)*

This clause enables the Minister to exempt certain persons from the application of the *Education and Care Services National Law (South Australia)*.

Contravention of a condition of an exemption attracts a maximum penalty of $10,000.

Part 4—Administration

Division 1—The Minister

17—Functions of Minister

This clause sets out the functions of the Minister under the measure. Further functions may be found in the *Education and Care Services National Law (South Australia)* in respect of services to which that Law applies.

18—Ministerial directions

This clause provides that the Minister may direct the Board in relation to certain matters.

However, the Minister cannot give directions in relation to particular matters before the Board, as set out in subsection (2).

The clause also makes procedural provisions in relation to directions.

19—Power of delegation

This clause provides a standard delegation power to the Minister, with the proviso that the Minister cannot delegate a function or power prescribed by the regulations.

Division 2—The Education and Early Childhood Services Registration and Standards Board of South Australia

Subdivision 1—The Board

20—Establishment of Board

This clause establishes the Education and Early Childhood Services Registration and Standards Board of South Australia (the *Board*).

21—Composition of Board

This clause sets out the composition of the Board, providing for a diverse membership drawn from the relevant sectors.

22—Conditions of membership

23—Casual vacancies

24—Allowances and expenses

25—Validity of acts

Clauses 22 to 25 are standard provisions in respect of Boards and their membership.

Subdivision 2—Registrars and staff

26—Registrars of Board

This clause establishes 3 Registrars of the Board, reflecting the different sectors. They are—

- the Registrar for the Government sector (the *Government Schools Registrar*);
- the Registrar for the non-Government sector (the *non-Government Schools Registrar*);
- the Registrar for the early childhood services sector (the *Early Childhood Services Registrar*).

27—Staff of Board

This clause sets out who may be employed by the Board as its staff, and deals with the entitlements of staff who transfer to the Board from the Public Service.

Subdivision 3—Functions of Board

28—Functions of Board

This clause sets out the functions of the Board under the measure. The Board may also have functions under the *Education and Care Services National Law (South Australia)* in its capacity as Regulatory Authority under that Law.

29—Complaint made directly to Board to be referred to school

This clause sets out what the Board must do if a complaint regarding a school is made directly to the Board rather than to the school. In short, the Board must refer the complaint to the school, however if the Board thinks the matter would be more appropriately dealt with by way of disciplinary proceedings under the measure, it can direct the appropriate Registrar to commence the proceedings without first referring the matter to the school.

30—Committees

The Board may establish committees to assist in its administration of the measure.

31—Power of delegation

This clause provides a standard delegation power to the Board, with the proviso that the Board cannot delegate a function or power prescribed by the regulations, nor its powers in respect of disciplinary proceedings.

Subdivision 4—Board's procedures

32—Board's procedures

This clause sets out procedures relating to how the Board operates. The provisions are essentially common to similar boards, however proposed subsection (2) requires a minimum number members of the Board representing particular sectors to be present at any meeting of the Board.

33—Conflict of interest etc under *Public Sector (Honesty and Accountability) Act 1995*

This clause provides that a member of the Board will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* simply because the member has shared interests common across persons in the relevant sectors generally.

34—Powers of Board in relation to witnesses etc

This clause sets out the Board's powers in relation to persons appearing, or required to appear, before the Board. The Board has the power to summons people, and a person who fails to comply with a summons, or commits other offences set out in subsection (3), may be liable to a fine of up to $10,000 or imprisonment for 6 months. It is a standard provision in relation to Boards of this type.

35—Principles governing proceedings

This clause sets out some principles applying to proceedings before the Board. Most importantly, whilst the Board may dispense with rules of evidence, it must nevertheless afford natural justice and procedural fairness to parties, and must keep parties informed of progress in the proceedings.

36—Representation at proceedings before Board

A party to proceedings may be represented by a lawyer, and the Board itself may be assisted by a lawyer in proceedings.

37—Costs

This clause allows the Board to impose a costs order on a party to proceedings. The order may be taxed by the District Court in the event of a dispute over the quantum of the order.

Subdivision 5—Financial matters, audit and annual report

38—Accounts and audit

This clause requires the Board to keep financial accounts and have them audited by the Auditor-General.

39—Annual report

This clause requires the Board to provide the Minister with an annual report, and sets out what the report must contain. The report must be tabled in Parliament.

Part 5—Registration of schools

Division 1—Registers

40—Registers

This clause requires the Board to keep a schools register and a register of schools that have been removed from the schools register and who have not been reinstated to that register.

The clause also sets out what must be included in the registers, and access to them by members of the public.

Division 2—Registration on schools register

41—Schools to be registered

This clause provides that a school must not provide education services (ie primary and secondary education) nor enrol students unless it is registered on the schools register.

A school, or the responsible authority for the school, that does those things in contravention of the section is guilty of an offence with a maximum penalty of $75,000.

42—Registration on schools register

This clause sets out when a school is eligible for registration on the schools register. The regulations may set out further requirements for registration, however the regulations will only be made once the Board has consulted with specified bodies and has recommended the making of the regulations to the Governor.

Once registered, a school's registration will remain in force until it is cancelled under the Act.

43—Board may impose conditions on registration

This clause permits the Board to impose such conditions as it thinks fit on the registration of a school, and to vary or revoke such conditions.

Failure to comply with a condition may ground disciplinary proceedings against the school.

44—Certificates of registration

This clause requires the Board to provide a certificate or certificates of registration to each registered school, and requires the school to display such certificates.

Failure to comply with the section may ground disciplinary proceedings against the school.

45—Removal from schools register

This clause sets out when a school must be removed from the schools register (ie, on the application of the school, because the school is no longer eligible for registration, or because the registration is suspended or cancelled under the measure).

46—Board may cancel registration

This clause allows the Board to cancel the registration of a school if the Board is satisfied that the school is no longer providing education services pursuant to the registration.

47—Reinstatement on schools register

This clause sets out how and when a school that has been removed from the schools register can be reinstated to that register. This cannot happen while the school is disqualified or suspended from registration by order of the Board.

48—Endorsement of registration with approval to enrol full fee paying overseas students

This clause requires the Board to endorse the registration of a school with an approval to enrol full fee paying overseas students if that school satisfies the requirements set out in the regulations.

An endorsement may be subject to conditions.

Failure to comply with the conditions may ground disciplinary proceedings against the school.

49—Removal of endorsement

This clause requires the Board to remove the endorsement of a school's registration with an approval to enrol full fee paying overseas students if the school so applies, if the endorsement is cancelled under this measure, or if the school no longer complies with the requirements for endorsement.

Division 3—Offences

50—Procurement of registration by fraud

This clause creates an offence for a person who dishonestly procures registration on the schools register, carrying a maximum penalty of $75,000 or six months imprisonment.

51—Improper directions to another member of governing authority

This clause creates an offence for a person who occupies a position of authority in an incorporated or trustee services provider (a term defined in the measure) to direct or pressure a member of the governing authority of the school, or the responsible authority for the school, to engage in misconduct, carrying a maximum penalty of $75,000.

52—Illegal holding out

This clause creates offences of holding out in relation to a school, or the registration or endorsement of registration of a school. The maximum penalty is a fine of $50,000.

Division 4—Review of registration

53—Review of registration

This clause requires the Board to review the registration of registered schools in accordance with the requirements set out in the regulations.

Those regulations, and hence the requirements, require the recommendation of the Board to be made.

Part 6—Record keeping and information gathering

Division 1—Records to be kept by registered schools

54—Interpretation

This clause defines terms used in Part 6 of the measure.

55—Records to be kept by registered schools

This clause requires registered schools to keep certain specified records, including records previously required to be kept under section 72N of the *Education Act 1972*.

Such records must be kept in accordance with the requirements set out in the regulations.

Failure to comply with the section may ground disciplinary proceedings against the school.

Division 2—Information gathering

56—Board may require information

This clause allows the Board, by notice in writing, to collect information from a registered school or a person who occupies a position of authority in a corporate or trustee services provider.

The person or school must not fail to comply with such a notice. To do so may ground disciplinary proceedings against the person or school.

Part 7—Disciplinary proceedings

Division 1—Preliminary

57—Application of Part

This clause disapplies the disciplinary proceedings under the Part in relation to a teacher if the relevant matter would constitute a proper cause for disciplinary action against the teacher under the *Teachers Registration and Standards Act 2004*.

58—Interpretation

This clause defines terms used in this Part of the measure.

59—Cause for disciplinary action

This clause sets out the matters that will constitute a proper cause for disciplinary action under the measure against registered schools, members of the governing authority of registered schools, persons who occupy a position of authority in incorporated or trustee services providers and responsible authorities for registered schools respectively.

Division 2—Constitution of Board for purpose of proceedings

60—Constitution of Board for purpose of proceedings

This clause sets out requirements as to how the Board will be constituted for the purposes of proceedings under Part 7 of the measure. The provision ensures that appropriate representation and expertise in relation to the various education sectors is present on the Board when a matter related to their sector is being heard.

The Board must comprise at least 3 members for disciplinary proceedings, and a special member may be appointed by the Governor.

The clause also sets out procedural matters relating to the Board when conduct proceedings under Part 7.

Division 3—Proceedings before Board

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

This clause sets out when, and how, a complaint can be laid before the Board in relation to a matter alleged to constitute grounds for disciplinary action under the measure. Such a complaint can be laid by the relevant Registrar under the measure, or by the Minister.

The clause requires the Board to investigate the subject matter of the complaint.

If the Board is satisfied that there is proper cause for disciplinary action against a school or person, the Board may make 1 or more of the orders referred to in proposed subsection (4).

62—Contravention etc of condition

This clause provides that, if the Board imposes a condition in relation to a registered school or person under proposed section 61, it is an offence for the relevant school or person to fail to comply with the condition. The maximum penalty for the offence is a $75,000 fine.

63—Contravention of prohibition order

This clause provides that, if the Board makes an order prohibiting a person from taking certain actions under proposed section 61, it is an offence for the person to contravene the order. The maximum penalty for the offence is a $75,000 fine or six months imprisonment.

64—Register of prohibition orders

This clause requires the Board to maintain a register of persons who have been prohibited by order of the Board under Part 7.

65—Variation or revocation of conditions imposed by Board

This clause provides that the Board may vary or revoke a condition it imposed on the registration of a school under proposed section 61 on the application of the school.

66—Further provisions as to proceedings before Board under this Part

This clause sets out further procedural provisions relating to proceedings of the Board under Part 7 of the measure. In particular, Board must give 14 days written notice of proceedings to parties.

Part 8—Enforcement

67—Authorised officers

This clause provides that the Board may appoint a person to be an authorised officer for the purposes of the measure.

68—Powers of authorised officers

This clause sets out the powers of authorised officers under this measure.

In particular, an authorised officer may investigate a matter if he or she suspects on reasonable grounds that there is a proper cause for disciplinary action against a school or person, or that a school or person has committed an offence under the measure.

69—Offence to hinder etc authorised officers

This clause provides offences relating to authorised officers exercising powers under the measure. The maximum penalty for an offence against the proposed section is a fine of $5,000.

Part 9—Review and appeal

Division 1—Internal review

70—Internal review of certain decisions of Board

This clause provides a mechanism for the review of specified Board decisions, in contrast to the appeal provision in clause 71. The clause sets out what decisions can be reviewed, what can be done following a review and procedural matters relating to reviews.

Division 2—Appeal

71—Right of appeal to District Court

This clause sets out an appeal right to the District Court in relation to specified decisions of the Board. The provision sets out procedural matters in relation to appeals.

72—Operation of order may be suspended

This clause enables the Board or the District Court to suspend orders of the Board pending determination of an appeal.

73—Variation or revocation of conditions imposed by District Court

This clause allows the District Court to vary or revoke a condition on the registration of a school imposed by the Court.

Part 10—Miscellaneous

74—Use of certain terms or descriptions prohibited

This clause establishes offences comprising the use of specified terms or descriptions by a person or body who is not entitled to use them to describe a service the person provides. The measure specifies 'registered school' as such a term, but the regulations under the measure may prescribe further terms. The maximum penalty for an offence against the proposed section is a fine of $50,000.

75—Exemptions

This clause permits the Minister to exempt a registered school or person, or class of registered schools or persons, from provisions of the measure.

76—Statutory declarations

This clause allows the Board to require certain information provided to it under the Act to be verified by statutory declaration.

77—False or misleading statement

This clause creates an offence for a person to make a statement that is false or misleading in a material particular in any information kept or provided under this measure. The maximum penalty for an offence against this provision is a fine of $20,000.

78—Victimisation

This clause creates a right of action for a person who has been victimised because the person has provided information or made an allegation under the measure, or intends to do so. The clause also sets out procedural matters in relation to such actions.

79—Self-incrimination

This clause provides that if a person is required to provide information or to produce a document, record or equipment under this measure and the information, document, record or equipment would tend to incriminate the person or make the person liable to a penalty, the person must nevertheless provide the information or produce the document, record or equipment, but the information, document, record or equipment so provided or produced will not be admissible in evidence against the person in proceedings for an offence, other than in relation to certain record keeping and false statement offences.

80—Punishment of conduct that constitutes offence

This clause provides that the taking of disciplinary action under the measure is not a bar to criminal prosecution for the same conduct, and vice versa.

81—Continuing offence

This clause is a standard provision providing for continuing offences and aggregating penalties for same.

82—Offences by bodies corporate

This clause provides that, if a body corporate commits an offence against this Act, any person with management or control of the body corporate who failed to exercise due diligence to prevent the contravention that is the subject of the offence also commits that offence. The penalty for such an offence is that which would apply to an individual found guilty of the offence.

83—General defence

This clause establishes a defence to charges of offences against this Act if the defendant proves that the alleged offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

84—Immunity of persons engaged in administration of Act

This clause confers immunity from personal liability to a person engaged in the administration of this Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of official powers or functions. However, if liability is otherwise found to exist, that liability rests with the Crown.

85—Application of fines

This clause requires fines imposed by courts and paid by defendants to be paid to the Board.

86—Confidentiality

This clause makes provision regarding ensuring the confidentiality of personal information obtained in the course of administering the Act. The clause sets out the circumstances in which such information can be divulged, and creates an offence for where it is divulged in contravention of the proposed section, with a maximum penalty of $10,000.

The clause also sets out what use can be made of the information, and provides a regulation-making power in relation to the disclosure of information.

87—Service

This clause sets out how documents and notices under the measure can be served on a person or body.

88—Evidentiary provision

This clause sets out certain evidentiary presumptions, whereby an allegation in a complaint relating to specified information will be considered proved unless the defendant offers proof to the contrary.

89—Regulations

This clause confers regulation-making powers in relation to the measure. Of note is the power to vary Schedule 1 of the measure to modify the *Education and Care Services National Law (South Australia)* as it applies in this jurisdiction, both to education and care services (within the meaning of that Law) and residual early childhood services.

Schedule 1—Modifications to *Education and Care Services National Law (South Australia)* for purposes of Part 3

This Schedule modifies the *Education and Care Services National Law (South Australia)* as contemplated by section 15 of this measure.

Those modifications take 2 basic forms: clause 2 of the Schedule excludes the operation of specified sections altogether in relation to residual early childhood services (ie, those services to which the National Law does not apply because they do not fall within the definition of 'education and care service' in that Law). Such exclusions include rating such services, provisions dealing with associated children's services, fees set at a national level and other matters not relevant to residual services.

Similarly, the national regulations under the National Law do not apply to those residual services.

The other form is the modifications made by clause 3, being modifications that change the way the law, as it applies to residual services, is to operate. In particular, those modifications allow State regulations to set the relevant standards and exemptions for the residual services.

Schedule 2—Related amendments and transitional provisions

This Schedule makes related amendments and transitional provisions as follows:

Part 1 is formal.

Part 2 makes a number of amendments to a number of Acts consequential upon the passing of the measure. Those amendments are predominantly changes to obsolete references. However, the *Children's Services Act 1985*, the *Education Act 1972* and the *Teachers Registration and Standards Act 2004* are amended to reflect the

changes made by this measure in respect of the relocation of the registration and standards component of the regulation of education and children's services to this measure.

Part 3 makes transitional arrangements related to the passage of this measure. In particular, schools and early childhood service providers operating in accordance with the current *Children's Services Act 1985* and *Education Act 1972* are deemed to hold the requisite registration and approvals under the new measure. Similarly, staff of those services are deemed, in the circumstances set out in the Part, to hold the necessary certificates and approvals required under the measure. This ensures continuity of the provision of education and early childhood services.

Debate adjourned on motion of Mr Pisoni.

[Sitting suspended from 12:58 to 14:00]

VISITORS

The SPEAKER: I advise members of the presence in the gallery today of students from Rostrevor College, who are guests of the member for Morialta, and students from Highgate Primary School, who are guests of the member for Unley, looking very bright and colourful up there. Also, we have people here from Pasadena High School, who are guests of the Minister for Transport. Welcome to you all. I hope you enjoy your time here today.

CRIMINAL INVESTIGATION (COVERT OPERATIONS) ACT

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (14:03): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.R. RAU: In April 1995 after the High Court decided an appeal called Ridgeway v The Queen in favour of the accused, the parliament passed the Criminal Law (Undercover Operations) Act 1995 with the support of all sides of politics. The object of the legislation was to place the law of police undercover operations on a legislative footing and to ensure certainty in the law. The High Court ruling on entrapment by police of drug dealers and other criminals had created uncertainty for the police and the courts.

As honourable members may be aware, one of the safeguards that was built into the legislation, which significantly extends police powers, was that there should be notification of authorised undercover operations to the Attorney-General and an annual report to the parliament. The Criminal Law (Undercover Operations) Act 1995 was incorporated into and replaced by the Criminal Investigation (Covert Operations) Act 2009. The current statutory provisions have not been the subject of any noteworthy comment by any court.

I am pleased to assure the house that the legislative system is meticulously adhered to, both by the police and by my office. The details of the police notifications form the basis of the report that the statute requires me to give to parliament. I now table that report.

GALLERY PHOTOGRAPHY

The SPEAKER: There is somebody in the chamber who is taking photos. Can I just let you know that you are not to take photos in here. I am sorry but that is the protocol.

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:04): I bring up the 29th report of the committee.

Report received.

PUBLIC WORKS COMMITTEE

Mrs VLAHOS (Taylor) (14:06): I bring up the 417th report of the committee, entitled Eastern Community Mental Health Centre Clinical Accommodation Fitout.

Report received and ordered to be published.

QUESTION TIME

APY LANDS, FOOD SECURITY

Mrs REDMOND (Heysen—Leader of the Opposition) (14:07): My question is to the Minister for Aboriginal Affairs and Reconciliation. Does the minister believe that the people on the APY lands would be better off if the recommendations from the 2004 report, prepared by Lowitja O'Donoghue and Tim Costello, which demanded sweeping changes to food management on the lands, had been implemented?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:07): I thank the leader for this important question. It is the third question that I have received since I have been minister for Aboriginal affairs in this place, in about a year and a half. Nonetheless, I am very happy to tackle—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —this important issue. Can I say—

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —I met with Lowitja O'Donoghue this morning. I spoke to her yesterday, and I have to say—

Members interjecting:

The SPEAKER: Order! Members on my left will hear the minister in silence.

The Hon. G. PORTOLESI: I have enormous respect for Lowitja O'Donoghue. She is a Yankunytjatjara woman, so she is very much entitled to speak about issues that are going on in the lands. In relation to the report that she prepared with Tim Costello, I understand that most of the issues (because they did not provide recommendations per se) that they highlighted have absolutely—

Mr Marshall interjecting:

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

The Hon. G. PORTOLESI: —been addressed, apart from one—

Mr Marshall interjecting:

The SPEAKER: And you will not display material around the chamber.

The Hon. G. PORTOLESI: —apart from one issue. That one issue is in relation to the appointment of an administrator. This is a very, very complex—

Members interjecting:

The Hon. G. PORTOLESI: They may not like what I have to say. I met with Lowitja this morning—

Mrs REDMOND: Point of order. It is not that we do not like what the minister has got to say: it's the fact that the question was: does—

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

Mrs REDMOND: Relevance. The question was: does the minister believe that people on the APY lands would be better off if the recommendations had been implemented?

Members interjecting:

The SPEAKER: Order! The question is not quite in order either.

Members interjecting:

The SPEAKER: Order! Minister.

The Hon. G. PORTOLESI: There is one thing that I have to say here. I understand that the opposition want to get me; I understand that. They want to get me, but this is not about me. This is not about me—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —it's not about you: it is about Aboriginal people. What am I committed to doing? I am committed to working with people like Lowitja O'Donoghue. I am committed to working with the APY executive, and I am meeting with them tomorrow. I am committed to working with the federal government, and I have a very good relationship with the federal minister, and I am committed to working—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: When they are ready, Madam Speaker. I am committed—

Mr Pengilly interjecting:

The SPEAKER: Order! The member for Finniss, you are warned.

The Hon. G. PORTOLESI: I am committed to working with every minister on this front bench and people like you, Madam Speaker, on making real progress on the lands.

Members interjecting:

The SPEAKER: Order!

NATIONAL CHILD SEX OFFENDER REGISTER

Mrs GERAGHTY (Torrens) (14:10): Can the Premier advise the house as to how many individuals are registered in the South Australian section of the national child sex offender register?

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) (14:10): The Child Sex Offenders Registration Act 2006 is one of the many initiatives this government and this parliament have introduced to help protect children from abuse by sexual predators. One of the hallmarks of this government has been our commitment to change the law to redress any imbalance in the criminal justice system that favoured the interests of the offender over the victim. Nowhere has that been more evident than the laws relating to sexual offences against children.

The registration of child sex offenders is but one of the measures we have adopted, and it is important to understand the overall reform context in which we introduced that register. We removed the statutory limitation on the prosecution of sexual offences. That meant that offences which occurred—

Mr Williams: You didn't do that, Mike; Andrew Evans did that.

The Hon. M.D. RANN: We removed the statutory limitation on the prosecution of sexual offences.

Mr Williams interjecting:

The SPEAKER: Order! Deputy leader, behave.

The Hon. M.D. RANN: That means that offences which occurred prior to 1982, including offences against children, can be properly investigated and, in appropriate cases, prosecuted. This was not the case in the past, so rapists and paedophiles who committed these crimes in the 1960s and 1970s went scot-free. Perhaps most importantly, child victims of sexual abuse, who as children lacked confidence to come forward or were too afraid or intimidated to come forward to report sexual abuse, can still seek justice and bring their abuser to account for their repulsive behaviour.

The latest information available to me on how many prosecutions have occurred since the change in the law that this parliament made, that would have otherwise been impossible, indicates that 48 offenders have been found guilty of more than 200 offences. Previously, they would have gone totally scot-free. We removed, as a parliament, this prohibition—

Members interjecting:

The Hon. M.D. RANN: Well, you might not have supported it, but we did. The parliament removed the prohibition which allowed any sexual offences committed before 1982 to go free and not be prosecuted. We changed the law.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: But for these changes—and as a result—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —48 offenders have been found guilty—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —of more than 200 offences. But for these changes, these offenders would never have faced justice. I am now very pleased—and I am sure even members opposite are pleased—that these people who committed these crimes now live in fear. These offences included indecent assault, unlawful sexual intercourse and rape. Thirty-eight paedophiles—

Mr Pisoni: Did they all go to gaol?

The Hon. M.D. RANN: The member for Unley just asked the question whether they went to gaol. Thirty-eight paedophiles have been sentenced to imprisonment for terms of up to 25 years as a result of their charges and as a result of our changes to the law. So, if you want to interject—maybe you don't know much about the law. You certainly don't know much about the bankruptcy law.

Mr PENGILLY: Point of order, Madam Speaker.

The SPEAKER: Point of order, member for Finniss.

Members interjecting:

The SPEAKER: Order! I can't hear the member for Finniss.

Mr PENGILLY: Standing order 98: the Premier is debating the matter.

The SPEAKER: The Premier can answer as he chooses, and it was a broad-ranging question.

The Hon. M.D. RANN: Thirty-eight paedophiles have been sentenced to imprisonment for terms of up to 25 years as a result of their charges. They would have gone scot-free rather than being in gaol if we had not changed the law. This government has increased penalties fivefold for the possession of child pornography. It is now also an offence to procure and groom a child to engage in sexual acts and to film a child for procurement purposes, regardless of whether there was consent.

Under other changes introduced, the courts are required now to give priority listing to trials of sexual offences where the alleged victim is a child. In sentencing child sex offenders, courts are required to ensure that child protection is the paramount consideration. Repeat sex offenders are now liable to increased penalties. The Supreme Court has been given the power to indefinitely detain sex offenders who are regarded by two psychiatrists to be unwilling, not just incapable of controlling their sexual instincts.

Because paedophiles will exploit every means to pursue their deviant behaviour, including the internet, we have introduced new internet-focused paedophile restraining orders. These orders will prevent convicted paedophiles from using the internet and give police the power to ensure penalties and seize equipment to enforce internet bans.

The Child Sex Offenders Registration Act creates a powerful new tool for police to monitor child sex offenders. They are listed. The register gives police access to information about where those offenders live, the cars they drive, their place of work, any changes in their appearance and any affiliation to clubs with children. Offenders on the register are required to notify the police of

changes to this information. The act prevents child sex offenders engaging in child-related work or occupations.

Currently, there are 1,145 people registered in the South Australian section of the national child sex offender register. In addition, there are 202 people who are currently in prison who will be included on the register as soon as they are released from custody. This government's commitment to dealing with the perpetrators of child sexual abuse reflects our abhorrence of the sexual exploitation of children. These are amongst the worst types of crime—crimes against children, crimes that rob children of their innocence and potentially damage their prospects for health and personal relationships for the rest of their lives.

It is vitally important though that allegations of sexual abuse, whether the offences occurred against children or against adults, are properly investigated. If anyone comes to a member of parliament with allegations of sexual abuse or, indeed, of rape, we should all advise them to report that to the police immediately, because that is why we changed the law to allow historic cases—those from 30 or 40 years ago—to be investigated. Allegations should be referred to the police for investigation and then to the office of public prosecutions to determine whether the matter should proceed to prosecution.

Parliamentary witch-hunts and vilification of individuals, unsupported by investigations by properly trained, skilled and authorised police, are a dangerous development. The use of elected office to carry out personal campaigns, unsupported by an official complaint, is reminiscent of a 1950s approach in the United States to the use or abuse of public office.

A few years ago, as many members of this parliament will remember, a member of this house threatened to use parliamentary privilege to name people whom he suspected of sexual offences. Common sense prevailed, and I want to quote a former member of the South Australian Legislative Council. He said, and I want to quote:

> The worst thing is there are so many people in the community who are convinced, with no real evidence, that someone is guilty. I'm not saying that those involved intended this outcome, but it's just gone way out of control.

That member of the Legislative Council was Senator Nick Xenophon, in 2005, commenting on threats to name someone who had been the subject of unsubstantiated and, indeed, false allegations of a sexual nature.

So, naming a person in parliament, unsupported by evidence, rather than telling the complainant to go to the police, is really about publicity for the MP, because it is not about justice for the victims. MPs should tell people with these serious allegations to go to the police; that is why we changed the law to allow those cases to be investigated.

This is a very serious matter. Any allegations of rape are a serious matter. We are not talking about weird behaviour, we are talking about criminal behaviour—criminal behaviour that can cause damage for generations, for a life. It's not to be played games with. The police and the Director of Public Prosecutions are the appropriate authorities, not naming people in parliament without evidence.

The SPEAKER: Can I just remind members of the government to be careful in the wording of their questions. On reviewing the question, it was a very broad-ranging answer; the information that you have given us, I think, was very important, but it was a fairly specific question that was asked.

APY LANDS, FOOD SECURITY

Mrs REDMOND (Heysen—Leader of the Opposition) (14:20): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Will the minister explain why the recommendations of the 2004 O'Donoghue and Costello report on the APY lands have not been implemented?

The SPEAKER: Could the member for Croydon sit down please? The Minister for Aboriginal Affairs.

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:21): I don't agree with the premise of her question.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: The fact is, there was one key issue that the report talked about and that was the appointment of an administrator. It talked about a whole bunch of things, and I have a very long response to those, but it comes down to an administrator, and I talked about that issue with Ms O'Donoghue. That is a very complex—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —and a very controversial suggestion. What the authors of that report—in talking about an administrator—are highlighting is a need to unblock, to remove barriers to progress. I have to say that for the first time we have the state government, the federal government and communities working together, and that is the only way to go forward on this matter.

SOUTH AUSTRALIAN ECONOMY

The Hon. S.W. KEY (Ashford) (14:22): My question is directed to the Treasurer. Could you advise the house on how South Australia's economy is growing in relation to the latest announcement of state final demand figures?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Employment, Training and Further Education, Minister for Workers Rehabilitation) (14:22): I would like to thank the member for Ashford for her question—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —and her abiding interest in the question of state final demand, because just last week the Australian Bureau—

Members interjecting:

The SPEAKER: Order! I can't hear the Treasurer.

The Hon. J.J. SNELLING: —of Statistics released their national account figures, which include the national gross state product figures but also each state's final demand figures. I can tell the house today that in the June quarter South Australia's demand growth rose by 2 per cent, the second fastest growth rate of all Australian states. It puts South Australia's growth rate ahead of Western Australia, ahead of Tasmania, more than double the growth rate of Victoria, and more than ten times the growth rate of New South Wales.

The Australian Bureau of Statistics reported that new business investment in South Australia rose by 6.8 per cent in the June quarter to a record level while dwelling investment over the same period rose by 13 per cent. Public sector investment also rose to the tune of 8 per cent. I am sure that these figures are something that those opposite don't want to hear and more than likely they'll pretend that they don't exist, because we all know that there's no-one who likes talking down the South Australian economy more than the opposition.

Mr Goldsworthy interjecting:

The SPEAKER: Order, member for Kavel!

The Hon. J.J. SNELLING: I will name them: those who come to mind are the member for Davenport, the member for Unley, the member for Waite and, of course, the putative leader of the opposition, the member for Norwood. How disappointed they must be to read what the Australian Bureau of Statistics has to say about the South Australian economy. How disappointed they must be to read the ABS report only to see South Australia's state demand growth outstripping almost every other state in the country. How disappointed must the member for Unley have been when last week our employment figures came out, how disappointed when he saw that South Australia had—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —the second lowest unemployment rate of all the states—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —and well below the national rate. How disappointed the member for Waite must have been to see on Monday the ABS-released export figures which showed South Australia's annual export growth was the strongest of every single state.

The SPEAKER: Order! Point of order. Treasurer, point of order.

The Hon. P.F. CONLON: I understand this is excellent news and I can't hear it, so I would really like to be able to hear this very good news.

The SPEAKER: I understand your point of order.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: Madam Speaker, we all know they don't want to hear it; it disappoints the opposition. What they find disappointing is news showing that the South Australian economy is performing very strongly.

Members interjecting:

The Hon. J.J. SNELLING: Why would they be disappointed with this being news that they don't want to hear?

Mr Pengilly interjecting:

The SPEAKER: Order, member for Finniss!

The Hon. J.J. SNELLING: It is because, despite their carping—

Mr WILLIAMS: Point of order, Madam Speaker.

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

Mr WILLIAMS: I believe the Treasurer is now debating the answer to the question.

Members interjecting:

The SPEAKER: I would ask the minister to return to the substance of the question.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: He said, 'Why would they be disappointed,' and then proceeded to make argument.

The SPEAKER: Thank you. I have asked the Treasurer to return to the substance of the question.

The Hon. J.J. SNELLING: I will conclude my remarks by saying this: South Australia is performing very well; we are doing very well considering what is happening in the world economy at the moment. I know that this disappoints the opposition because, more than anyone else in this state, it is those opposite who want to see the South Australian economy fail, so how disappointed would they have been with what came out last week?

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: The answer to that is: very.

PORT PIRIE REGIONAL HEALTH SERVICE

Mr BROCK (Frome) (14:26): My question is to the Minister for Health. I ask the Minister for Health: what assurances can he give to the women of Port Pirie and the region, and the wider community, in terms of radiology services, breast cancer screening, dialysis, diagnostics and treatment through the Port Pirie Regional Health Service?

Since June last year, my office has received steady streams of representations from both constituents and the healthcare providers in our communities regarding the nonavailability of these

services. They have all raised concerns regarding equity and access to and provision of radiology services at the Port Pirie Regional Health Service. These services have been unavailable for some months now and people requiring these services have had to travel to different locations.

In doing this, I would like to thank the minister for arranging recent meetings with the Department of Health and Country Health SA—I have had personal briefings on this—but now I would like the minister to update the house and the people of Port Pirie as to the progress of these services.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (14:27): I thank the member for Frome for this question. I acknowledge his very strong advocacy for his community and particularly for health services in his community in regional South Australia. BreastScreen SA and Country Health SA are working to improve the provision of screening and diagnostic mammography services and cancer treatment for local communities to make sure that women right across country South Australia have the best access to these vital services in a very safe and effective manner.

One of the two mobile screening units for BreastScreen SA (the new units I launched a year or so ago which now have digital screening services) is currently based at Port Pirie, as the member probably knows, where BreastScreen SA staff are spending 52 working days offering free breast cancer screening. It is important to note that a doctor's referral is not required, and the service estimates that it will screen 2,285 asymptomatic women during this visit until 20 September.

For women aged between 50 and 69 who have no breast symptoms following a self-examination, a screening mammogram through BreastScreen SA every two years can reduce their chances of dying from breast cancer. Early detection of the disease leads to vastly improved outcomes and survival rates: it is one of the great success stories of modern health, in fact. Port Pirie is one of 27 rural and remote locations which will get a visit from this colourful semitrailer every two years, which is the recommended screening interval.

I can also announce today that Country Health SA has negotiated a three-year extension of the contract with I-MED which will offer greater availability of radiology and the reintroduction of diagnostic mammography services which were discontinued by the private provider of radiology services (that is, I-MED) in September 2008—which was regrettable, obviously.

There is a fundamental difference between breast cancer screening and diagnostic mammography. Symptomatic women of any age need a far more detailed diagnostic mammogram accompanied by a clinical breast exam and breast ultrasound. I-MED has sourced a new mammography machine and this, I am told, was installed last week and the first procedure is planned for, I think, either yesterday or today.

The new contract extension will also resolve the issues of the radiologist and equipment availability in Port Pirie. A new service agreement will deliver a high standard of care to local residents, who will not need to be referred from Port Pirie to Port Augusta or Adelaide or somewhere else. In addition, Country Health SA is also currently negotiating to replace additional equipment including the X-ray and ultrasound machines at the Port Pirie Regional Health Service as part of the statewide medical imaging review.

As part of the state government's country health improvements, I have asked for more services to be delivered in rural, regional and remote areas, and by that I mean more elective surgery, more renal dialysis—and that is expanding right across the country, sadly, as the demand for such services increases—and also, importantly, chemotherapy, and we are targeting a range of centres to increase chemotherapy services.

More treatment in country hospitals, of course, means fewer people have to come to the city, and that is obviously less disruptive as well as being better for the overall management of our systems. At Port Pirie Regional Health Service, chemotherapy services are provided for breast cancer, and in fact the Port Pirie Regional Health Service is the leader in the area of chemotherapy, as I know the member understands.

The number of clients presenting for various chemotherapy treatments has climbed from 80 10 years ago to 679 in the last financial year. In 2006, a full-time chemotherapy nurse was employed to meet that increased demand. Port Pirie Regional Health Service has a visiting

oncologist from the Royal Adelaide Hospital who consults monthly, allowing women with breast cancer to be reviewed closer to home, thereby reducing the stress of travel.

Port Pirie Regional Health Service has also developed a PICC insertion service which is used in some breast cancer treatments, and that has been in place since 2010. That allows another service to be provided closer to home. This year's state budget allocated $5.7 million towards the $12.5 million Port Pirie GP Plus Health Care Centre, and that will offer integrated healthcare services for the Port Pirie community.

The GP Plus Health Care Centre will also offer more services to help patients manage chronic conditions, including cancer, but will have a focus as well on prevention and early diagnosis. In fact, there is provision in the design of the GP Plus Health Care Centre for the BreastScreen mobile digital units to be parked adjacent to the centre and integrated into it.

All in all, we have an example of a connected healthcare system where women have access to early detection, diagnosis and cancer care closer to home. I would like through the local member to assure the Port Pirie community that this government is committed to improving the health of country residents, and we will continue our efforts to provide as many services as possible at a local level.

APY LANDS

Mrs REDMOND (Heysen—Leader of the Opposition) (14:33): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Will the minister confirm that almost $4.8 million of federal funding intended for Indigenous communities on the APY lands has remained unspent since 2008?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:33): I gather you are referring to the construction of the Umuwa courthouse.

Mrs Redmond: I am referring to the $4.8 million intended for the APY lands.

The SPEAKER: Order!

The Hon. G. PORTOLESI: In relation to the Umuwa courthouse, yes, there was an agreement in 2008 with the commonwealth around a specific project, and that was a courthouse facility at Umuwa. After some time, the scope of the project had changed. I understand that the courts had changed their mind about their involvement or their degree of involvement with the project, which meant that it was back to the drawing board. Now, I have to say, and I have said since day one, that I am as frustrated as anybody in relation to the delays—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —around this matter, but the key thing around this particular issue, because I have a very good relationship with Jenny Macklin, is that the money will stay on the lands and will be put to a very good use. The facts are that the remoteness of these communities and the complexity of culture—a number of factors—mean that service delivery is complex. That is just a fact.

APY LANDS

Mrs REDMOND (Heysen—Leader of the Opposition) (14:35): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Will the minister confirm that she wanted to spend up to $4.8 million of that federal funding, earmarked for responding to the Mullighan inquiry, on an administration centre for bureaucrats?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:35): I think you will discover that at the time of the original project proposal I was not minister. I have been minister—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: No, the question was to me about my views.

Mr Marshall interjecting:

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

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: The question was to me about what I intended to do with that money. What we are doing with that money is exactly what we should be doing, and that is spending it on the lands. The fact is I would rather that we take a bit longer to get the service delivery model right.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: I would rather, Madam Speaker, that we spent a bit more time getting the service delivery model right, because we cannot do this without communities. We need to deliver what will work for communities, and that takes time. By the way, we believe—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: By the way, we believe that workers should actually be housed in decent facilities.

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order, the Deputy Leader of the Opposition! Behave. The member for Reynell.

NATIONAL WATER INITIATIVE

Ms THOMPSON (Reynell) (14:37): My question is to the Minister for Water. How has South Australia performed in implementing national water reform?

The Hon. P. CAICA (Colton—Minister for Environment and Conservation, Minister for the River Murray, Minister for Water) (14:37): I thank the member for Reynell for her very important question and acknowledge her active interest in, amongst other things, recycling water projects in her electorate. I am pleased to inform members, Madam Speaker, although I expect there will be a few who might not be pleased to learn this, that South Australia has performed strongly in the latest assessment of the implementation of the National Water Initiative by the states and territories.

The National Water Initiative is a joint commitment signed in 2004 by all state and territory governments and the commonwealth which aims to improve the management of the nation's freshwater resources. Today, the National Water Commission released its third biennial assessment of progress across all jurisdictions, and I am pleased to note that South Australia has been commended on a number of reforms and actions, many of which are fundamental components of Water for Good.

In its findings the National Water Commission commends South Australia for leading the country in the identification, estimation and regulation of water interception activities by industry and other private users and for the transitioning of these users towards sustainable levels of extraction. South Australia also received recognition for its progress in diversifying our urban water supplies. In particular, our innovative efforts to harvest stormwater as part of the state's new stormwater strategy have been recognised. I am proud to inform members that our stormwater strategy is the first integrated urban water management plan for any capital city in Australia.

The National Water Commission has also noted our efforts to provide South Australians with independent water pricing, which was part of our water industry legislation. The government has introduced the Water Industry Bill in order to promote greater efficiency, competition and innovation in South Australia's water industry. Independent regulation of urban and regional water and wastewater service industries will provide greater transparency in the regulation of water prices and service standards, which will benefit consumers, including businesses, of course.

The National Water Commission also highlighted the importance of continuing the implementation of Water for Good. The Water for Good plan was launched in 2009 as a guiding document to ensure South Australia's water future to 2050. The government thanks South Australians for supporting the positive progress that has been achieved to date in moving to diversify our water options. Regular tracking indicates that approximately 90 per cent of the actions in Water for Good are already completed or are underway and that this underlines the government's commitment to delivering water security for our state.

APY LANDS, FOOD SECURITY

Mrs REDMOND (Heysen—Leader of the Opposition) (14:39): My question, again, is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister confirm that federal minister Jenny Macklin had to intervene and reject the minister's proposal to spend millions of dollars of federal money intended for the APY lands being spent instead on an administration centre for bureaucrats?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:40): I have to say that I welcome the involvement of minister Macklin in this area. I first talked to her about this matter a number of months ago. I saw her on 1 June, I think it was, and we talked about a bunch of issues, including food security on the APY lands. Minister Macklin and I and the communities are working together, and that is what we are doing. The key issue in relation to that particular initiative is that the money is staying here on the lands, and it will be put to very good use.

Mrs Redmond interjecting:

The Hon. G. PORTOLESI: Have you ever been to the lands, Isobel?

The SPEAKER: Order! The member for Bright.

Members interjecting:

The SPEAKER: Order!

STATE STRATEGIC PLAN

Ms FOX (Bright) (14:41): My question is to the Premier. Can the Premier advise the house on the release of the 2011 update of South Australia's Strategic Plan?

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) (14:41): Thank you very much. I thank the honourable member for Bright for her question and for her interest in this area. Last Thursday night I launched the 2011 update of South Australia's Strategic Plan, and this is the third iteration of the strategic plan—

Mr Williams interjecting:

The SPEAKER: Order, deputy leader!

The Hon. M.D. RANN: —first released in 2004 following widespread consultation.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The first plan set—

Members interjecting:

The SPEAKER: Order! Members on my right will be named also.

The Hon. M.D. RANN: The highlight of yesterday was hearing that the Deputy Leader of the Opposition reads James Thurber—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. M.D. RANN: Have you met James Thurber?

Mr Williams interjecting:

The Hon. M.D. RANN: No, no, which is not—

Mr Williams interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: He's been dead for a long time. The first plan—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg!

The Hon. M.D. RANN: —set 79 targets, including targets to diversify and strengthen our economy and to address the key social—

Mr Williams interjecting:

The SPEAKER: Order! I warn the deputy leader.

The Hon. M.D. RANN: —and environmental issues identified—

An honourable member interjecting:

The SPEAKER: Order! Premier.

The Hon. M.D. RANN: This is the third iteration of the strategic plan first released in 2004 following widespread consultation. The first plan set 79 targets, including targets to diversify and strengthen our economy and to address the key social and environmental issues identified by South Australians at the time. It is fair to say that in 2004 a number of people doubted that South Australia's Strategic Plan would still be around seven years after its release, but the plan has now endured two full electoral cycles and it has become even more valuable and relevant with every update and evaluation.

In 2009 the plan was recognised with an international award from the US-based Community Indicators Consortium for integrating community indicators with performance measures to drive meaningful, sustainable change. That honour reflects the fact that the plan is driven by the people of South Australia, not by government decree; but the plan is also a critical document guiding government policy and decisions. Every minister who presents a submission to cabinet must show how it meets relevant targets set out in the plan, and chief executives must demonstrate how their agencies are meeting the plan's targets.

Importantly, progress against these targets is monitored by a rigorous, transparent and independent audit committee every two years to demonstrate areas where we need to redouble our efforts and to track our state's achievements. The plan's success is reflected in the most recent economic data. Last week's ABS employment figures show there are more South Australians employed than ever before. Our unemployment rate is now below the national average and is the second lowest in Australia. What is more, in the 12 months to July this year, South Australia's goods exports totalled $11.4 billion—the highest level ever recorded by this state. Since—

Mrs Redmond interjecting:

The Hon. M.D. RANN: Do you want to give a speech? You did one yesterday; it wasn't your best and brightest. I am told there was a strange, eclectic, slightly weird and maybe kinky group that wrote the speech the night before—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Point of order, Madam Speaker.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: There is no relevance to the—

The Hon. M.D. Rann interjecting:

The SPEAKER: Premier. Order!

The Hon. M.D. Rann interjecting:

The SPEAKER: Order, Premier! Point of order, the deputy leader.

Mr WILLIAMS: I am still waiting on a ruling.

The SPEAKER: I didn't hear your point of order.

Mr WILLIAMS: My point of order was one of relevance. The Premier was debating a matter that had no relevance to the question that was asked.

The SPEAKER: Thank you. That's all right—matter of relevance. I am sure the Premier will now return to the substance of the question.

The Hon. P.F. Conlon interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: We'll save the weird speechwriters' collective until later, but James Thurber wasn't one of them. Since 2004, when the plan was released, we have seen major structural changes in our economy. We have increased the number of defence-related jobs in South Australia from a baseline of 16,000 in 2003 to more than 24,700 today.

We boldly aimed to become the nation's 'green energy' state and a leader in wind generation capacity, even though there was not one single wind turbine operational here in 2002. We now have over 50 per cent of Australia's wind generation. We have also consistently exceeded our target to increase mining investment exploration to $100 million. This increase in exploration has underpinned a huge expansion of our resources sector. South Australia now has 18 mines, with some 20 or 30 more in various stages of development. In the 2011 plan, this target will now be doubled to set the bar even higher.

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: The 2011 update follows the biggest consultation processes in the state's history in which we asked 9,200 South Australians what their priorities are and what their vision is for South Australia out to 2020. What we heard is that in 2011 people want us to build on the solid economic foundation that has been laid and ensure the ongoing wellbeing of communities and families into the future. People want to feel safe in their homes and on our streets. They want to protect our water supplies, particularly the River Murray. They are concerned about maintaining their own health, that of their own family and our environment. These aspirations, among others—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: —are reflected in the latest update of South Australia's Strategic Plan. Overall, the 2011 plan contains 100 targets that all fit under new categories: our community, our prosperity, our environment, our health, our education, and our ideas. These categories have been informed by direct community input and recommended by the Community Engagement Board. Each target is attached to a goal and a vision, making it easier to see what we jointly want and how we plan to get there.

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: Here we go. She's still talking.

The SPEAKER: Order!

The Hon. M.D. RANN: Come on. Give us that speech again from yesterday. Many fundamental priorities remain. Indeed, the Community Engagement Board reports that more than 90 per cent of the targets in the plan reflect what they have heard during the consultation period.

The majority of targets have therefore remained largely unchanged. Some have been made more ambitious because we have already exceeded them, whilst others have been merged into a single target. In areas where we have not been as successful as we hoped, we have maintained the same target or extended the time frame to ensure that we continue striving to reach our goals or that we revise our thinking to help get there. We have added 21 new targets which reflect the changing priorities of South Australians. They include:

- building further on our international reputation as a cycling city. We are looking to double the number of people who cycle by 2020;

- increasing the use of public spaces and further increasing our city's liveability by focusing on the design of our public places;
- supporting our critical food industry with a target to increase its economic value.

We must also ensure our state receives a social dividend from our economic success, so we have set a target to increase social participation—a target aimed at ensuring everyone is included in our state's social, economic and cultural life. To fully include people, we know we must strive to address difficult social challenges. That is why we have several targets for this complex area, including a goal to reduce the incidence of violence against women as well as a target aimed at cutting the rate of reoffending, as recommended by one of the recent Adelaide Thinkers in Residence, Judge Peggy Hora.

All of these targets, the existing and new, feature a common name, which is to foster the wellbeing of South Australians, and that is because our strategic plan is a blueprint developed for and by South Australians. Its strength is drawn from the fact that it is a truly non-partisan blueprint that is embraced by state and local government, by business and industry, by communities, neighbourhoods and families. It is not a plan just for the government: it is a plan for the whole state. Achieving all 100 targets will rely on community effort. So, I am confident that the 2011 plan provides South Australia with a framework to actively pursue a bright future, a future shaped by choice, not by chance.

APY LANDS, FOOD SECURITY

Mr MARSHALL (Norwood) (14:51): My question is to the Minister for Aboriginal Affairs and Reconciliation. Will the minister explain her comments in the media last week that the two key organisations providing nutrition and income management advice on the APY lands—Mai Wiru and NPY Women's Council—could not be on the team to develop and monitor the food security strategy and could not give evidence to the team about that because of a 'conflict of interest'?

Mr Pederick interjecting:

The SPEAKER: Order! Minister for Aboriginal Affairs and Reconciliation.

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (14:51): I thank the member for Norwood for asking me this question, because it actually gives me an opportunity to go back to the original issue that kicked off this frenzy, that is, the very serious and disturbing allegations that were made about children starving on the lands. I am going to answer that question by referring—

Mr WILLIAMS: Point of order. The question was very specific. It was asking the minister—

Members interjecting:

The SPEAKER: Order! Thank you. You can sit down now. You say the question was very specific. It was, but I think the answer that the minister is giving will lead into it.

The Hon. G. PORTOLESI: This is a complex issue.

The SPEAKER: She has explained why she is answering it in this way.

The Hon. G. PORTOLESI: This debate that we are having is based on the premise that there are starving children. This is what the Nganampa Health Council said about this issue:

The statements from various—

Mr MARSHALL: Point of order.

Members interjecting:

The SPEAKER: Order! Point of order: member for Norwood.

Mr MARSHALL: I know the minister wants to read her prepared speech, but the simple fact of the matter is that the question asked specifically about her comments in the media that Mai Wiru and NPY Women's Council could not be included in the EAT team.

The SPEAKER: Thank you. You have explained your point of order, but I do not uphold that point of order, because the minister is answering the question as she chooses.

The Hon. G. PORTOLESI: This is not my prepared speech. What this is is a statement from the Nganampa Health Council, a highly regarded body. They say:

Statements from various—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: They say:

Statements from various NGOs, some Aboriginal spokespersons and national media organisations claiming widespread severe malnutrition amongst children on the APY lands are simply wrong.

This is Prof. Paul Torzillo, the medical director of the health service.

Mr WILLIAMS: Point of order, Madam Speaker.

Members interjecting:

The SPEAKER: Order! Members on my right will behave. I want to hear the point of order.

Members interjecting:

The SPEAKER: Order!

The Hon. A. Koutsantonis interjecting:

The SPEAKER: Order, the minister for mineral resources, be quiet!

Mr WILLIAMS: I apologise, Madam Speaker. I have memorised the numbers of the standing orders, but the numbers have been changed. Notwithstanding that, the question was about a conflict of interest that the minister claimed on radio last week. The opposition is seeking to understand what the conflict of interest was.

The SPEAKER: I have already explained it. I think the minister can answer this as she chooses. My understanding of the question and her answer is that it is appropriate.

The Hon. G. PORTOLESI: I am happy to come back to that.

Members interjecting:

The SPEAKER: Order! Minister, continue.

The Hon. G. PORTOLESI: They were the words of Mr John Singer, the director of the Nganampa Health Council. Prof. Paul Torzillo says:

During the 1980s and 1990s up to 30 per cent of all children under five had severe malnutrition by WHO standards and at the time we were trying to prevent severe malnutrition. But by 2005 that proportion was only 6 per cent which is not much above the national average. This year our data on all children under five years, (approximately 210 children) shows that only six children have a weight for age measure demonstrating severe growth failure and four of these had birth related causes contributing to their low weight. Nganampa Health has a very effective policy of identifying any child who drops below their predicted growth curve, even if their weight is not markedly abnormal.

He continues:

These children present extremely difficult problems to change. There are multiple medical—

Ms Chapman interjecting:

The SPEAKER: Order! Member for Bragg, you are on a warning.

The Hon. G. PORTOLESI: Yes, very happy; I am very happy to table this. In relation—

Ms Chapman interjecting:

The SPEAKER: Member for Bragg, you are on your second warning, and yesterday you were thrown out.

The Hon. G. PORTOLESI: He says—

Members interjecting:

The SPEAKER: Order! Both sides will quieten down.

The Hon. G. PORTOLESI: He says:

There are multiple medical, social and nutritional factors which contribute to growth problems in these children.

He goes on, and he finishes by saying—

Mr WILLIAMS: Point of order, Madam Chair.

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Standing order 98. Standing order 98—

Members interjecting:

The SPEAKER: Order! Thank you.

Mr WILLIAMS: Standing order 98—

The SPEAKER: That's all I need to know. Minister, could I ask you to conclude your remarks as quickly as possible.

The Hon. G. PORTOLESI: I am going to wrap it up. He says:

Again emergency responses by either NGOs or government are not what is needed here but rather considered and sustainable initiatives.

I am prepared to work with Mai Wiru, and I met with them just the other day. I am—

Members interjecting:

The SPEAKER: Order! The minister is reaching the substance of the question.

Members interjecting:

The Hon. G. PORTOLESI: I am answering your question.

Members interjecting:

The SPEAKER: Order! Minister.

The Hon. G. PORTOLESI: I am prepared to work with the NPY Women's Council. In fact, I spoke to Andrea Mason yesterday about these very matters and did commit to working together. It is the most appropriate—

Mrs REDMOND: Madam Speaker, the relevance of the answer is the point of order.

The SPEAKER: No, I don't uphold that at this stage. She is actually referring to the people that were mentioned.

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: I am very happy and will continue working with all of the bodies on the APY lands.

Members interjecting:

The SPEAKER: Order! The member for Little Para.

EXPORT GROWTH FIGURES

Mr ODENWALDER (Little Para) (14:57): My question is to Minister for Mineral Resources Development. Can the minister please inform the house on the latest ABS figures about exports and mineral exploration expenditure?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (14:58): I am pleased to inform the house that I can, and I would like to thank the member for his question. On the back of what the Treasurer has informed the house, our future is very, very bright. In the 12 months to July 2011, the value of South Australia's overseas goods exports totalled $11.4 billion, a massive increase of 36 per cent on the previous 12 months. South Australia leads the nation when it comes to export growth. Our export growth was 7 per cent higher than our closest rivals in Western Australia. Our state dramatically outclassed the national average by 17 whole percentage points.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: I think it is important to note that these results have come despite a high Australian dollar, which has consistently been above parity. Combine this with poor economic conditions around the world—

The Hon. I.F. Evans interjecting:

The Hon. A. KOUTSANTONIS: Did you wake up, Iain? Welcome to the debate, Iain.

Members interjecting:

The SPEAKER: Order!

An honourable member: He's back.

The Hon. A. KOUTSANTONIS: He's back. Combine this with poor economic conditions around the world, particularly in Europe, and there is no doubting our exporters are really performing above and beyond. Compare this with the same time last year. The hard work of our farmers sees wheat up more than $1.1 billion, a 210 per cent increase. Copper is up $763 million, or a 133 per cent increase. Metal ores and scrap metals are up $441 million, or a 29 per cent increase.

Along with the hard work of our farmers and a bumper grain harvest, the increased number in our exports is playing a major role in this growth—growth that would not have been realised had it not been for this government's approach to backing the mining industry in this state. According to the latest ABS statistics, our faith in this industry is continuing to pay dividends.

The latest ABS stats show that South Australia's mineral exploration expenditure for the last financial year surged to $254.6 million. This is a massive increase from the $167.9 million in the previous financial year. I know that every time this state succeeds, a little part of them dies, but this is a very, very good result. Just in the last quarter alone, South Australia's mineral expenditure was up to $85.2 million. We are now ranked third, behind Queensland and Western Australia, when it comes to mineral expenditure.

An honourable member: So you should be.

The Hon. A. KOUTSANTONIS: Where we should be. The casual passenger.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Where we should be. With $101.4 million of expenditure, South Australia led the country in copper exploration expenditure. South Australia also experienced solid exploration investment in uranium, iron ore, gold and other base metals. The total forward program of drilling metres approved by PIRSA for the 2010-11 financial year was an impressive 1.23 million metres across 379 separate exploration drilling programs. With more than 30 mining projects in the pipeline, I expect and the government expects these figures to continue to remain strong. As members opposite hate to admit that this government has got the policies—

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order! Point of order.

Mr WILLIAMS: The minister is now debating the answer.

Members interjecting:

The SPEAKER: Order! All right. We have got five minutes left of question time. Minister, return to the substance of the question. I uphold that.

An honourable member: He is wrong.

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: As members are loath to admit, it is this government—

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order!

Mr WILLIAMS: The minister is defying your ruling.

The SPEAKER: Yes. Minister, could you please stop—

The Hon. A. KOUTSANTONIS: They love to admit, Madam Speaker.

The SPEAKER: —making judgements.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Point of order, Madam Speaker. The Deputy Leader of the Opposition has consistently said this isn't true. Now, if that is not loathing to admit it, I have never heard loathing.

The SPEAKER: Order! Thank you. Minister, can you complete your answer to the question without stirring up the opposite side.

The Hon. A. KOUTSANTONIS: This government has got the policies right to ensure that exports continue to increase and exploration investment remains strong, and I know this upsets the Leader of the Opposition. I look forward—

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Again, the minister entered into debate in defiance of your recent ruling.

The SPEAKER: Yes, the minister is being provocative. Please, conclude your remarks.

The Hon. A. KOUTSANTONIS: Madam Speaker, if I have offended you in any way, I apologise.

The SPEAKER: Thank you. Now conclude your remarks and you will make me very happy.

The Hon. A. KOUTSANTONIS: I look forward, as with all members on this side of the house and the crossbenchers, to increasing continued export growth and mining growth in this state as it keeps moving forward, growing very quickly. I know the opposition hates it.

APY LANDS, FOOD SECURITY

Mr MARSHALL (Norwood) (15:03): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Will the minister explain why Mr Singer, Chairman of APY, can be on the minister's executive action team when one of the two APY lands' community gardens is located at Mr Singer's homeland, 23 kilometres from the nearest community? Why isn't this a conflict of interest?

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (15:03): I understand that they want to get me.

An honourable member: It's not about you.

The SPEAKER: Order!

The Hon. G. PORTOLESI: I understand that they want to get me, but now—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Now they are attacking Aboriginal people. Now they are attacking Bernard Singer.

Mr WILLIAMS: Point of order, Madam Speaker.

The SPEAKER: Order! Point of order.

Mr WILLIAMS: I thought your rulings just a moment ago made it very clear that you weren't going to stand ministers debating the answers. The question was very clear. It is not about what we think: it is about answering the question.

The SPEAKER: Thank you for your point of order, but I don't uphold that. Minister.

The Hon. G. PORTOLESI: I actually have a letter here from Mr Singer and, with the indulgence of the house—

Members interjecting:

The SPEAKER: Order! The Minister for Transport and the member for Davenport will stop arguing across the floor.

The Hon. G. PORTOLESI: —I will read the letter:

Please be advised that at the board meeting (of the APY Executive) on Wednesday 7 September 2011, the Anangu Pitjantjatjara Yankunytjatjara (APY) Executive Board confirmed their support for the current initiatives being undertaken within the APY Food Security Project.

In their discussions, the Board acknowledged the work completed to date in establishing the market gardens at Watarru and Railway Bore. Furthermore the Board stated that these gardens provide an opportunity for employment and community activity for residents of these locations, and expect that produce from these gardens will be made available to supplement the supply of fresh fruit and vegetables to community stores in their areas.

Dr McFetridge interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: They go on:

The Board also acknowledged that these gardens, and the garden planned for Sandy Bore, are part of the broader strategy—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI:

—in tackling food security across the APY Lands. Other initiatives have been identified within the APY Food Security Strategic Plan including programs to assist in income management.

The SPEAKER: Point of order.

Mr WILLIAMS: Point of order, Madam Speaker: the letter from Mr Singer is very interesting, but the question was: why is it not a conflict of interest that government money is being spent putting the garden in Mr Singer's backyard?

The SPEAKER: Thank you. I do not uphold your point of order. This is a letter; this is an explanation of your question and why the minister has made the decision she has made.

Mr Marshall interjecting:

The SPEAKER: Order, member for Norwood!

The Hon. G. PORTOLESI: It goes on: 'The Board is committed to continue its work with the APY-EAT.' These gardens are but one of a much broader strategy in tackling food security issues on the APY lands. They are a trial, but they have absolutely, without question, captured the imagination of communities. We are working with communities; we will continue to work with communities on a bunch of issues in relation to food security, and that is all I have to say.

APY LANDS CHILD PROTECTION OFFICERS

Mr MARSHALL (Norwood) (15:07): My question is again to the Minister for Aboriginal Affairs and Reconciliation. Is the minister aware that, of the two permanently stationed child protection officers referred to in her article in *The Advertiser* yesterday, one position has remained vacant since July last year and that housing for this person has remained empty for more than 12 months in the midst of a housing crisis on the lands?

Members interjecting:

The SPEAKER: Order!

Mr Marshall interjecting:

The SPEAKER: Order! Member for Norwood, you are warned for the second time.

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE (Wright—Minister for Families and Communities, Minister for Housing, Minister for Ageing, Minister for Disability) (15:08): We have funding for two child protection workers on the lands, and we also have funding for six school-based social workers on the lands.

An honourable member: How many are filled?

The SPEAKER: Order!

The Hon. J.M. RANKINE: We currently have some vacancies.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: No, no. We have had the positions filled and, just like any other—

Mr Marshall interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —position, people come and go. We are in the final process of interviews, I think, for three positions on the lands. What I can say for certain is that there were no child protection workers on the lands when the Liberals were in power, there were no school-based social workers on the lands, and they certainly were not investing something like $292 million worth of housing for remote Aboriginal communities.

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: We are doing that on the APY lands, and we are doing that to address issues of child protection and overcrowding and health. The other thing I can say that were not on the lands are the family centres that we've established in a range of areas: in Amata, in Pipalyatjara, in Fregon, in Mimili and in Ernabella. We have a partnership with DECS where we have a community development officer there providing programs in the family and child centre for families in that particular community.

So, when we add up the dollars that are being spent on the APY lands now and the number of positions that are on the APY lands now, compared to what they were when your lot were in government, there is absolutely no comparison.

APY LANDS

Mr PISONI (Unley) (15:10): My question is for the Minister for Aboriginal Affairs and Reconciliation—from one Italian to another. Will the minister confirm that she has spent more nights in Italy than in the APY lands since becoming the minister?

Members interjecting:

The SPEAKER: Order! That was a very provocative question.

The Hon. G. PORTOLESI (Hartley—Minister for Aboriginal Affairs and Reconciliation, Minister for Multicultural Affairs, Minister for Youth, Minister for Volunteers, Minister Assisting the Premier in Social Inclusion) (15:11): I am very happy to answer it, Madam Speaker. Unlike you, I can juggle more than one thing at the same time, so I can juggle—

Mr PISONI: Point of order. The member is reflecting on other members—

The SPEAKER: Thank you; sit down.

The Hon. G. PORTOLESI: From one Italian to another, I can juggle more than one thing at a time, and the fact—

An honourable member: That's Amore.

The Hon. G. PORTOLESI: That's Amore!

Members interjecting:

The SPEAKER: Order.

The Hon. G. PORTOLESI: These are the facts, Madam Speaker: I gather they are referring to a trip that I had planned, to meet with senior Italian government officials—

Members interjecting:

The Hon. G. PORTOLESI: People say I look like Sophia Loren, but, you know—

Members interjecting:

The Hon. G. PORTOLESI: Anyway, Madam Speaker, there are very serious—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: There are very serious issues that are facing our largest—

The SPEAKER: Order; a question has been asked. If you don't want to hear the answer we will close down question time.

Members interjecting:

The SPEAKER: Order! Minister, return to your answer.

The Hon. G. PORTOLESI: There are some very significant issues facing our largest ethnic community, the Italian community. The first is in relation to the closure of the Italian consulate; the second is in relation to changes that have been made to the way that pensions are paid to people here in South Australia. I am simply doing what the member for Bragg urged me to do when she was on Italian radio just recently, and asked me to get on with it and do it.

Ms Chapman: I didn't ask you to take David Cappo with you!

The Hon. G. PORTOLESI: I have no intention of taking David Cappo with me. She asked me to do whatever I could to save the Italian consulate; and I am.

GRIEVANCE DEBATE

APY LANDS

Mr MARSHALL (Norwood) (15:13): I rise to speak on the continuing crisis which is enveloping the APY lands, and the continual mismanagement by this government of all aspects of life on the lands. I begin my comments by acknowledging that there are no simple solutions to the issues which exist on the lands. Of course, there are many false experts: people who may have received a postcard from the APY lands and are all of a sudden experts on the lands.

There is also no shortage of government reports. In the last two weeks we have heard report after report—many of these are reports that the minister has never actually read, never actually seen—so many reports on what should happen, but unfortunately there has been very poor implementation of these plans. Most of the implementations failed for one simple reason, and that is the lack of consultation and the lack of engagement of the people who actually exist on the lands.

Take, for instance, the much-scrutinised food security plan which has captivated the imagination of the media, this parliament, and, I am sure, the minister's office, in recent weeks. This is a plan which has absolutely and unequivocally failed to engage with the key stakeholders involved in this process. There is no doubt that the key groups involved with service provision, in terms of nutrition and education on the lands, are the NPY Women's Council and Mai Wiru (which is a spin-off of Nganampa Health).

Both of these groups have been completely and utterly excluded from the minister's Executive Action Team. EAT—isn't it cute? Unfortunately it is completely and utterly ineffective. Not only were they excluded from the group, but when these groups—Mai Wiru and NPY Women's Council—asked to be invited along to present to that group, they were completely and utterly excluded. This is absolutely shameful and this points to the reason why her strategy has received such poor response on the APY lands.

I would just like to mention some of the things that have been raised in terms of the food security strategy on the lands, and I acknowledge that it is a complex area but there are some fundamentals that have completely evaded the minister. First of all, there is the issue of income management on the lands. There is no doubt that most of the people who are looking at this issue

are looking at the minister and saying that there must be some type of income management on the lands.

A lot of people who maybe have not had a close look at the lands will come along and say, 'Well, this is because the Indigenous people on the lands can't manage their money.' The simple fact of the matter is that the Anangu on the APY lands are under an enormous amount of pressure from those people who are close to them which makes it very difficult for them to operate in a way that we might operate here in metropolitan Adelaide.

Humbugging is absolutely rife. I spoke to one person off the land very recently who said to me that it is not uncommon for money to be deposited into a bank account on a Friday night and be completely and utterly exhausted by Monday, and then that woman has to feed her family for the rest of the week.

This is the problem: Mai Wiru and the NPY Women's Council are 100 per cent behind the concept of voluntary income management on the lands. In fact it was the Mai Wiru organisation that had put to the minister the importance of immediately looking at the concept of a food card which quarantines income for the people on the lands each week and makes it excluded so that they spend it precisely on things that are important to them.

It is a practical response but, unfortunately, the minister has rejected it. The minister somehow thinks that we are all completely against her. She repeated in the house today time and time again, 'They've got it in for me.' What the minister—or, as we now have been alerted to, Sophia Loren, as she likes to call herself—

An honourable member interjecting:

Mr MARSHALL: She said it—look at the *Hansard*. What the minister does not understand is that this is not about the minister: it is about her performance. She should stop focusing the issues on herself. She should actually pay attention to her portfolio and, most importantly, she needs to consult with the people who are on the lands, the people who are at the coalface—Mai Wiru, NPY Women's Council—and get on with implementing something that is going to have success, not another government report, not another two years so that she is moved out of this portfolio completely. We need a response now. We need it before she moves on to the next portfolio on 20 October.

APY LANDS

The SPEAKER (15:18): Before I call the next speaker I just want to make some comments. This is not a reflection on the member for Norwood but on a whole range of people who are commenting on this. I have been the local member for the APY lands for the last 13½ years. I have visited regularly in that time and I have done that quietly and unobtrusively, not in a blaze of publicity. I am appalled at some of the comments that are being put around in the media currently and in this place, made by Johnnies-come-lately very often or armchair experts in Adelaide who think they know everything.

I can say quite categorically that the lands are significantly better than they were 14 years ago. The children are not starving in the lands. There are problems with income management and feeding children but they are not starving and the communities will not allow that to happen. There is a reflection on the poor people on the lands in communities there where they have been implicated and talked about in a way that it is just not appropriate for them.

You may have a point of order, but I am the Speaker and I am saying what I want to say. So much of what is said is true about income management. There are severe problems but these are not new and the member for Morphett and I have discussed these for the last 14 years. He has been on the Aboriginal Lands Committee with me, and I think it is time for some sanity in this argument and this situation. People need to be very careful about what they are saying because they are reflecting on the local people in the communities. They will look after their children and they will look after their situation.

Mrs REDMOND: Madam Speaker, can I inquire how that statement was orderly, with you making it from the chair, rather than vacating the chair and putting someone else into the chair so that you could make it as the member for Giles?

The SPEAKER: I will be making a statement as the member for Giles also when I get an opportunity, but I can make it from here if I choose. The member for Mawson.

RICHARDSON, MR D.

Mr BIGNELL (Mawson) (15:20): I rise today to pay tribute to a local legend in Willunga, Dean Richardson. Dean is a stalwart of the Willunga Football Club and the Barbecue Shed, and last weekend he took on a good cause to raise money for his mates with cancer. Dean is a 59-year-old shearer who has been shearing for 42 years, and he set out to shear for 24 hours straight and to shear 400 sheep.

It was great to be there at the beginning of his record attempt on Saturday at the Willunga Farmers Market and then be back there the next morning at 10 o'clock when he had finished, ahead of time, the 400 sheep. I pay tribute to Dean, who did a fantastic job. He has raised close to $20,000. As he said, he is a shearer, not a doctor, so he cannot go and help find a cure for cancer, but he can help contribute by raising funds; and he thought if he did not do it before he hit his sixties he would probably never get around to doing it.

I also pay tribute to the many people around Dean, good people from Willunga who helped out. I mention Gerald Martin, who was the chair of the committee; and Derek Mawhinny, the secretary of the committee, and his wife Myra. Bernie Dwyer from Wood'N'Logs constructed a shed near the market so the first few hours of Richo's record attempt could be completed there before they moved to the woolshed at the property of Paul and Wei Giles.

I also thank Graham Giles. The record attempt went through the night and people were kept well fed by Barty (that is Robin Bartel). He is also a local legend and he catered for 150 to 200 people through the night with plenty of lamb and mutton. Deb Tucker, a local real estate agent, who is always involved in a good cause, whether it is the Willunga Farmers Market or any other community group, was there as well.

I know Dean really appreciated the support of Deb and many other local sponsors such as Aldinga Foodland, Larry from the Alma Hotel, Doc Adams Wines and Chook McCoy. Chook is a legend. He gets people from the pub and takes them home each night of the week. If you have had too many and do not want to drive your car, Chook has set up a service to make sure that everyone gets home safely.

He also does some outstanding wine tours. Chook was taking people home from the pub on Saturday night and, instead of taking them straight home, he would detour past the woolshed so they could give Richo a bit of encouragement. He donated the night's proceeds to the cause as well. Bernie Dwyer's daughter Emma was also involved. I must mention Richo's wife Sharyn, who did a great job, as well. I saw her early Sunday morning, and she had had about an hour's sleep in the car.

It was terrific to see everyone get out and support it. I must mention the Hon. Robert Brokenshire from another place. He was there and conducted the auction on Saturday night. He also got involved when they asked him to shear a sheep. He took 9½ minutes, and there was a little bit of a nick to the sheep's ear and he had more claret over his moleskins than anyone had in their glass all night.

He made a bit of a mess, but everyone reports that the sheep is in good order, and I know everyone appreciated Robert's attendance on the night to help with a good cause. There is another good cause happening this Friday. The Peter Couche Foundation is having a 'Don't speak for an hour' function to raise money for stem cell research to help stroke victims. I do not know whether anyone saw the magnificent *7.30 SA* program last Friday night, but it featured Peter Couche.

I challenge the member for Bragg to join in and stay silent for an hour but, instead of doing it Friday when the rest of the people are doing it, maybe do it during question time tomorrow so that we have no interjections. If so, I am happy to chip it off with $100. That is another good cause that is out there, and I hope the member for Bragg takes up the invitation.

Also, I just want to mention that South Adelaide is in the finals for the first time since 2006. I wish them all the very best for Sunday up against Glenelg. Unfortunately, I have got my mother's 70th birthday so I will not be there, but I will be saying, like the Premier always says, 'Go Panthers!' It has been a terrific year, and what a great turnaround the club has had under Ron Fuller.

I would also like to point out that the Ken Farmer Medal has come South Adelaide's way this year, with full forward Michael Wundke kicking 67 goals to be the league's highest goal scorer; and I wish Joel Cross all the very best for the Magarey Medal after taking out *The Advertiser's* SANFL Award.

SEX OFFENDER ALLEGATIONS

Ms CHAPMAN (Bragg) (15:25): Today the Premier outlined his government's—what I think he would describe—glorious record on the prosecution of child sex abusers and the importance of protecting child sex abuse victims, and he outlined the effectiveness of this and what has been achieved under his regime. He also outlined that it was important that when people become aware of allegations of child abuse they should be reported to the police and the appropriate authorities.

Whilst I do not agree with his claims of his own record, I do agree with him about the importance of reporting these matters. Last night in the Senate, Senator Nick Xenophon repeated from an earlier contribution the allegation of the alleged repeated rape of Archbishop John Hepworth who has claimed that he had been repeatedly raped over a 12-year period from the age of 15 years. Two of the priests who had been named were now dead and a third priest he named last night (whom he claimed had raped John Hepworth from on or around the time he turned 18 years of age) was still alive.

The allegation itself is an important one to be followed up. The statement of the priest's name in my personal view was neither necessary nor appropriate. What was necessary, though, and I think very appropriate, was the senator's disclosure of what happened after the detailing of these allegations by Mr Hepworth to Monsignor David Cappo from the Catholic Church here in South Australia, and in particular that, after an original expression of concern in 2007, he conveyed a detailed statement in March 2008 to Monsignor Cappo.

Of course, we now know that there has been a period, apparently, of four years where there has been either inaction or inadequate action in response to the complaints. It seems from the information published so far that Archbishop John Hepworth did not wish to have any prosecution or criminal offences brought against the alleged offender, and that I think is always to be respected in victims of alleged crimes and that they are taken into account.

But what is puzzling to me and of great concern I think to people in South Australia is why today, after these allegations have been made, has the Premier not come in today to explain to South Australia what action he has taken as a result of this startling allegation, namely, that a senior member of the church who received an allegation of alleged sexual abuse against a minor and who was legally required under section 11 of the Child Protection Act of 1993 to have reported those matters to the authorities—which he has told us again today is important to be done and to be followed up—and why that was not done?

Furthermore, what investigation has been undertaken by his government to ascertain whether in fact Monsignor Cappo has actually broken the criminal law. Assuming these allegations are correct, namely, that there was an allegation conveyed to him of child sexual abuse in 2007, then why in the last four years—or indeed in the time required under the act—had Monsignor Cappo not reported that to the authorities?

It is no defence under the act for him to allege that the alleged victim in this allegation is now over the age of 18 years. His obligation is very clear. Why have we not heard today from the Premier as to whether he would conduct such an investigation? Has he asked Monsignor Cappo to stand down from his position on the Social Inclusion Board? Has he suspended him from his ex-officio role as a member of cabinet? Has he suspended him as a member of the Economic Development Board?

These are all key roles which he currently undertakes on behalf of the South Australian government. Why has he not explained to us whether in fact this issue has been referred to the Attorney-General for investigation and, if not, why it has not? Whether, in fact, the Minister for Families and Communities has actually made any request at all for this to happen? These are all unanswered questions and the people of South Australia are entitled to have answers.

Time expired.

LONSDALE HEIGHTS PRIMARY SCHOOL

Ms THOMPSON (Reynell) (15:30): I would also like to wish South Adelaide well in the finals this weekend. It has been a long hard trial for South Adelaide, but they—

The DEPUTY SPEAKER: Go Panthers!

Ms THOMPSON: —truly acted as a club, got things right on and off field and their future is looking very rosy. Today I wish to pay tribute to a very small school in my electorate, Lonsdale

Heights Primary School. It only has 109 children and it is quite difficult in such a school to offer a wide program of student engagement but, led by the principal, Keith Beal, the staff and families of Lonsdale Heights are working exceptionally well together to provide a rounded education for the children attending that school.

Lonsdale Heights is located in a small community that is bounded by the expressway and the train line, some industrial land and a main road, so it is a very enclosed community and acts very much like a country town. The school acts like a school in a country town—the centre of that community.

Recently I held a forum for leaders in my schools, particularly the parent leaders and governing councils, and we were looking at how we can improve outcomes for children in schools in my community. We used the opportunity to reflect on what we had enjoyed at school that did not seem to happen so much now. I want to mention Lonsdale Heights because they are providing the things that many of us older members of the community regret are not provided in all schools.

The parents said they used to like sports day, and that does not always happen to the same extent. They liked the fetes and they liked the school production. They are their happiest memories of school. Lonsdale Heights, with only 109 children, manages to put on all three, and I think this should be commended. Sports Day is held in term three every year with children from kindy to year 7 taking part. The first half of the day is devoted to teaching clinics, with sports groups that have run a clinic during the year such as basketball and soccer invited to return and run a clinic for Sports Day. There are usually three such clinics during the morning and the afternoon is used for team and individual races and other sports activities followed by presentations.

Lonsdale Heights, for the last few years, has also produced a stage show, a rock musical. This year it was called *Just a Fantasy* and involved 55 of the 109 children at the school. The teachers are heavily involved in this with their producing the staging and suitable props, and parents, staff and other helpers prepare the costumes. The children launched three productions at the Noarlunga Theatre, and it is available to all sorts of members of the community to attend and is often attended not only by the immediate school community but by other schools and citizens from aged communities.

The school also has a school band which is led again by the able principal, Mr Beal, who has a great interest and facility in music. The children learn to play a range of instruments from things like the guitar, drums or glockenspiel to classical music. Next week, the school is holding its annual mini fete and barbecue. Each class puts together an activity that can be used for a stall. These can range from wet sponge throwing, skateboarding and egg and spoon races, to fancy dress, paper folding, sewing, knitting, painting or cup cake decorating. Staff, including SSOs, help students prepare for the fete by each taking a group to learn a specific activity or craft. Not only do children help prepare items for sale for the activities but they also each take a turn in working on the stall during the day.

The school has produced a fun way of enabling a low income community to not only develop the children's craft skills but their feeling of community, their feeling of being supported by their parents and the community around them, and enabling them to have a great, fun day, which includes a show bag, when some families cannot afford to go to the Royal Show.

FOOD SECURITY

Mr VENNING (Schubert) (15:36): I raise a most important issue again today, that of food security and, most important of all, how Labor has done nothing but create food insecurity. I first raised this issue in the house about four years ago, sadly to deaf ears across the chamber. My words were not lost, and now the media share my concern regarding food security.

I feel that this issue is as important as another major issue that I have been involved with, that is, the serious issue of drug driving. Like this issue of food security, the government was very reticent to do anything about it. Food security, I remind the house, is the ability of a country to provide enough food for all of its people and to strive to be at least self-sufficient so that we will never ever have to rely on other countries for food to feed our people in times of shortage, famine, droughts, wars and other international events.

Australia has always been a net exporter of food; that is, we produce more than we need and we earn export dollars by selling our surpluses. Why is it an issue now? Because of government policy we are producing less and importing more every year. I draw the house's

attention to a recent article in *The Advertiser*, where it was reported on 6 June this year, and I quote:

> Australia faces severe food shortages in 10 years if governments don't immediately act to protect producers.

The article then describes our current situation, and I quote again:

> For the first time in decades, Australia's food and grocery manufacturing industry dropped from a $4.5 billion surplus in 2004-05 to a $1.8 billion deficit in 2009-10. At any time, up to 50 per cent of processed and packaged foods are imported.

Sadly, Labor has chosen to ignore the facts and, worst of all, the most important plank in all of this is the people who produce food, our farmers. Farmers are our biggest export earner, bringing in a $36 billion income to South Australia, but this government does absolutely nothing to assist our farmers. Indeed, it puts every impediment in their way, so much so that there are some real concerns out there.

Farm production is falling, farm incomes are falling, farmers are selling up and leaving or buying farms elsewhere, particularly in Western Australia, because it is all too hard here in South Australia. South Australia now has the dubious distinction of having the highest level of foreign ownership of its farms in Australia. What a disgrace that is! And nobody can deny that. We have the highest level of foreign ownership of any state in Australia, or territory, much higher than anyone. Northern Territory is second—

Mr Piccolo interjecting:

Mr VENNING: The Northern Territory is a territory not a state; that is a fact. It is so bad that the NFF chief, Matt Linnegar said:

> The high South Australian figure was a bit surprising. I think those involved with agriculture in South Australia would want to understand the context.

New figures by the Australian Bureau of Statistics show that more than 12 per cent of land used for agriculture in South Australia is owned by foreign interests. This compares to 0.8 per cent Victoria and 2.7 per cent in New South Wales. Why is this so? South Australian farmers have been doing it very tough under this Labor government ever since it came to power in 2002.

Last week, during a seminar hosted by SAFF (Feast or Famine), the facts and consequences were clearly spelt out by the speakers, Julian Cribb, Bob Katter, Professor Simon Maddox and others, who provided firsthand experience and observations.

What has Labor done to help farmers? In the driest state of the driest continent, Labor chooses to turn its back, preferring a dry, dusty vision to a clear future for our farmers. The South Australian government's cutting of resources to PIRSA, SARDI and the advisory board is an absolute disgrace. If ever we want our farmers to be up with the best technology and the best networks and be efficient on the world stage, it is now. But what do we see? Cuts to all these areas that would certainly enhance our ability to produce more food, and to do it more profitably and efficiently. Cuts to SARDI just cannot be justified; it defies basic logic.

Over the years, certain scientific breakthroughs have enabled a huge boost to farm productivity, especially in the varietal and disease areas, not to mention that fertiliser and machinery high-tech advances were made through the science that SARDI and the department did then. It is all on the backburner now, and the minister for agriculture sacks the advisory board after 123 years of valued service, working through 1,800 members across our state, for the price of one high-paid government salary. The government also continues to promote an anti-GM policy in South Australia, the only state in Australia that fails to realise the opportunities that could bring—

Members interjecting:

The DEPUTY SPEAKER: Order! Excuse me. Actually, member for Schubert, you will like this. There is no point in the people on my right shouting, 'Order, order! Time, time!', because the fact of the matter is that I have a record of allowing people to finish sentences, including the people on my right. So, we are going to allow the member for Schubert to finish his sentence. Member for Schubert.

Mr VENNING: Thank you, Madam Deputy Speaker. We have the most advanced technology in Australia and, without the GM capacity there, how handicapped are we?

WOMEN'S SPORTING ACHIEVEMENTS

Ms BEDFORD (Florey) (15:41): In light of Sam Stosur's historic win in the US Open, women's tennis has been highlighted in the media this week. Sam is the first Australian woman to win a grand slam singles title since Evonne Goolagong Cawley in Wimbledon's 1980 tournament, and the first Australian winner of the US Open since Margaret Court Smith in 1973. Margaret, of course, also won in 1962, 1969 and 1970.

Sam's career has a connection to Adelaide, as we see in today's *The Advertiser* that Bruce Rehn spotted 7-year-old Sam at Memorial Drive, and he nurtured her during her first three years and, as he notes, gave her the right technique from the beginning, laying a solid foundation for her hard work, which has now really paid off. Congratulations to Sam and her team. She is a fine role model and will inspire many players to become future champions.

She will be very welcome on her next trip to South Australia to visit the Valley View Tennis Club. They have a wonderful junior development program and I am sure everyone will make her very welcome. Everyone in this house, too, I am sure, hopes she will hold many more trophies aloft in her career.

Another recent outstanding performance came at the world athletic championships in Daegu, when Sally Pearson became the world record holder in the 100 metres hurdles, the fastest time in19 years and the fourth fastest time ever of 12.28 seconds, only 0.07 seconds away from the fastest time ever. The three women above her, according to a report in *The Advertiser* on 5 September, have some question marks over them as their records were some years ago.

This is a very competitive event. After her silver medal win in Beijing in 2008 and coming into an Olympic year in London 2012, Sally is well placed to achieve another marvellous result. Australia's high-performance manager, Eric Hollingsworth, rated Pearson's victory as one of the best things he had ever seen in the sport:

> 'We reckon this is the equal greatest performance by an Australian in a championships (including the Olympics),' he said.

This is another example of hard work paying off. We are all proud of Sally's achievements, and we wish her the very best for the future.

I would also like to talk about netball today and the recent media attention to South Australia's greatest players and the champion team selected from the all-time greats from both the Thunderbirds and the now no longer Ravens, who played their final season in 2002. A household name in netball circles is Michelle den Dekker. She was named as our greatest player ever and was also chosen goal defence in the championship team, ahead of other greats like Kathryn Harby-Williams and Mo'onia Gerrard.

Michelle played 84 tests with the Diamonds and was a three-time world championship player, twice captaining Australia to the title. We are very proud of her efforts. Other people mentioned in the team were goal shooter Jenny Borlase, goal attack Natalie Medhurst, wing attack Laura von Bertouch, centre Nat von Bertouch, wing defence Peta Scholz and goal keeper Sarah Sutter.

Netball is a very popular sport for all our young women in South Australia and I know that every member has a great interest in their local team. Michelle played locally with Garville before moving to Queensland to captain-coach the Firebirds. She is a great role model.

My local teams include Tango and the Modbury Hawks, and I was recently at Modbury Hawks' prize night and disco night as a rep for the member for Wright. These clubs both enjoy wonderful parent support and their teams and clubs are growing as they provide a great environment to learn and enjoy sport.

Lastly, I would like to speak about hockey. My local club, the North East Hockey Club, or the Zulu Warriors as they are better known, caters for all ages and abilities and also has a great committee guiding its activities.

The article I would like to highlight and quote from is from *The Advertiser* on 7 June which talked about South Australia claiming its first Australian championship in 16 years. The Southern Stars had four players called up to the national Hockeyroos squad. National final hero, Georgie Parker, was named in the squad for the first time and Holly Evans and Elise Stacy earned recalls, while Bianca Greenshields maintained her place on the list under new coach Adam Commens.

Unfortunately, I am informed that Georgie did not get to play in the team at the championship and the Hockeyroos actually finished sixth in the tournament. Our girls, however, continue to push for selection and with a fine record and tradition in hockey in this country, our Olympic prospects are in very good hands.

I know the house is well aware of the South Australian results in the recent National Calisthenics Championships, so I will finish off by just saying that there is a South Australian team about to go to Darwin to compete and we wish them all the very best. Another event that I think is really important is this weekend when the member for Hammond and I will be at Murray Bridge for the International HPV Pedal Prix. It is great that so many women and girls are participating in these teams now. We wish everybody at Murray Bridge all the very best.

I would also like say, 'Go the Modbury Hawks.' A female team is now competing in the SANFL and the Modbury Jets have encouraged female participation in soccer for many years. So all in all, I think, while we talk about sport as being elite and we know most of the pages at the back of the newspaper concentrate on men's sport, women in sport have really held their own and I look forward to more successes in the future.

EVIDENCE (HEARSAY RULE EXCEPTION) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (15:47): Obtained leave and introduced a bill for an act to amend the Evidence Act 1929. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice, Minister for Urban Development, Planning and the City of Adelaide, Minister for Tourism, Minister for Food Marketing) (15:47): I move:

That this bill be now read a second time.

This bill seeks to repeal section 34CA of the Evidence Act 1929 and replace that section with a new section, section 34LA, following suggestions by the Court of Criminal Appeal that the current section 34CA contains an inbuilt contradiction.

Section 34CA was designed to remove a barrier to the prosecution and trial of sexual offences allegedly committed against very young children and, by later amendment, also persons with a mental disability. For both categories of witness, an inability to fully understand what is happening to them, or to remember and later articulate accurately what they said or did, may make their testimony unacceptable to a court. These are also the very characteristics that make young children and mentally disabled people easy targets for sexual predators. Without some relaxation of the rules of evidence, prosecutions of sexual crimes allegedly committed against the most vulnerable members of our society could rarely be instigated, let alone succeed.

Section 34CA established a special exemption to the hearsay rule that allowed the court to admit evidence from another person of what a young child said to them out of court to prove the truth of what the child said. The exception attempted to strike a balance between the public interest in prosecuting these crimes, the public interest in preserving the right of those accused of such crimes to test the prosecution evidence by cross-examination and the public interest in shielding extremely vulnerable witnesses from courtroom trauma.

Sometime after its enactment in 1988, section 34CA fell out of use. This was because it depended on the child being called, or being available to be called as a witness, as a consequence of which it could not operate when the child was incapable of giving sworn or unsworn evidence, or was exempted from being compelled to give evidence under section 21 of the act, thus excluding from its operation the very cases where the section was most needed. I seek leave to have the remainder of the second reading explanation inserted into *Hansard* with reading it.

Leave granted.

As one of the evidentiary changes supporting the Government's reform of the rape and sexual assault laws in 2008, that section was substituted by the *Statutes Amendment (Evidence and Procedure) Act 2008*. The amendments, which were limited, were the subject of extensive public and expert consultation and advice.

In 2009, in *R v J, JA* and, in 2010, in *R v Byerley*, the South Australian Court of Criminal Appeal expressed concern that the construction of the substituted section 34CA may operate to defeat its purpose and prevent the admission of the very kinds of statements it was intended to admit.

The Bill seeks to deal with this problem by restoring the original scope of the section and then strengthening the hearsay exception within that policy setting.

Current section 34CA has two main objectives.

The first is to ensure that out of court statements by prosecution witnesses who are young children under the age of 12, or who suffer from a mental (or intellectual) disability that adversely affects their capacity to give a coherent account of their experiences or to respond rationally to questions, can be adduced into evidence in a trial through a person to whom they were made, if of sufficient probative value to justify that admission.

The second is to ensure that evidence of such statements can be admitted without the young child or mentally disabled person being cross-examined on it if questioning him or her would not produce material of any real value to the court. It is the extent to which the section meets this objective that was of concern to the Court of Criminal Appeal.

In his second reading report to the amending Bill in 2007 the then Attorney-General, the Hon. Michael Atkinson, described the second objective thus:

The court may permit such cross-examination only if satisfied that it would elicit material of substantive probative value or material that would substantially reduce the credibility of the hearsay evidence. The provision will therefore sometimes allow evidence of what protected witnesses have said out of court to be admitted even though the protected witness has not been questioned about it in court. Whenever this happens, the court must warn the jury that this evidence should be scrutinised with particular care because it has not been tested in the usual way.

The Court of Criminal Appeal pointed out that a person's testimony about something a young child or mentally disabled person has said but cannot later remember or articulate to a court cannot be admitted into evidence under the current section because one of the criteria for admission of the statement is that permission to cross-examine has been granted. Permission can only be granted if the witness has been called or is available to be called as a witness and if questioning will produce material of substantive probative value or material that will substantially affect the credibility of the evidence. A young child or mentally disabled person who cannot give coherent evidence or has difficulty recalling making the statement or responding to questions about it is unlikely to be considered available to be called as a witness; and even if technically 'available', is unlikely to be able to say anything of any consequence or reliability when questioned. This criterion therefore defeats the purpose of the section in the same way as the single criterion of availability as a witness did the original section.

Justice Kourakis gave a useful description of the problem in his judgement in *R v Byerley*:

The facts of this case serve as a good illustration of the types of protected statements which Parliament probably intended to be admitted without cross-examination but which are inadmissible on either of the constructions propounded in R v J, JA. The complainant in this case was three years of age when his mother found him fondling his penis. She asked him what he was doing and he replied that 'this is what [the appellant] does to me'. It is inherently improbable that a response like that could be intentionally fabricated or even imagined by a three year old child. The probative value of that spontaneous response, which arises from the circumstances in which the protected statement was made, is very great indeed. Moreover, no cross-examination of the complainant could possibly diminish that weight. If a trial were to take place soon after the alleged offence, a child of just over three is unlikely to satisfy the requirements of section 9 of the Act. Nor would the test proposed by White J in R v J, JA allow for the cross-examination of a child of such tender years. The effect of both a literal construction and the construction given by both the majority and White J in R v J, JA of the cross-examination condition of section 34CA(1) would therefore be to exclude evidence of protected statements. That result would ensue even though the protected statements fell squarely with the purpose of the provision; a result which is completely contrary to the purpose of the section.

This Bill deals with the problem by repealing section 34CA and replacing it with section 34LA. For the reasons set out below, the section is to be relocated in Division 2 of Part 3 of the Evidence Act dealing with miscellaneous rules of evidence in sexual cases.

Section 34LA makes the sole criterion for admission of an out of court statement that the court is satisfied, having regard to the nature of the out of court statement, the circumstances in which it was made and any other relevant factor, that what the young child or mentally disabled person was heard to say has sufficient probative value to justify its admission as evidence. Admission will no longer depend on whether permission has been given for the maker of the statement to be cross-examined, nor on whether the maker of the statement is called or available to be called as a witness.

Indeed, section 34LA will permit the statement to be admitted even if its maker is not available as a witness (for example, because he or she is not capable of giving sworn or unsworn evidence or has been exempted from being compelled to give evidence). The prosecution will be under no obligation to call the maker of the statement to give evidence. In cases where the prosecution chooses to do so, defence counsel will be free to cross-examine him or her without seeking the permission of the court.

Section 34LA will confine this exception to the hearsay rule to the statements of alleged victims of sexual crimes who are young children of or under the age of 12 years or who are mentally disabled (as currently defined in section 34CA—namely people with a mental or intellectual disability that adversely affects their capacity to give a coherent account of their experiences or to respond rationally to questions). It will also be confined to criminal proceedings. This is the setting for which section 34CA was originally intended and the only one in which it has ever been invoked.

If such an alleged victim does give evidence of a statement that has been adduced and admitted under section 34LA through the testimony of someone else, other provisions in the Act will come into play to ensure that he

or she does not suffer undue distress in doing so. Examples are the vulnerable witness special arrangement provisions and provisions preventing oppressive and improper questioning.

In addition, section 34LA will restrict the scope of any cross-examination to the content of the statement and the circumstances in which it was made, unless the alleged victim gives evidence of other matters, or unless the judge is of the opinion, despite the alleged victim not having given evidence about other matters, that cross-examination on other matters is necessary to identify which parts of the evidence of the out of court statement are in dispute and why.

Section 34LA will also require the judge to give warnings and directions to the jury when an out of court statement has been admitted into evidence and the alleged victim has not been cross-examined about it. The jury must be warned to treat the evidence of the statement with particular care because it has not been tested by cross-examination of the person who made it. However, if, for example, the alleged victim has given evidence for the prosecution but was not cross-examined on that evidence, the judge may also, if of the opinion that it is in the interests of justice to do so, direct the jury to take into account that the reason for the evidence not being tested by way of cross-examination was that the defendant chose not to do so.

Another part of section 34LA acknowledges the effect that youth or mental disability combined with the passage of time can have on memory. It will oblige a judge, when the making of the out of court statement or its content or context are in issue, and the child or mentally disabled person, when cross-examined about it, fails to remember making it or what it was or the circumstances in which it was made, to explain to the jury that there may be good reason for such failure of memory and to direct it not to take that failure to remember, by itself, as an indication that the statement was not made or was different from how it was described by the person who gave evidence to the court of hearing it. The same obligations will apply when the witness has only a partial memory of the out of court statement or has a recollection that is wholly or partly inconsistent with evidence admitted under section 34LA or with other evidence of the statement relevant to the issue, including evidence of out of court statements admitted under other sections of the Act.

The Bill also narrows the scope of the section. At present it is being used to enable the admission into evidence of records of police interviews with the alleged victim to prove the truth of what was said in the interview. That was never Parliament's intention.

Section 34LA will not permit the admission, by this exception to the hearsay rule, of records of interviews of young or mentally disabled alleged victims by investigating police or other authorities. Statements made to police and authorities by way of a report of a crime or in answer to questions about an alleged crime are made with deliberation and premeditation in formal circumstances that cannot justify their admission into evidence by this exception to the hearsay rule.

The primary aim of new section 34LA is to capture utterances of young children or mentally disabled people which, because of their nature and context, the hearer thought significant and remembered, but which the speaker may not later remember at all or in enough detail to recount to a court, having had no appreciation of the significance of what he or she was saying at the time.

The exception to the hearsay rule in section 34CA (and in its proposed replacement, section 34LA) overlaps with another exception known generally as the rule about recent complaint. If a person complains of a sexual offence to authorities, the record of what he or she says may be admitted into evidence as an initial complaint under section 34M of the Evidence Act—that is, not to prove the truth of what was alleged, but rather to show consistency of conduct in the alleged victim and to show when and to whom and in what circumstances he or she first complained of the alleged offence. This is so whether the complainant is an adult, a young person or a young child and whatever the complainant's mental capacity.

When an out of court statement by a young child or mentally disabled alleged victim of a sexual offence would qualify for admission under section 34LA and also as an initial complaint under section 34M, the judge's directions to the jury will depend on how the statement has been admitted. If admitted under section 34LA, then the directions required by that section will apply. If the prosecution, for some reason, decides to adduce the out of court statement of a young child or mentally disabled person as an initial complaint under section 34M, then the directions required by section 34M will apply.

The Government is also exploring additional provisions to govern the admission into evidence of audiovisual records of police or social worker interviews with alleged victims of offences who are young children or mentally disabled people, and to require comprehensive standards and procedures for the conduct and recording of such interviews (including accredited interviewer training).

Finally, this Bill includes a transitional provision to make the new section 34LA apply to proceedings for sexual offences commenced but not yet determined before the amending Act commences and also to any proceedings for sexual offences commenced after the amending Act commences. This means it will not affect orders made under section 34CA that are currently in force and have been made in proceedings commenced before the commencement of the new section. The intention is that if an order has not been made under section 34CA in a trial commenced but not yet determined before this Act comes into effect, the prosecution may apply for an order under the new section 34LA the moment the Act comes into force. Without such a provision there may be argument about whether section 34LA is procedural or substantive and consequent doubt about which proceedings it applies to.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Evidence Act 1929*

4—Repeal of section 34CA

This section is to be deleted.

5—Insertion of section 34LA

New section 34LA is to be inserted after section 34L.

34LA—Admissibility of evidence of out of court statements by certain alleged victims of sexual offences

This section provides that in a trial of a charge of a sexual offence where the alleged victim of the offence is a person to whom this section applies (that is, a young child or a person who suffers from a mental disability that adversely affects the person's capacity to give a coherent account of the person's experiences or to respond rationally to questions), the judge has a discretion to admit evidence from a person of what the person heard the alleged victim say (whether to the person or to some other person) out of court (an *out of court statement*) if, after considering the nature of the out of court statement, the circumstances in which it was made and any other relevant factor, the judge is of the opinion that the evidence has sufficient probative value to justify its admission.

The exception does not, however, apply to any statement made by the alleged victim (whether or not in answer to a question) to an investigating or other authority as part of a formal interview process conducted in relation to the alleged offence.

Evidence of an out of court statement that is admitted under this section may be used to prove the truth of the facts asserted in the statement.

The section then makes provision for other procedural matters relating to the admission of evidence of the out of court statement, cross-examination of the alleged victim and the warnings and directions to be given by the judge in relation to the evidence.

Schedule 1—Transitional provision

1—Transitional provision

This clause provides that the amendments made by Part 2 of this measure to the *Evidence Act 1929* are intended to apply in respect of—

(a) proceedings for a sexual offence commenced but not determined before the commencement of this clause; and

(b) proceedings for a sexual offence commenced after the commencement of this clause.

Any order made by a court under the *Evidence Act 1929* as in force immediately before the commencement of this clause will remain in force according to its terms.

Debate adjourned on motion of Mr Pederick.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:51): Obtained leave and introduced a bill for an act to amend the Tobacco Products Regulation Act 1997. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Southern Suburbs, Minister Assisting the Premier in the Arts) (15:51): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill seeks to amend the *Tobacco Products Regulation Act 1997* and is about further protecting the community from passive smoking. We have known for a long time that second hand tobacco smoke can lead to serious health problems, including coronary heart disease and lung cancer in adults, and asthma and other respiratory illnesses in children.

This Government has already taken strong steps to improve air quality for indoor environments by banning smoking in all enclosed public places, workplaces, shared areas and also in vehicles when children under 16 years are present. These measures have been very effective and well supported by the South Australian public.

We know that there is no safe level of exposure to second hand tobacco smoke, inside or outside. Research demonstrates that outdoor smoking is a potential hazard, particularly around larger numbers of active smokers and under certain wind conditions. This means that passive smoking is a risk for those who spend time in confined outdoor public places and this is especially so for children and people with a pre-existing health condition.

In 2010, 71 per cent of South Australians surveyed reported that they were concerned about exposure to someone else's cigarette smoke, while 66 per cent reported that they actually had been exposed in the previous two weeks. SA Health regularly receives complaints from the general public about smoke drift and passive smoking in outdoor public places. These include areas where smokers congregate, such as outdoor public events and bus stops.

This Bill proposes to ban smoking in a number of public areas to protect the community from the dangers of passive smoking. For this reason we want to make all covered passenger transport waiting areas free of tobacco smoke. This includes bus, tram and train stops, as well as taxi ranks and any other covered outdoor area where people need to congregate to wait for public transport. This will allow passengers to access public transport, while seeking protection from the weather, without the risk of passive smoking, due to the confined nature of covered transport stops. Given that the South Australian public are concerned about passive smoking and support smoking bans in outdoor areas, it is likely that this initiative, like others before it, will establish a self regulating norm in these areas.

This Bill being brought before the House today is also about protecting children from thinking that smoking is normal. Children are not only vulnerable to exposure to tobacco smoke, but they are also influenced by seeing adults smoking. It is proposed that smoking be banned within 10 metres of children's playground equipment that is located in a public area. This would include all playground equipment in public areas, such as parks, as well as in areas such as fast food outlets and other venues. The distance of 10 metres is in line with similar bans in Queensland and Western Australia. In 2010, restricting smoking in children's playgrounds had the highest level of public support with 96 per cent of South Australians surveyed supporting a restriction in these areas.

With this Bill we also propose to allow local councils and other incorporated entities to apply to SA Health to have an area or event declared smoke-free. This allows the Government to respond effectively to known and unforseen localised smoking problems but also gives local councils and other bodies the flexibility to identify and apply to have a certain area or an event declared non-smoking under the Act.

The intent is that the following types of events or areas could be declared non-smoking:

- one-off, time-limited major events such as the Christmas Pageant; and
- popular public places, for example an unenclosed shopping mall.

It is not intended that this Bill be used to regulate seated outdoor drinking and dining areas that are part of the normal day to day business operations of premises.

Effective enforcement that is consistent is crucial, and so under this Bill we propose to give enforcement officers the option to issue expiations to people 15 years and over. The rationale for this is that young people are likely to congregate in the areas affected by the Bill, particularly in regard to passenger transport areas. The *Expiation of Offences Act 1996* allows for other Acts to set the minimum age of a person who can be given an expiation notice. Lowering that age to 15 years in the *Tobacco Products Regulations Act 1997* will allow for the effective enforcement of these amendments and is also consistent with the *Passenger Transport Act 1994*.

Should the Bill be passed by the Parliament, the provisions inserted by the measure will be brought into operation on 2 January 2012, immediately after the commencement of regulations further restricting tobacco retailer point of sale displays. Commencement on that day will avoid any confusion in enforcing this new law on New Year's Eve, especially in regard to passenger transport waiting areas.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Tobacco Products Regulation Act 1997*

4—Insertion of sections 49, 50 and 51

This clause inserts new sections into the principal Act as follows:

49—Smoking banned in certain public transport areas

This section proscribes smoking in a prescribed public transport area. Subsection (5) defines what a prescribed public transport area is, namely any part of a bus stop, tram stop, railway station, taxi rank, airport or similar place that is a public place, is used, or is intended to be used, by passengers boarding or alighting from public transport and is wholly or partly covered by a roof.

The section also clarifies when a person will be taken to be in a prescribed public transport area and sets out evidentiary matters.

The maximum penalty for a contravention of the section is a fine of $200.

50—Smoking banned near certain playground equipment

This section proscribes smoking in public areas within 10 metres of playground equipment (being playground equipment that is itself in a public area).

The section also clarifies when a person will be taken to be in a public area and sets out evidentiary matters.

The maximum penalty for a contravention of the section is a fine of $200.

51—Minister may ban smoking in public areas

This section allows the Minister, by notice in the Gazette, to declare that smoking is banned in the public area or areas specified in the notice. Signs setting out the effect of the ban must be erected so as to be seen by members of the public using the area.

The section also sets out procedural matters in relation to a notice under the section, as well as clarifies when a person will be taken to be in a public area and sets out evidentiary matters.

The maximum penalty for contravening a notice under the section is a fine of $200.

5—Insertion of section 83

This clause inserts new section 83 into the principal Act allowing expiation notices for offences against the Act to be given to a child who is 15 years of age or older.

Debate adjourned on motion of Mr Pederick.

SMALL BUSINESS COMMISSIONER BILL

Adjourned debate on second reading (resumed on motion).

Mr HAMILTON-SMITH (Waite) (15:52): I am glad to be continuing my remarks. Thank you for those seven minutes, Mr Clerk, I really appreciate it. I was addressing the issue of franchising and making the case that there was no need for the government, at the cost of many millions of dollars, to establish a new bureaucracy or a new position to intervene in what are essentially commercial negotiations between two commercial parties. I was urging that the government should look to ensure the business associations and the court system were optimised to resolve such disputes.

I have to say that there are winners and losers in the issue of franchising. There are arguments that franchisors can ably use to support their case as there are with franchisees. There is no doubt there are disputes but, generally, disputes between commercial parties need to be organised and sorted between the parties. My overall point is that, if there is money to spend here, that money should be spent on tax cuts, sorting out WorkCover, industrial relations and things that really matter to small business and, most particularly, reducing red tape.

There is only one role that I can see in the government's explanatory paper on this where there may be a weakness in the system, and that is to assist small businesses on request in their dealings with state and local government bodies. Here, I think there is an issue, particularly with nonpayment of bills, commercial disputes where the customer—the government—is refusing to pay for one reason or another, and any host of another number of issues that could result in dispute.

I ask the government: is it necessary to create a new bureaucracy and a new commissioner in order to sort out that problem or would it be better to get government, its departments and local governments to act properly and to be open to dispute resolution processes with businesses as they arise, just as any other entity is?

Again, my natural inclination is for small government; where there is not a compelling case for government to stick its nose in between commercial agreements or activities between commercial parties, government should stay out of the way.

That is not to say that we do not need regulation to make sure that there are appropriate codes of practice and that businesses conduct themselves in an orderly and proper way in accordance with those codes of practice. That is not to say that we do not need to ensure that

there is access to information and that we provide, or point businesses in the direction of, places where they can receive assistance and help. We need those things, but do we need a new bureaucracy? I am not convinced. That is why I think that this bill and the millions of dollars it will spend is not necessary and that the millions of dollars would be better spent doing something meaningful for business.

I find the government's approach to small business confusing. They scrapped the Centre for Innovation and Business Management (CIBM). They have scrapped funding support to the Council of International Trade and Commerce SA (CITCSA). They have pulled funding from business enterprise centres. They have been decommissioning funding support for small business wherever they can make the cuts and slash the knife. Yet, we then have this proposal to set up a new bureaucracy to perform functions which may well have been performed, to some extent, by the bureaucracies that they have ripped down.

I am looking for some steady consistency here from government. It seems we are decommissioning certain functions and wrecking certain things, and then seeking to re-establish them in the next breath. I thought the signal the government was sending—by taking funding away from Business Enterprise Centres and CITCSA and then in the next budget giving funding to Business SA to set up and replicate many of those services—was a signal that the government wanted to use business associations like Business SA more in those roles. Yet, now we have a proposal to establish a new government bureaucracy to conduct mediation services that organisations like Business SA and the Master Builders, as I mentioned earlier, already provide.

These are confusing signals. What does the government want? Does it want to get itself out of the way and rely on associations—give them funding to assist them in helping with mediation—or does it want to impose itself by setting up new bureaucracies to do just that? The government is sending mixed messages.

In winding up I draw the house's attention to the government's general lack of direction on business. I note it has recently put out a discussion paper which purports to be a discussion paper to commence a process on manufacturing which repeats a lot of what we have heard during the budget about where we need to focus and where we need to concentrate, and it seeks to get people together, etc. All of that is good, but these things are, essentially, admissions of failure.

This government has been in office for 10 years. They have had 10 years to sort things out with small business and manufacturing, and to get the economy going. We have heard a lot of rhetoric about mining and defence, but we have not had much on-the-ground delivery on manufacturing, on employment growth in primary industries, and in the small business sector. Now, all of a sudden, there are signs of life, but confusing signs of life.

If there is money to be spent for small business, spend it on tax cuts, sorting out WorkCover, cutting red tape and helping to ease the industrial relations burden; do not create new bureaucracies to get in the way. Yes, the government has identified some problems that need fixing, but this small business commissioner is not the best way to do it.

They will run away now and try to play politics with this and tell franchisees that they are being frustrated by the parliament; wrong! They do not know how to best help these organisations. This is not the best way. They need to come back with something more cogent, affordable and workable.

Mr PISONI (Unley) (15:59): The bill that we are discussing today does not have wide industry support. Despite what the small business minister has put out in his press release and what he is telling us, the bill was put out for public consultation and has been dramatically changed with amendments since that time and those amendments have not gone out for consultation or debate.

The government could in fact be misled about the level of support that it feels it has for this bill because of the fact that the consultation process was not continued once amendments were put into the bill and, despite the fact that the government was holding up the Victorian model, it no longer mirrors the Victorian model. Changes include the introduction of a new and Draconian penalty regime which goes well beyond powers in the SA Fair Trading Act and the federal Competition and Consumer Act.

The bill will enable the introduction of substantive legislation by regulation. We have not seen those regulations yet and the cost of setting up such a body was looked at when Western Australia looked into similar legislation leading to the WA government—and that is a real get go

state; regardless of who is an office over there they really do know how to look after business and make sure that they are out of the way—deciding that they were not going to proceed. At no less than $4 million over four years, they came to the conclusion that they are not going to go ahead.

The Minister for Small Business is wrong in saying that small business wants this. I ran a small business for 22 years here in Adelaide and I have to say that it was a very modest beginning. I started at the ripe old age of 21, only just after completing my apprenticeship. It was an opportunity that I thought I would take up, and I do remember that I took some advice from my mother. My mother said to me, 'David, have a go. If you don't do it now, you might go through your whole life wondering if you'd ever be able to achieve it.'

Then there were other people in business; I remember Farquhar Kitchens were very friendly. They came in and said, 'David, come and have a chat. We hear that you're looking at starting up your own business. Come and have a chat. We think it's a great industry to be in and we'd like to at least warn you about some of the traps that you might find yourself in once you're in business.' Of course, it evolved from there.

It evolved from a very hands-on position into a position of manager and that of employing staff: 20 apprentices in 22 years. When I look back at that period, I am very grateful for the opportunity that this state gave me to move from being an employee to an employer and what I do not want to see here in South Australia is that jump made any more difficult.

In small states like ours, we want to encourage new and emerging businesses because we know that new and emerging businesses will give more back to the community here in South Australia. If they start in South Australia and they grow in South Australia, we know that there will be much more community benefit for that South Australian business rather than for a branch office of a larger corporation.

There are many examples of that in the United States. For example, the state of Iowa is probably, I would suggest, a very similar state economically to the state of South Australia. It has a fairly large agricultural base, a heavy industry base and about three million people. It is a small state compared to many of the other states in America and the North Iowa development board understands how important it is for them to encourage new businesses to start and they want to make the pie bigger.

They are not really interested in competing with each other for a bigger piece of the same pie. What they want is a larger pie so there is more for everybody, and that is the philosophy that I have always had about providing opportunities in South Australia. Let's make more opportunities for everybody and, in order to do that, we need to get out of the way. The example that they gave me was the local community college was putting on an additional wing for computer design and so they approached businesses to contribute.

We would all know the name of Winnebago: it is the largest motorhome manufacturer in the world. It is the only motorhome manufacturer that manufacturers on a moving conveyor belt. They have about 5,000 employees. Again, they started off in a very modest manner about 60 years ago. They wrote out a cheque, no questions asked, for $100,000 towards this new wing.

In comparison, the local branch office of Walmart, which is the largest retailer in the United States, agreed to hand over a cheque for $1,000 on the proviso that they also got a photograph on the front page of the local paper. So you can see a true comparison of the benefits of having home-grown businesses in South Australia. What we need to do as a state is make that as easy as possible.

Small business people and aspiring small business people—young entrepreneurs—do not want to have to go to a government department so that department or commissioner can hold their hand or shepherd them through the hurdles of bureaucracy in the government sector. They want those hurdles kicked out of the way and to have a clean run to start and then grow their businesses. They want to be able to employ people without being punished.

Our threshold is amongst the lowest for payroll tax and that has the effect, of course, of keeping businesses of five or six employees at five or six employees, because they simply do not want to enter that payroll tax regime. It cuts in very early here compared to some other states, even in Tasmania where you need a $1 million payroll for that to cut in.

We are, in fact, a state of small business. We are the small business state. The majority of our employees are employed in the small business sector, and it is important that it is made as

easy as possible for new businesses to emerge, grow and survive. I would like to see the however many millions of dollars this function is going to cost used in reducing the state tax burden.

I think we need to remember that small businesses have a much higher proportion of their turnover gobbled up in state taxes than bigger businesses. That is pure mathematics. If your turnover is only $500,000 or $600,000 a year, or maybe it is $1 million a year, your land tax and stamp duties that you paid to buy new properties are a much bigger piece of your turnover than if you are, say, a company that turns over $100 million a year. It is a flat tax. It is the same, regardless of how much you turn over and how much you pay. You pay your tax based on the value of that property. Small businesses, because the payroll tax threshold kicks in at such a low level, are paying, effectively, the same tax as big businesses on payroll tax.

Then, of course, we have the uncompetitive nature of WorkCover here in South Australia. If the government was really serious about helping small businesses, it would not penalise businesses and not make it ridiculously difficult to get out of the WorkCover system and let them be self-insured; but the penalties and the costs are restricted only to big business.

We know that WorkCover is broke and it is expensive. The member for Waite mentioned some of the very high levies that are paid in certain industries here in South Australia and, of course, that makes it harder for us to tender on government contracts and it makes it harder for South Australians to tender on private sector contracts—not that there are many of those around at the moment. The concerning thing for small business in South Australia is the cost of doing business here in South Australia, and it is the red tape involved in doing that business.

I support the member for Norwood's proposed change to the small claims court that will lift the threshold. It is likely that when you are in business for 22 years you might have to use that facility, and I would use the small claims facility when I was in business. I have to say that the $6,000 cut-off certainly restricts it to a very small number of cases, particularly when you are looking at the fact that a month's rent could be $18,000, $20,000 or $25,000 for a small business. A single delivery could be $10,000, $12,000 or $20,000 and there is a dispute when the recipient does not pay. Rather than them having to go to the full court system, the Small Claims Court should be available to them so that that can be dealt with in that situation.

I think that this bill is more about the fact that we have a government that is embarrassed about the state of small business in South Australia and wants to put out the perception that it is actually doing something for small business. It is a bit like Claytons; remember the drink you have without having a drink? Well, this is a little bit like the assistance you give business without actually giving them assistance. I think that, on that basis, I am very happy to stand here as an advocate of small business and as a member of the Liberal Party and not support the bill.

Mr VAN HOLST PELLEKAAN (Stuart) (16:10): Madam Deputy Speaker, certainly as you, the minister and everyone here knows, other members have put our perspective from the opposition very clearly. We will not be supporting this bill. I say very clearly that this is not because we do not support small business; it is just not an appropriate bill. The member for Unley mentioned a Claytons support. The way that I look at this is, really, that it is poor treatment versus good prevention.

We have got problems and we have got issues in South Australia that are hurting small business, and rather than fix up those issues the government would like to bring in this bill and pretend that it is fixing them up. It is actually a bandaid solution for a very serious disease. What small businesses really want is not a small business commissioner: they want tax reductions. They want to remove red tape. They want the government to get out of the way and let them get on with their job. They want their lives and their business environment to be freed up so that they can do what they do well.

They do not want all the impediments that the government has in a place and then just be told, 'Oh, well, we'll give you a small business commissioner to help you out if you run into any trouble.' We all know that business confidence is very low. The *Financial Review* released statistics making it very clear that South Australia is the highest taxed state with small business being hit with a whopping 34 per cent higher impost of tax than in Queensland.

We know that WorkCover is in a dreadful situation. It is no secret. The unfunded liability is completely out of control. As an article that I read recently made very clear, there is an issue with the cost of WorkCover on small business but there is also the WorkCover culture problem. I am contacted fairly regularly in the electorate of Stuart by small business employers who are dreadfully concerned about the fact that they are having to deal with people participating in this unacceptable

WorkCover culture where they think that they can just use it as an excuse and they try to avoid their responsibilities as an employee. WorkCover is in a dreadful situation.

Taking funding away from the BECs is a decision that this government really should be very disappointed in. Another very important issue for small business is access to employees. That is a growing problem, and the small business commissioner is not going to fix up any of that. What we really have here under this bill is an offer of poor treatment rather than good prevention, and good prevention would be addressing and taking care of those and other issues I have just mentioned.

This bill is being used as an excuse for the real problems. What we really need to do is to set up a business environment in South Australia where small businesses would not need, would not even contemplate a desire for, a small business commissioner. That is what we really need to do—fix the root cause of the problems.

I would just like to take a couple of minutes to address this absolute rubbish and nonsense that the minister is putting out about Liberals not supporting small business. All through our opposition ranks we have a very strong spread of small business background. We know what we are talking about in this area. From our leader, Isobel Redmond, all the way through to a brand-new member of parliament such as myself, many of us—and I would say the majority of us—have small business experience as opposed to the government members. So the minister is being misleading and mischievous—

The Hon. A. KOUTSANTONIS: Point of order, ma'am.

The DEPUTY SPEAKER: That is—yes, I am with your point of order.

The Hon. A. KOUTSANTONIS: The naive and new member of parliament has accused me of misleading the house. I would ask that he categorically withdraw that remark and apologise.

The DEPUTY SPEAKER: And I am sure he will, as I support the minister's point of order. You cannot do that; that is unparliamentary.

Mr VAN HOLST PELLEKAAN: I said 'misleading' and 'mischievous', and I withdraw and apologise for 'misleading'.

The DEPUTY SPEAKER: Good.

Mr VAN HOLST PELLEKAAN: Is that all right?

The DEPUTY SPEAKER: Yes, that sounds good.

Mr VAN HOLST PELLEKAAN: And add that the minister is completely incorrect, in my opinion. Is that—

The Hon. A. Koutsantonis: That's fine.

Mr VAN HOLST PELLEKAAN: Fair enough; okay. Completely incorrect. To say that the Liberal opposition does not support small business is just flat wrong. Small business is the most important sector of our South Australian economy. We know that, the government knows that, there is no debate about that. It is the most important sector of our economy for many reasons, including the fact that it is the most important employer. As the minister has said, we have 136,000 (I think, a little bit over) small businesses in our South Australian economy. When manufacturing is declining these businesses become even more important.

The difficulty, though, I think the minister has on this issue is that while he tries to say publicly that the Liberals do not support small business, the small business community just does not believe the minister. The small business community does not believe the minister when he says that the Liberals do not support them, and I do not think they believe the minister when it comes to his suppositions on this bill. The minister was installed in his job by unions and he will not be trusted by small business.

The Hon. A. KOUTSANTONIS: Point of order, ma'am.

The DEPUTY SPEAKER: You were there before me.

The Hon. A. KOUTSANTONIS: The member is now imputing to me corrupt motives, saying that I have been imposed in this house somehow unconstitutionally. That is a flagrant misrepresentation of the facts and, I think, offensive to all of us in this house.

The DEPUTY SPEAKER: I uphold that. I think you will find, member for Stuart, that the minister is here thanks to the positive vote of about 20,000 people in his electorate—the democratic vote.

Mr Pengilly interjecting:

The DEPUTY SPEAKER: Member for Finniss, if you don't believe that, that is perhaps something you need to bring up in another place. So, member for Stuart, if you could just—

Mr VAN HOLST PELLEKAAN: Thank you for that correction. I think probably what I should have said is that the minister is in his role in the Labor Party thanks to union support.

The Hon. A. KOUTSANTONIS: Point of order, ma'am.

The DEPUTY SPEAKER: Yes, your point of order?

The Hon. A. KOUTSANTONIS: This bill is about the small business commissioner. It has nothing to do with the internal workings of the Australian Labor Party and preselection matters.

Members interjecting:

The DEPUTY SPEAKER: What do you mean: 'here you go'? We are here to discuss this particular bill; this is true. The minister not having made an actual point of order in terms of indicating the number of that point to me—

The Hon. A. KOUTSANTONIS: Irrelevance, ma'am.

The DEPUTY SPEAKER: Irrelevance. That would be 128. I believe that was the number that the member for MacKillop was talking about earlier on today. Let us not go back in time. However, I think what we will do is we will just move on. Member for Stuart.

Mr VAN HOLST PELLEKAAN: The relevance here is the fact that the minister has stated publicly that the small business community should be very disappointed in the Liberal opposition, and he has tried to make a case that we do not support them, so I am making it very clear that we do support them and I am also highlighting the fact that they just do not believe him.

With regard to unions, I actually have no trouble with unions. I proudly support union members throughout my electorate. I oppose unionism but I have no trouble at all with unions. I support union members as hard as I possibly can when they come to me with issues in the electorate of Stuart—power station workers, railway workers, prison workers, many more people throughout the electorate of Stuart—so I have no trouble there whatsoever.

But the reality is that the business community knows that the minister is making it up when he says that we do not support them. As has happened in this state with the Premier and nationally with the Prime Minister, if the unions were not happy with the minister's performance it is very possible that he would not get to keep his job.

Let's look at the two key components of this bill. The small business commissioner and franchising are the main aspects of this bill before us. With regard to the small business commissioner, this is a suggestion that really will not solve the difficulties and challenges that small businesses face at the moment.

As the member for Bragg put it, there is no point in spending all this money just to set up a call centre for small businesses to get in touch with and actually have absolutely nothing done. The definition of small business is unclear in this bill, but I do understand that that is something that has been addressed before, and the minister will come back to us with information on that at a future date.

I would like to add a question to that, minister. Where would very small, often one person contractors fit into that? I understand contractors do like to have it both ways at times. On the one hand, contractors want to be considered as businesses and often they also want all the benefits that an employee would get. If you could clarify that, it would be good.

I also worry about the possibility that the fees for access to this service could be increased. I understand that they are relatively low at the moment, but 'relatively low' is a relative term. It depends on the size of your business as to whether you can afford in the order of $200 for support. There is nothing I am aware of that would limit any possible increase in that fee. I also worry about the possibility that there might one day be a levy on small businesses purely to fund the existence of the small business commissioner.

Mr Gardner: They wouldn't do that, would they?

Mr VAN HOLST PELLEKAAN: Well, they might. I would be grateful if the minister could clarify that that would never happen. There are all sorts of other industries and other businesses that are paying levies that never imagined they would ever pay them.

The other aspect of this bill is franchising. As far as franchising goes, I worked for 10 years for a franchisor and I have also been a franchisee. I think that puts me in a good position to have some insight on this issue from both perspectives. As we all know, there is already a code of conduct in place for franchising. I do not deny the fact that from time to time a franchisor might step out of line. I suggest that that would be a very small fraction of situations. It might happen, but I do not think that this bill will solve all of those problems.

The most important issue when it comes to dealing with franchisee/franchisor disputes is that the franchisee does all of their homework and fully understands what they are getting themselves into when they enter into a franchise. I can tell you, having seen it for many years from both sides, that is really what happens.

If we had a large number of situations where the majority of franchisees had serious complaints about a franchisor, that is one situation. If we have situations where a minority of franchisees have a complaint about a franchisor, that does not necessarily mean that there is anything wrong with the system.

It has been my observation that the majority of issues that franchisees have with their franchisor are because they did not do their homework up-front. They did not study it, they did not look at all of the things they needed to know or, very often, they would like to change something that they did know, but it turns out that they did not like it, and they would like to change it, but the franchisor will not let them change it. I am not removing the fact that there may well be situations where a franchisee on occasion is unduly influenced by franchisor, but I think this will be in the vast minority of situations.

The other thing that is very important to point out is that of the 136,000 or so businesses in South Australia a very small percentage of those are franchisees. It is probably worth the minister thinking about the fact that most small business people enter into a franchise agreement because they are looking for the protection, the support, the business systems, often the premises, the branding of the franchisor—all of those sorts of things. That is generally what they are looking for, but it does not guarantee that their business will be successful. They are very important issues for us to look at.

We do, in the Liberal opposition, support small business, but we do not support this bill. The minister, at the beginning of his second reading explanation, said, 'The development of a more competitive and fairer environment for small businesses in South Australia is the goal of the government.' He also said that functions of the business commissioner that are designed to facilitate the continued viability and expansion of the small business sector are important. I certainly agree with him, but the reality is that dealing with taxes, WorkCover and red tape will do that far more effectively than this bill will.

Mr GARDNER (Morialta) (16:25): I am very glad to have the opportunity to speak on the Small Business Commissioner Bill 2011, because it gives me the opportunity to talk about some of the things that are very close to my heart, in particular in relation to the small business sector. As previous speakers have flagged, the opposition will not be supporting this bill, because the money that the government proposes to spend on the small business commissioner could do a great deal more for small business if it was directed into any number of other directions.

The minister, unfortunately, seems to have decided to use this bill at every opportunity to politicise small business. I heard him on the radio yesterday urging the opposition to support his bill because—and forgive me if I am misquoting, but I certainly got the sense—'small business needed a mate'. All I could think was, 'Yes, small business does need a mate when the Labor Party is in government because it doesn't have one in the government.'

On the other hand, as other speakers have detailed, the opposition has a deep understanding of small business. This is the issue that got me interested in politics in the first place. I apologise to members who have heard me tell this story before, but the reason I joined the Liberal Party was that, as members may know, I grew up in a small business family. My family's business manufactured water treatment equipment in the eastern suburbs of Adelaide, and did so for four decades until we sold it a couple of years ago.

Anyone who has grown up in a small business family with 10 or fewer employees will understand that everyone in the family gets involved at all times. I was about 13 years old when we had the accountant around for dinner and talked about whether or not to accept a couple of orders, which would have involved taking on a couple more staff, which would have pushed us over the payroll tax threshold so that we had to start paying payroll tax. As a 13 year old, who had never really been interested in politics or public policy up until then, I thought it was an absolute disgrace that government might be imposing things on businesses that would stop the employment of people who might want a job and might want to do something because of such an unproductive impost such as payroll tax.

Payroll tax was a tax brought in during the war when we were actively trying to discourage businesses from taking people who might be available for the armed forces. As tends to happen, unfortunately, governments of both sides in the decades since have not got rid of it. That is what drove me to get into politics. I look at other new members on this side including the member for Adelaide who ran her own small business; the members for Flinders and Chaffey who have been farmers; the member for Stuart who just spoke and who, as he said, has been a franchisee, worked for a franchisor and worked in every level of the small business field; and Steven Marshall, the member for Norwood, whose expertise in the family business, small business and other businesses is unchallenged.

The fact is that members on this side of the parliament—those are the new ones but certainly others who have been here longer—understand small business because we have been involved in small business all our lives. For the minister to say that the opposition is not a friend of small business through his radio comments and his inane interjections throughout all of our members' speeches is highly irregular.

I should also say that small business does not believe the minister when he says that. Small business does not have faith in this government. The NAB's Monthly Business Survey for August showed South Australia recording the lowest business confidence of all states for the March and June quarters. Business SA, which the government has recently given some money to—which is not a bad thing in itself—released their survey for business expectations for the June quarter and found that 68.5 per cent of respondents expected South Australia's economy to weaken in the next year.

Now, this sort of canary in the coalmine is being ignored by the government who, in their budgets, have ripped money out of the business enterprise centre, the Council for International Trade and Commerce and Regional Development Australia. This comes upon previous ministers like former minister Lomax-Smith who, as I understand, cancelled funding for the Centre for Innovation and Manufacturing. The core issue is that small business knows that this government is not there to support them and will not do so.

In opposing this bill, we are a bit heavy hearted because it seems like the first money that this minister and this government has put towards small business since I have been here, but they are putting it in the wrong place. Any member who is actually out there speaking to small businesses regularly, asking what government should do to help them get new investments, employ more people and to survive, would be lucky if they had ever heard one of them mention the idea of a small business commissioner. It simply does not rate. It does not come up. It is not a suggestion that the small business community comes up with first and foremost.

There is a whole range of other things that are more important. The member for Stuart before suggested that the minister's solution is like a bandaid solution, but it is a bit like going to the doctor and being given a bandaid when you have actually got the flu. Small businesses' problems are not going to be fixed by the introduction of a small business commissioner as outlined in this bill. Consequently, they would be much better off putting money towards issues that really do affect small businesses.

Other speakers have mentioned land tax and payroll tax. I had a constituent come to me just in the last week with their land tax bills from the last three years. In 2008-09, the land tax bill was $25,110. In 2009-10, that had increased to $28,070. In 2010-11, due to the bracket creep and the way that valuations change, it had increased to $46,250.

It may be that that landlord has potentially a more valuable property now than it was two years ago, but that is only the case if he sells the thing and who would buy it in this sort of environment? In the meantime, he has got a small business operating out of that premises that has to pay increased rents.

That small business is constantly reassessing its position. They manufacture high-tech goods in South Australia that are used in South Australia and elsewhere. Right now, they are considering what they do in terms of their componentry. Up to now, they have always bought from within South Australia. Because of the increasing costs of business across the board, they are looking now to confirm that they will only be buying the cheapest product because that is what they have got to do to keep their business viable.

The second thing they are looking at is, if that does not save their business, they are going to look at moving altogether. They want to keep manufacturing, but, if they cannot keep manufacturing in South Australia because, as was reported recently in the *Financial Review*, South Australia is the highest taxed state in Australia for businesses, then they will have to look at moving.

These things build on themselves. Other government decisions also add to the cost bases that small business has to face. Recently, the Leader of the Opposition and I visited Adelaide Towel Service in Newton in my electorate, who have faced spiralling SA Water bills. In 2010, it was $8,059.80 for the year. In 2011, it was $12,896.80 for the year and those water bills continue to increase.

This government is not doing anything for those businesses whose actual costs, the things that drive whether or not they can employ people and continue to go about their businesses, are spiralling out of control. Then, their services become more expensive and the other small businesses that use their services or their products or components find increasing costs too.

The surveys of business confidence are the canary in the coalmine that this government is ignoring and having this dispute resolution mechanism is not the first place we should be putting money. On the topic of dispute resolution, I can only commend the government to the bill that is being proposed by the opposition, but I will certainly not dwell on its content because that would be inappropriate. But I would say that raising the threshold at which small businesses can take matters to the Small Claims Court would do a great deal to make processes easier for them.

To demand that you need to engage lawyers if you want to chase down a debt of $6,001—in this day and age, 20 years after that threshold was set—is absolutely outrageous; it is appalling. Increasing that threshold to something like $25,000 to have small claims resolved, is clearly a positive outcome that the government would do well to consider much more favourably than the public statements that the Attorney-General has suggested.

Other sorts of costs that small businesses are facing at the moment include significant increases in staff costs as a result of the federal government's new IR arrangements. If the small business minister was talking to small businesses in his electorate every day—I am sure he does talk to a lot of them, but I am sure equally if he was doing so—he would be hearing from a number of them of concerns about the wages that they have to pay, that maybe larger businesses can cover but small businesses find it hard. Small businesses in some industries are dealing with very serious problems with WorkCover.

Finally I get to the issue of red tape. Small businesses will often tell any member of parliament that red tape is their number one headache, because everyone is willing to pay a fair level of tax, and everyone understands that sometimes bracket creep gets things out of control and they would like that addressed and that would be great. I remember when we were in business one of the great challenges that we faced as we installed water treatment systems in embassies and consulates around the world, particularly in the developing world, and in Navy submarines.

Getting federal government contracts and getting contracts in townships interstate was something we could manage because we had a great product. Actually getting anything through SA Water was a great deal harder because of the hoops that they required any South Australian business to jump through. It gets down to this point: if as a South Australian parliament we want the South Australian small business sector to do well—and I am sure that all members do—we need to understand that we need to go and ask them what they are seeking, what they need, in order to employ more people.

The Hon. A. Koutsantonis: We have.

Mr GARDNER: The minister says that they have, and if they have come back with the answer that the small business commissioner is the number one issue that small businesses are concerned with, then I will go he for chasey. It is just a nonsense. No one believes that that is the case. The minister lacks credibility when he says that this is the number one issue, and there are

far better things to spend this money on. I am happy to stand up for small business at all times because, as I said, it is probably the driving reason that got me interested in politics.

This bill does very little for small business and it is not the priority that the government should be focusing on. They need to be focusing on lowering the tax rates, reducing red tape, reducing the costs of doing business, providing assistance to things like the BECs and RDAs which actually help new small businesses get going and help small businesses develop new markets, and assist small business in dispute resolution by doing something about the Small Claims Court, which is a fairly easy change to make. I urge the government to reconsider that, and, with that, I oppose the bill.

Ms CHAPMAN (Bragg) (16:38): Thank you, Madam Deputy Speaker. I speak on the Small Business Commissioner Bill 2011. I have never been a taxi driver and I'm probably not likely to ever be one. It is an area of experience which I am sure the minister will always be able to proudly boast that he's made a contribution to in his employment. I am not sure whether he was employed in that capacity or whether he was actually operating his own taxi and driving it as a small business proprietor, one of those 136,000 small business operators in South Australia. If it had been the latter, he might have had some understanding about what the rest of the 135,999 small businesses in South Australia want, and if he had heard from any of them, or even listened to any of them, the last thing that he would be bringing into this place would be the Small Business Commissioner Bill 2011.

In the 40 years I have operated small businesses, and I am going to detail them in a moment, I can tell you that not once did I ever ask any minister of any government to consider establishing a small business commissioner, and if I ever knew what one was going to do in 2011 as proposed by this minister I certainly would not have asked for it. In that time, overlapping interest in political matters outside and inside of the parliament, not once in 40 years has anyone come to me and asked me to advocate for a small business commissioner.

What has been asked for in the advocacy areas is some reform in consumer protection and protection in respect of credit arrangements in respect of what is now the Office of Consumer and Business Affairs and the inadequacy of some of the areas of jurisdiction that it lacks power to administer and, therefore, the deficiencies of that office as a result. They have asked for a lot of other things in relation to the financial viability or survival of their businesses, which I will refer to later, in particular, how some of the experts have defined what that should be.

Never in that time have they asked for this job. The minister is going to appoint someone to do this job, presumably with some staff, and to undertake a number of functions. Largely, they are to receive and investigate complaints on behalf of small businesses (essentially like a call centre, send them off to be dealt with by somebody else) and to assist small businesses in respect of their dealings with state and local government bodies. Well, hello! What is the department which the minister is in charge of for if it is not to assist small business in dealing with all the other impositions imposed by his colleagues' portfolios?

Other functions include: to disseminate information to small business—what on earth is this department doing at the moment if it needs to have that job; to administer part 3A of the Fair Trading Act and the Australian Consumer Law in respect of the responsibility for that administration as assigned to the commissioner under the Fair Trading Act—in my view, we already have bodies which could equally undertake that role; to monitor, investigate and advise the minister—and there is a whole lot of other reporting to ministers, giving him advice. He obviously needs it but, nevertheless, the appointment of a small business commissioner is not going to resolve this.

Another function is to consult with industry. Honestly, what are all the industry bodies out there doing if they are not putting submissions to this minister about what needs to be done to help small business? He does not need to appoint one of his mates to be a small business commissioner in this state, give him a highly paid job to be able to report to him and to give him advice on matters which are already within the responsibility and jurisdiction of a multitude of other industry bodies and government departments which are supposed to be doing this job. It is a nonsense.

We have not even heard, in this instance, who this commissioner is going to be. We usually do, of course. When we have had natural resources management legislation and we have had new structures established, the government has already chosen who it is going to put into these spots. It has already worked out who the board is going to be. It has often sent out invitations and notices to members of incoming councils and boards telling them all about what their new job

is going to be and that they are looking forward to their appointment. I will be asking the minister whether there has been any process of selection, appointment or invitation to anybody in South Australia to undertake these positions.

The Hon. A. Koutsantonis: You would be good, Vickie!

Ms CHAPMAN: I can tell you I won't be applying for it, minister. Even if you were offering, I wouldn't be accepting it. I think it is important that the minister understand that, if he looks a little way outside of his department, he will see that there is a myriad of public servants and competent people to undertake all of these objectives. The other aspect that is important is that we already have some very significant operators out there providing for dispute resolution.

The Hon. A. Koutsantonis: Like who?

Ms CHAPMAN: The minister asks, 'Like who?' I will give you one which I suspect will be very important—the Dispute Resolution Centre at 314 King William Street in Adelaide.

The Hon. A. Koutsantonis: What do they charge for mediation?

Ms CHAPMAN: I am not going to outline the attributes of this particular one. They might be one of the tenderers, when the tender is put out, to provide for mediation. I simply make the point that appointing a dispute resolution organisation which is going to be selected by the government as the institution or advisory body or mediation facility that one is going to be required to be sent to once they have won the tender from the commissioner is not acceptable. Why should small business have to go and see somebody that they are referred to by the Victims of Crime Commissioner when there are a whole lot of other mediation services out there?

He says quite clearly in his presentation to us and the parliament that they are not going to be stopped from undertaking court dispute aspects that they are already entitled to have by court dispute resolution. Thankfully so: he would certainly be going outside his jurisdiction if he tried to do that. However, apart from pushing the barrier too far there, it is important for small business to be able to have access to and make a selection about whatever dispute resolution entity they wish to engage for the purposes of resolving their disputes.

It is a nonsense that we are going to be asked to approve legislation which is then going to enable the minister to appoint one of his mates to a cushy job to become a call centre to existing services and to be able to access the myriad other departmental advisers and capacity which are already there.

I return briefly to confirm the work history. Others have mentioned in this debate the contribution of those in the opposition who have undertaken small businesses in their working lives. There is hardly a person on this side who has not in one way or other had exposure to the risks, the challenges, the opportunities that are there in small business. I started at 10. I bought and sold pigs, fattened them up, made a profit and invested it in calves. I then went on to milking cattle.

Let me tell you the difference between milking a cow and being paid for it every morning or every week at $0.20 to do the job or alternatively taking the risk yourself. You can either buy or lease the cow, with or without borrowed moneys. You can actually milk the cow and you can negotiate in your own contract, which I did, to take the calf full price for the year's work. Let me say this: not once did I lose one of those calves, and every year I made more profit than my brother, who lost a couple of his, I might say. Another successful small business, and he is of course now a farmer and I am here, so that should tell you something.

However, through university, I made bikinis, bridesmaid dresses, whatever was necessary to pay my way through university. I did not have to pay GST in those days, which was fairly fortunate, and as a home business it meant that I did not have to pay rent. A bit of wear and tear on the sewing machine, but it can work. You can create opportunities for yourself if governments and other people do not interfere and cause a problem.

I did have one small hiccup. I remember going to a bank that I had been with, with my little Elders accounts and my ANZ bank account, and I am going to name it now—the ANZ Bank—because 30 years ago I went to it for a $5,000 loan to open my own practice in the law, and the bank manager looked at me and said, 'What does your husband say about this?' Now, I might have been seven months pregnant with a second child and he may have wanted to have an understanding of the availability of income in the household but, let me tell you, I was so incensed at that question, I turned and said to him, 'What husband?' He nearly fell off the chair.

Anyway, he did not give me the loan. I went down the road and I have been with the National Australia Bank ever since, and I want to tell you that they gave me the money and they have been extending those loans ever since. I want to say to you, Madam Speaker, and to the minister very clearly that the people on this side of the house have a very clear understanding of the risks that people in small business take, the opportunities they have if they are prepared to take those risks and work the long hours etc. to be able to achieve that—and good on them.

This government should not be wasting money on appointing a mate of the minister to become the small business commissioner in this state to become a referral centre to existing services. It is a gross waste of money, and I will not support it. Let me just leave on the record the 10 most important aspects that Business SA says are important for South Australia. No. 1, of course, is the economy. That is pretty obvious. They have some fairly scathing things to say about the current circumstances of South Australia and, unfortunately, the performance of South Australia. They say this in a recent publication:

> South Australia has not performed as well as other parts of the country over the last year or so, with higher levels of unemployment than the national average, slower retail sales growth than the national average and very volatile building approvals.

They go on to say the Business Expectations March 2011 survey shows a fall in business confidence in this state—unlike all the glossy material we get from the Premier's office about how fabulous everything is. This is the reality, and this is an issue that has to be addressed.

No. 2 is the high levels of taxation. Other members in this house have made contributions in that regard but, clearly, we are the highest taxed state in the country. In particular, in the case of land tax, businesses in South Australia with property valued at $3 million pay between 82 per cent and 325 per cent more in land tax than their interstate counterparts. Again, there have been submissions put by small business and big business across the board on payroll tax, stamp duty and other impediments to successful business capacity.

No. 3 is education and training. We have heard a lot from the government about the problem but diddly-squat about how they are going to fix it. The federal government has made an announcement of an investment. The government here has had written yet another report, as usual, published in February this year, advocating that we need to adopt a skills-for-all approach and this is an important initiative. I say, after nine years: where the hell have you been? Let us get on with it and do the aspects that need to be followed up in that.

The skills shortage ought to be obvious and is No. 4. Whilst the Olympic Dam expansion, which is proposed and subject to the indenture bill passing, is likely to be a beneficiary of very significant employment opportunities, we have had an increase of 16,000 migrants, as announced in the federal budget, through a regional sponsored migration scheme, of which the whole of South Australia is a part, and we are pleased that that Amanda Vanstone amendment has been maintained. New regional migrant agreements and enterprise migration agreements have also been announced. It is important that we deal with what is clearly going to be a shortage. Again, we want more action and less talk from the government on that.

The Fair Work Act has been referred to as No. 5 of the most important issues that need reform, particularly given the extra cost and burden that has placed on small business. No. 6 is the national wage case. In June 2011, Fair Work Australia handed down its decision on the national wage case, increasing minimum wages and all award rates by 3.4 per cent. There is no issue about having a tribunal that has responsibility to manage and intervene and make determinations on this, but the expectation of the ACTU in its claim for this year, if it were in any way to be accepted, will completely and utterly destroy many small businesses in this state, and the government needs to understand about realistic expectations of what burden small business can carry.

No. 7 is the workplace health and safety changes. We are about to debate some of that aspect of the national reform. Both the federal and state parliaments are, one by one, addressing these issues and these are matters to be considered. Personally, and I will be saying this later in the week, I do not think the state government has got it right about what it is presenting but, nevertheless, reforms are necessary.

No. 8 is the rising electricity prices. Small businesses face the highest regulated electricity price, and larger businesses that source their electricity from the National Electricity Market frequently face the highest wholesale electricity prices. We have a problem in relation to access to electricity and the question of investments not going into the distribution networks to generate a

higher amount of electricity, so we have got rising electricity prices in this state combined with a number of other factors, some of which are federal, which are going to, in the estimate, continue to increase our prices.

We have the carbon price uncertainty. It seems that the current bill introduced in the federal parliament is going to go through. We are looking at $23 a tonne in extra costs to a number of industries. Clearly, that is going to trickle through. What I think is very interesting here is that the most recent Business SA survey of business expectations (and this is in relation to carbon price) states:

> 69 per cent of the businesses indicated that they did not support the introduction of a carbon price, 16 per cent supports the introduction of a carbon price and 85 per cent of businesses believe that a carbon price will have a negative impact on their businesses.

If this government was smart and if this minister was of any use he would actually be on the phone to his federal counterparts making sure that, if we are going to have any kind of carbon price or an ETS of any form, it ought to be at least commensurate with what is happening out there in the real world and actually bring it back to a level where an impost will not be an unfair burden on small businesses in South Australia.

Finally, very importantly in this state is water security and prices. In this regard Business SA makes the point that Riverland irrigators were only allowed 67 per cent of their entitlements up to the end of June 2011, that urban potable water prices have increased by almost 62 per cent in real terms in the last three years and that a 26.3 per cent increase in water prices was also recently announced for 2011-12.

We have not only a very precious resource of water in South Australia for the reasons which are well known but also we have a cost impost now on businesses, particularly those that might be in agriculture, primary industry, horticulture and manufacturing which have a high use of water. This is an extra burden which is just simply oppressive on the small business proprietors in this state.

If the minister was serious about helping these people he would actually listen to the stakeholders and he would listen to small business—probably in his own electorate—who are not bounding down to the front door of his office and saying, 'We demand to have a small business commissioner.' What these small businesses want is water, electricity and services to be at a price which is affordable and which is generated or provided in a manner which is accessible.

They want some relief from the burden of taxation. They certainly want the government to be honest about the economy in this state and our relative position in Australia and stop trying to pretend that everything is rosy and that we are all swimming in gold here. The reality is that there are people out there hurting and they want answers to these real questions, not some puffed up extra person that you are going to put in as a small business commissioner and give them an enormous wage to enable them to direct out the services for mediation and dispute resolution in existing forums. That is not acceptable to me, and that is why I will not support this bill.

Finally, on the question of franchising, the minister will be relieved to know that I am not going to address that at any length because other members and the sterling contribution made by our lead speaker on this matter, of course, have covered this issue comprehensively. It is a useless proposal that you have put in this regard—absolutely useless. I can say that I have never been a franchisee or a franchisor, but I will say that others here have, like the member for Stuart, and they have made a contribution.

I have read with interest our lead speaker's contribution—a very, very comprehensive and excellent contribution. I thank him for the extraordinary amount of work that he did in trying desperately, minister, to find one little shred of a useful part of this bill that might save it—

The DEPUTY SPEAKER: The member Bragg—

Ms CHAPMAN: —but even the first clause, I cannot support.

The DEPUTY SPEAKER: Minister, before you speak, member for Bragg, I would like to concur with you on one thing, which is that I am a woman with no husband and the National Australia Bank has been very good to me. So, thank you for that. Minister.

The Hon. A. KOUTSANTONIS: Should we have an extension of time? Does she need more time?

The DEPUTY SPEAKER: No? Is everyone happy? The member for Light.

Mr PICCOLO (Light) (16:59): I rise to indicate my support for this Small Business Commissioner Bill. First, I would like to apologise to my colleague the member for Goyder for my interjections yesterday. It is one of those issues which I feel passionately about, and I do apologise for that. What is this bill about? Put simply, this bill is about justice. It is about justice for small business; that is the essence of this bill. Whether it is a corner deli, a farm, a newsagent or a franchisee, once this bill is in place, South Australia will become the safest place in Australia for small business to operate.

Why would the Liberal Party, which proclaims to be a supporter of small business, be opposed to this bill? Why would the Liberal Party oppose justice for small business? When debating the motion to receive the Economic and Finance Committee report into franchising, the lead speaker for the opposition said on this matter:

> I hope the parliament takes up the challenges the report recommends. A lot of work needs to be done in the future, but I sincerely believe that if we take action on it we will improve opportunities for Australians.

What did the report recommend? The report recommended alternative dispute resolution processes, good faith dealing, penalties for breaches of the code—all these recommendations are adopted in this bill. We can go further, though. The lead speaker then stated, when debating franchising, after a motion put by me in September 2009:

> This motion is quite sound, and I confirm that the opposition supports it.

This is about franchising. He continued:

> If the federal government were to support more small business opportunities in Australia, it would do all it could to ensure that the code of conduct which controls the relationship between the franchisee and the franchisor was improved. There is an opportunity now to do it. Reports have been done in two states and federally. Let us ensure that the recommendations from the all those reports are acted upon so that we get a vastly improved system in place as soon as possible.

It gets better, though. When we discussed that report when it was tabled in May 2008, the member for Unley said:

> Franchisors in turn complained to the committee [the Economic and Finance Committee] that especially with regard to large commercial shopping centre landlords they suffer disparity of bargaining power.

That is what this bill is about—bargaining power. It is about looking after the small people in the economy. He went on to say:

> I think this is a very important and fundamental problem that we need to address if we are serious about supporting small business and encouraging enterprise in South Australia.

That is what he said, the member for Unley, when we handed down the franchising report about franchising legislation, which the opposition have said today they oppose in addition to this bill. So, why have the Liberal Party cowered to the Franchise Council of Australia (FCA)? Why are the Liberal Party supporting the FCA and not small business in this state? The Liberal opposition have relied heavily, if not exclusively, on the opinions of the FCA to try to torpedo this bill. The FCA states that the Shopping Centre Council supports their view. That is what they said in their recent release which was read into *Hansard* yesterday and today by the lead speaker. This is what the Shopping Centre Council said about the FCA's campaign against this bill:

> Forgive us, therefore, for being cynical about the report that the Franchise Council is preparing a retail leasing code of conduct. The FCA (while furiously resisting moves in WA and SA to introduce legislation to further regulate the franchising industry) wants even more regulation of retail leasing in Australia.

In other words, they relied on an organisation that does not even support them. That is how much credibility the FCA has—zero credibility in this area.

There are 136,000 small business operators in South Australia, as has been mentioned by other speakers, and each one of those is important to our local economy—not just the big end of town, the small end of town. This bill looks after the small end of town. This is the area which the Liberal Party is now set to abandon. This is a space in the economy the Liberal Party is now set to abandon.

While this bill has its genesis in the recommendations made by the Economic and Finance Committee, it will be the culmination of a four-year campaign to provide franchisees with a fairer playing field, and more recently to assist farmers in their disputes with machinery manufacturers, and just as importantly for those people in the farming community who have a dispute with grain handling and storage places.

In terms of dispute resolution the report talks about looking to the government for direction, for legislation to protect farmers against those in the marketplace who wield enormous power. This morning Liberal members were saying that perhaps we need to look at more legislation, yet when we talk about small business, they oppose it. Clearly, I must say, either farmers are not small business or they have abandoned both small business and the farming community to look after the FCA. One can only assume that they are looking after the FCA because they represent the big end of town, and perhaps that is where the donations are coming from. One can only speculate that that is where the donations for the party are coming from.

Minister Koutsantonis, who introduced this bill in his capacity as Minister for Small Business, was an integral part of the initial Economic and Finance Committee inquiry, which he chaired, and has led the way in forming this new legislation. I congratulate him on that. In fact, this bill is better than my private members' franchising bill, and I accept that. Once again, South Australia will lead the country in providing support for our small business sector. This bill will raise business behaviour standards, and that is another important thing. The bill provides for the creation of a small business commissioner as well as a legislative framework for prescribing mandatory codes of conduct under the South Australian Fair Trading Act.

The bill also provides for civil monetary penalties for breaches of prescribed codes of conduct under the Fair Trading Act and for civil expiation penalties, that is, infringement notices or on-the-spot fines. Once this bill is enacted in South Australia the minister will have the ability to prescribe mandatory codes of conduct under the Fair Trading Act, including a statutory duty of good faith, as well as other standards of conduct in franchising, as well as other sectors such as farming, farm machinery, grain handling, retail leasing; you name it. Any smaller players in an industry who believe they are under threat from predatory behaviour from bigger players can come to the minister and ask for support.

This is what the Liberal Party is opposing. The Liberal Party opposes the smaller person being able to defend themselves. The Victorian Small Business Commissioner has found that their processes, which this bill is modelled on, have saved the small business sector around $200 million since the office was created. Mum and dad business owners work incredibly long hours and often invest all their savings to set up new businesses only to be brought down by rogue franchisors and other big players in the market place. This bill and subsequent codes will go some way towards correcting the current huge power imbalance between small and big business.

The member for Norwood said that I have a bee in my bonnet about franchising, and I plead guilty to that—I really do plead guilty to that. After 4½ years and after two inquiries in this parliament, after a WA inquiry and after a federal inquiry, it all came to the same conclusion: the power imbalance in franchising leaves small business people (whom these people across the chamber pretend to support) in a vulnerable position. I first raised this matter in February 2007, which then led to the Economic and Finance Committee inquiry, and there was also the WA and federal inquiry.

It is interesting to note that—and I stand to be corrected as I am not on the committee anymore—a recently received supplementary report by the Economic and Finance Committee did not repudiate the findings of the earlier inquiry. The member for Waite this morning and the member for Bragg this afternoon said that we on this side should listen to small business and take advice from small business in what we do in our dealings with small business. Well, I agree. Let's see what the small business sector has said.

The following small business organisations have indicated their support for this bill: the Council of Small Business Organisations of Australia, the Independent Contractors Association, the Motor Trade Association, the South Australian Farmers Federation, the Business Development Council and also, I understand, Business SA. What have these small business organisations said? It is interesting to note that not one speaker for the Liberal Party mentioned them.

All they mentioned was the FCA, the big end of town. Not one speaker from the Liberal Party today or yesterday during this debate referred to any of those organisations that speak on behalf of small business. The only organisation referred to in their speeches was the FCA. It is disgraceful that they have abandoned small business in the state. This is what the Council of Small Business Organisations of Australia said:

> This legislation [in this bill] reflects the fact that that small business is really a person with all the rights that other people have in law. We know this legislation is good and will provide fairness because the Franchise Council of Australia have objected to it.

That is why it is good. Every other small business organisation understands that, if you have the FCA on one side, all the good people are on the other side—except the Liberal Party. For some reason the Liberal Party have decided to get nice and snugly into bed with the FCA. Why? The Council of Small Business Organisations says:

> The access to quality dispute resolution and the opportunity for real sanctions to be forced on unscrupulous franchisors and big businesses is welcome news and will only add to the effectiveness of the small business community and the economy.

They go on to say:

> Too many small business people have become prey for unscrupulous franchisors, large businesses, large landlords and uncaring government departments. This action by the South Australian government means that we can run a business knowing that, when a fight has to be had, we have friends in high places who may not protect us but will certainly ensure fairness prevails.

Who do the Liberal Party get into bed with? The FCA. Not the Small Business Council, but the FCA. The Independent Contractors of Australia is certainly not an organisation that you might call a natural ally of the Labor Party. They said—

The Hon. A. Koutsantonis: A hotbed of socialism.

Mr PICCOLO: That's right. The Independent Contractors of Australia said that South Australia is:

> Potentially looking most attractive for small business franchisees. The SBC—

Small Business Commissioner—

> ...will provide voluntary, cheap mediation services for small businesses with a dispute. Importantly, the government sector and private business will be subject to the legislation. The SBC will...have powers in relation to retail tenancy. It makes sense for businesses to contact a state authority rather than a Federal one. I would have thought they (the FCA) would have welcomed an enhancement of the small business commissioner model, given that this is a good thing for small businesses.

Even the Independent Contractors association do not support the FCA; only the Liberal Party do. The South Australian Farmers Federation made the recommendation that the minister adopted through the consultation process to introduce the provision for mandatory codes of conduct or practice. That decision was based on the feedback from the South Australian Farmers Federation, who represent all those small businesses in the farming area. Did the Liberals mention that? No, they did not. Who did they mention? The FCA. This is what Carol Vincent of SAFF said in her letter to the government:

> The SAFF applauds the government initiative in developing the office of the Small Business Commissioner and will endeavour to continue to work collaboratively with government and values the support and assistance received from—

in this case, myself, modesty aside—

> Tony Piccolo.

As I said, the industry code of conduct was suggested by SAFF. What did the Business Development Council have to say about this? The lead member would know that, because the Business Development Council actually wrote to him. I do not recall the letter quoted in his speech. I may be wrong, but I do not recall its comments quoted in his speech. Why would he not quote from the Business Development Council, made up of all small businesses and representing them in this state, right across the board. This is what they had to say:

> The Business Development Council support the concept and intent of the Small Business Commissioner, its roles and responsibilities.

More importantly, part of the claim by the Liberal Party has been that, if we do this, we cannot do other things. Their defence has been, 'If we do this, we cannot do something else.' This is what the Business Development Council said:

> The Business Development Council is not aware of any connection between the establishment of the Office of the Small Business Commissioner and the budget cuts announced in 2010. The BDS is of the opinion that the decision not to fund new contracts for the BEC's could have happened regardless of the Small Business Commissioner project.

So, the Business Development Council of this state has basically shot down the arguments of the Liberal Party.

Mr Griffiths: No, they haven't.

Mr PICCOLO: Well, you got the same letter I got. What do the Motor Trades Association, who represent all those dealers, particularly small businesses in rural and regional Australia (machinery dealers, car dealers, etc.), have to say?

> The loss of a franchise means the loss of the business and the ability to earn income to pay legal fees to fight the franchisor. It is this unfairness Mr Piccolo wants to stop by the appointment of a Commissioner...who will have real teeth and a legal system to enforce a fair and proper outcome to disputes.

That is what the Motor Trades Association says. We come to the FCA—my friends, the FCA. The FCA opposes this bill. They claim to represent the franchise industry. Sadly, the Franchise Council does not. The Franchise Council has actually diminished the level of debate in this whole issue by making outrageous remarks and comments regarding this.

The reality is when franchises are set up, most of the risk is actually borne by the franchisees. What people do not understand is, in the marketplace, all those franchises you see in shopping centres, the fit-out is paid for, in the main, by the franchisees. We heard that evidence in the committee. It is not the franchisor; they just sell their rights. The risk is taken by the franchisees. So who does the Liberal Party side with? The FCA—the owners. This is what the Shopping Centre Council of Australia said—this is the big end of town talking about the other big end of town, the FCA:

> When the FCA (which, despite its claims, represents franchisors, not franchisees)—

this is what the Shopping Centre Council said—

> accepts the same level of regulation imposed on retail landlords, its lobbying might be taken seriously.

In other words, all the lobbying the FCA has done on this issue is a joke. That is what the Shopping Centre Council said. The FCA is a joke. They have no credibility in the marketplace. An interesting thing here is that the FCA enlisted the Shopping Centre Council to support them and this is what the Shopping Centre Council said about them. They actually labelled the FCA's reaction to all this as just a media stunt.

This bill is consistent with federal law. Importantly, it complements federal law and so it deserves our support. What I would like to do now is just summarise. One more point I would like to make is that, despite what has been said, the consultation was listened to by this government. As a result of that consultation, this government amended the bill. Had we not done that, we would have been accused of just lip service. We have done that and we are accused of not consulting enough, yet the bill now reflects the consultation.

In conclusion, I would like to make the following points. The case put by the Liberals against this bill has been insipid and, at best, a rehash of old arguments. We have heard them all before. In fact, we heard the same thing eight times today. It was like watching *Days of Our Lives*. You came back in, the same place; you come back the next day, the same thing. It is like a scene from *Days of Our Lives*.

The Liberals can run from this issue but there will be nowhere for them to hide when people in the farming sector understand what they are doing in here, despite the rhetoric out there. The Liberals have sold out. They have caved in to big business. They are denying small business justice.

Why would the Liberals back the predators? Why would the Liberals deny the farmers an opportunity to have their farm machinery warranty issues addressed, as the SAFF has recommended? Why would the Liberals deny farmers an opportunity to have their disputes with grain handling addressed, like this report that came out today said?

Why would the Liberals oppose good-faith dealing, which is available in many provinces in Canada? Look at those provinces in Canada—Ontario, Alberta, Prince Edward Island and New Brunswick—which have good-faith dealing, they have franchises. In fact, they have no fewer franchises than the provinces that do not have it. So to suggest that somehow good-faith dealing will wreck our state is just a nonsense, if you look at the international situation. Importantly, America has the Uniform Commercial Code which imposes a duty of good-faith dealing.

How can we have a fairer playing field without an umpire? That is what the Liberals want us to believe. With their decision to oppose this bill, the Liberal Party has sacrificed the soul of small business on the altar of self-interest.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for

Correctional Services) (17:19): Behind me is a portrait of Sir Thomas Playford, the man of the Liberal Party whose principles, they claim, they are founded on.

Mr Venning: Up there is Stephen Baker.

The Hon. A. KOUTSANTONIS: And Stephen Baker, I understand, a former great Liberal Party activist—two great Liberals looking down disapprovingly on their old party. Why are they looking down disapprovingly? Because the Liberal Party of today is lost; it is lost in a sea of disillusionment. They do not know for whom they stand anymore. The Liberal Party was formed on individual enterprise. The Leader of the Opposition tells us that she left New South Wales Labor to join the Liberal Party of South Australia because she wanted to speak her mind. She wanted to speak freely, and she did not like the idea of solidarity, locking people into one position.

I know that there are honourable men and women in the Liberal Party. I know that there are men of good conscience and women of good conscience in the Liberal Party. I know that there are members who secretly hope that this bill passes, because they have seen the suffering of traditional Liberal voters at the hands of unscrupulous master franchisors. And yet, where is their voice today? Where is their advocate today? Where is the once great political party for which Thomas Playford and Stephen Baker stood? Where are they? Lost. They are lost. They are lost because they are no longer a party of small business. They are now the party of big business. They are the party of the landlords, of the land barons. They are the party that supports the big end of town.

I have heard speaker after speaker personalise this about me—not the current speaker, not the shadow spokesman. I will talk about my experience. My parents are migrants. My parents came to this country with very little knowledge of English. Both worked for other people and both wanted to fulfil the Australian dream and own a small business. My mother was a cleaning lady at a hospital. My father worked in a glass factory on Port Road. They saved and they scrimped and they bought a business.

They mortgaged their home to buy that business. They know the pressures of having a mortgage to risk your livelihood in a business. They know the value of goodwill. Goodwill is something you can sell. What I am trying to preserve and protect is the risk that those families take. I know what it is to live in a mortgaged house that relies on the income of a business, and I do not appreciate Liberals telling me that I do not understand that risk because I am in the Labor Party.

I can tell you my father ran a small business for 25 years of his life, and every single election voted Labor, because he knew that the people who stood up for him, the little guy, was the Australian Labor Party, and today is no greater example of that, because today those mum and dad families look towards us to protect them.

I have sat on the Economic and Finance Committee—a great committee—and had the pleasure of being the chair when the member for Light came to me and said, 'I want to hold an enquiry into franchising', and I thought, 'Okay'. He said he had heard some horror stories about franchising, so we held the enquiry: submission after submission after submission of broken marriages, suicide, lost homes. Why?

I will give you some examples. My parents worked in a business to create goodwill and turnover so that when they decided to sell that business they could sell some of that goodwill. Master franchisors get the franchisees to take all the risk, then want to own their goodwill as well. Imagine working in a franchise, building it up from nothing—

Mr Griffiths interjecting:

The Hon. A. KOUTSANTONIS: Sure it does, but there are protections worldwide other than in Australia. That goodwill is then taken from them by a master franchisor relying on a contract that was signed, their being told to whom they are going to sell their business and for what price.

How about the franchisee who is told, 'You will renovate your business to this standard, regardless of the need'? Or the franchisee who is then told, 'You will purchase this stock at this price regardless of what you can get it for competitively in the market'? Or how about those franchisees who are told to employ staff they do not need and cannot afford? Who stands up for them? The Australian Labor Party. We are there within lock step.

I can tell you that the Farmers' Federation is not a hotbed of Labor Party activism. Business SA is not a hotbed of Labor Party activism. I can also say that the Council of Small Business of Australia contacted the Liberal Party today, urging it to change its stance on this bill.

The Liberal Party stands alone, and it has one ally in this debate—one—the Franchise Council of Australia.

Mr GRIFFITHS: Point of order: the minister continues to express a statement that is not my position or, indeed, the Liberal Party's. I have continued to put in every submission that I made in relation to this bill the fact that change, for it to occur, will need to be on a federal basis.

The SPEAKER: Member for Goyder, that is not actually a point of order, it was more a statement, and probably you need to make a personal explanation. However, minister will continue.

The Hon. A. KOUTSANTONIS: The Liberal Party stands alone, and it stands alone from its base. I will make the Liberal Party wear their position on this like a crown of thorns. I know that every Labor member in this house will go along The Parade, will go along King William Road, Hyde Park, will go to those shopping districts and talk to those tenants who are having to renegotiate their rent—

Mr Griffiths: And the farmers, in my electorate.

The Hon. A. KOUTSANTONIS: And the farmers who, under very difficult retail circumstances with a high Australian dollar—who are seeing Australians save and not spend their discretionary income—tell them that the Liberal Party do not want to give them a level playing field to renegotiate their rent; they do not want to give them somewhere to go when their rents are increased unfairly. Instead, the argument I am given today is, 'But landlords have to pay a land tax so they have to pass on their land tax increases to their tenants.'

That is unlawful and if the Liberal Party have examples of landlords passing on land tax increases to their tenants and have not given those to the proper authorities, they are derelict in their duties. No landlord can pass on land tax increases.

Mr Piccolo: You could recognise them as outgoings that form part of—

The Hon. A. KOUTSANTONIS: That is exactly the reason why they need an independent umpire who can stand with them. I understand that the Liberal Party are opposing good faith dealings—they want to oppose stamping out unfair and unconscionable conduct; they want to oppose making codes of conduct regulations. When I sent the bill out for consultation, the opposition was right to say that the bill that was sent out for consultation was different from the bill that was tabled. Why is that? Because heaven forbid that this government would listen to those it consulted with!

Who did we listen to? It was not Trades Hall. It was not SA Unions. It was not the Shop, Distributive and Allied Employees Association or the Transport Workers Union—the boogiemen of the Liberal Party who they keep on bringing up as if to try and scare children—who did we listen to? Business SA, the Farmers Federation—their mates—people who serve their constituents.

Mr Venning: Not my mates.

The Hon. A. KOUTSANTONIS: The member for Schubert, honest as always—not his mates—that's fine. These are the powers that the government wants the small business commissioner to have:

- to allow for civil action and enforcement powers against corporations failing to comply with prescribed industry codes under the Fair Trading Act;

That is not rampant socialism, that is fairness.

- to receive and investigate complaints by or on behalf of small businesses regarding their commercial dealings with other businesses and to facilitate resolution of such complaints through the measures considered appropriate by the Commissioner such as mediation or making representations on behalf of small businesses;

How outrageous is it to allow small businesses to mediate the disputes of other small businesses to avoid court costs? How outrageous, how dare we!

- to assist small businesses on request in their dealings with state and local government bodies;

We could have exempted the government from the small business commissioner, but we did not, I am advised.

- to disseminate information to small businesses to assist them in making decisions relevant to their commercial dealings with other businesses and their dealings with state and local government bodies;

Apparently, according to the member for Bragg, that is a huge waste of taxpayers' money.

- to administer Part 3A of the Fair Trading Act 1987 (which relates to industry codes) and the Australian Consumer Law (SA) to the extent that responsibility for that administration is assigned to the Commissioner under the Fair Trading Act 1987;
- to monitor, investigate and advise the minister about—non-compliance with industry codes that may adversely affect small businesses; and market practices that may adversely affect small businesses; to report to the minister on matters affecting small businesses...; to report to the minister on any aspect of the Commissioner's functions at the request of the minister...; to take any other action considered appropriate by the Commissioner—

I am making the commissioner independent of the government—

for the purpose of facilitating and encouraging the fair treatment of small businesses—

Fair treatment of small businesses is what the opposition are opposing—

in their commercial dealings with other businesses...

Let me paint a picture to you: small business has a supplier which is a large business. Who holds all the cards? Mum and dad or the large business? It is pretty obvious, isn't it? Even Kevin Foley knows that it is the large business. The reason I say that is that the minister has been a champion of free-market enterprise in this state, making sure that the market is what dictates business. He also recognised the unfairness in the marketplace and has stood up and supported the small business commissioner as treasurer.

The Hon. K.O. Foley interjecting:

The Hon. A. KOUTSANTONIS: Yes, you did, and I want to thank you for it. The small business commissioner will administer the Retail and Commercial Leases Act 1995. The member for Bragg, the member for Norwood and others have said to me, 'No-one has ever come to my office and wanted a small business commissioner.' I wonder whether anyone has ever gone to her office and said, 'Hi, I'm in small business. I'm being treated really badly by my landlord.' I know I get plenty of them, and I am sure members who have very large shopping centres in their electorate would know all about the complaints and some of the unfair practices that go on in negotiating retail tenancies but, apparently, according to the Liberal Party, all is well.

In fact, I heard one member say, 'Even if there was a vast minority'—and I am not sure what 'a vast minority' means—'of unfair, unconscionable conduct going on, it's really not necessary to change the law because it might disenfranchise the good franchises.' 'A vast minority'—I think it is a new term that has been made up by the member for Stuart. I will be using that a lot—vast minorities. Ultimately I think in his heart of hearts the shadow minister and many Liberals support this legislation, but there are dark forces at work in the Liberal Party—dark, unseen forces.

Mr Griffiths: It's a party of open debate.

The Hon. A. KOUTSANTONIS: A party of open debate, yet not one of the members who sat on the Economic and Finance Committee which came back with the unanimous report calling for these reforms is supporting the government in these reforms. That is how open the Liberal Party is today. While Sir Thomas Playford looks down on all of you disapprovingly because he knows that you have abandoned the very principles that the South Australian Liberal Party was set up for, have no fear: the Labor Party is here.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Mr GRIFFITHS: I note that under clause 3—Interpretation, you have a definition of 'commissioner', 'deputy' and 'industry code'. In my review of the 57 submissions that were proposed to you and in discussions with other people since then, there have been questions raised with me as to why 'small business' itself has not been defined. Can you comment on why that has not occurred because I am rather interested?

The Hon. A. KOUTSANTONIS: There is no agreed definition of what a small business is. For example, the ABS uses 20 FTEs or less; the Fair Work Act, 15 FTEs or less; and the ATO (Australian Taxation Office), $2 million turnover or less (potentially changing to $5 million or less). In Europe it is 50 FTEs. In some American states it is 500 FTEs or less. Given these variations, it

was decided not to have a definition. That is also the case in the Victorian SBC legislation, I am advised, and it was intended to give the greatest access for all businesses.

For example, if we decided on 20 FTEs and it was adopted, does that mean that a 21 FTE business has to sack a worker to be able to obtain assistance from the small business commissioner? 'Small' is a relative matter. For example, a civil operator sees a 10 FTE business as big, or a 150 FTE business sees a Woolworths or Coles as big. It is relative. By having no definition I think it leaves it open for as much leeway as possible.

Mr GRIFFITHS: I thank the minister for his explanation, and I can certainly appreciate some of the complications involved in trying to determine what it would be. As a result of that, though, my question therefore becomes: is there an upper limit on turnover or number of employees so that the commissioner will say, 'Sorry, but we are not here to assist you'?

The Hon. A. KOUTSANTONIS: That will be done on a case by case basis by the commissioner.

Mr GRIFFITHS: So there has been no policy thought from within the project team to give some direction to the commissioner, or is that going to be one of the interpretations that that person makes?

The Hon. A. KOUTSANTONIS: I would like the commissioner to have some autonomy on this, quite frankly, because I think it is important. There are hypothetical scenarios I could give you which can play out in many different ways but, ultimately, the more discretion you give the commissioner about what he sees as his role, the better.

Mr GRIFFITHS: I can see the minister is unable to provide a definite answer on size, turnover or numbers. I appreciate that, but what about industry-specific? There is no qualification on the type of industry that small business, by lack of definition, is involved in, so it can be anything, basically—the full spectrum of businesses that exist in South Australia?

The Hon. A. KOUTSANTONIS: We are a universal organisation. We want everyone to have access to equality.

Clause passed.

Clause 4.

Mr GRIFFITHS: Clause 4 states that there will be a small business commissioner. I am trying to identify anywhere else in the bill where there are details on the skills specific to the role. This seemed to be my only opportunity to ask this question. Can you confirm to the committee what experience you would expect of a person that you would appoint to this role and the skill set they would have before you would consider an appointment being made?

The Hon. A. KOUTSANTONIS: In government there is a wide variety of positions. If you look at the Victorian example, I think the advice I have is that their first commissioner was someone who was their liquor licensing commissioner previously. I think if you are looking at the functions, it is investigative, it is running a budget, it is an executive role, it is someone who has the tertiary qualifications that are required and the breadth of experience—mediation experience and, obviously, some business experience.

Obviously, there would be a nationwide search for the role; despite what the member for Bragg says, it will not be one of my mates. I am hoping for someone with a bit of authority to gain the respect of the industry pretty quickly. If you are looking at the type of qualifications, you can look at from ombudsman and magistrate right through to liquor licensing.

Mr GRIFFITHS: So, a position brief, in fact, has not been prepared yet?

The Hon. A. KOUTSANTONIS: I do not know whether a position brief has been prepared internally by the department. I can find that out for you, but I can say that I think that it is inappropriate for me to begin a search for a commissioner until the parliament has given its consent to the bill. I think that would be arrogant.

Mr GRIFFITHS: I would concur with the minister, and far be it for me to say that he would ever be arrogant. Do you envisage or has the project team determined anything, because the person you attract will be attracted by the remuneration that is available to it? Are you able to give us within what band of the senior executive service it will be?

The Hon. A. KOUTSANTONIS: I think it is up to about $250,000 per year, but it could be more, it could be less.

Clause passed.

Clause 5.

Mr GRIFFITHS: There will be some general questions in this clause also, minister, that might not be directly specific to a particular clause, but if I can refer to a couple of specific ones. In clause 5(1)(a) appear the words 'receive and investigate complaints'. Can you actually define 'receive'? Is that through any method? Is that via a personal visit to the commissioner or his staff, a telephone call, an email, a facsimile or a letter? Is it any method of transportation of the concern? Is it going to be specified as to how that will occur?

The Hon. A. KOUTSANTONIS: The explanation that I have is that the function provided is that the commissioner is able to receive complaints from or on behalf of small businesses regarding any commercial dealings with any other businesses. In terms of the format that the complainant receives, I imagine there would be some sort of proforma form or inquiry. It could be email, it could be fax, it could be telephone, it could be a shopfront visit or It could be anonymous.

These are all operating matters, and, while it is important, I think that the logistics of receiving the complaint are not as important as the investigative powers to deal with the complaint and the commissioner's statutory role in dealing with that complaint. I imagine that it could be in person on behalf of a legal firm or it could be a fax. It could be a member of parliament, for example.

Mr GRIFFITHS: Thank you for clarifying that, and I thought that would be the answer. However, I do have some concerns when you use the words 'on behalf' or 'anonymous', because there has to be a validity to the concern that has been lodged. If it is a small business where it may not be the owner of that small business but someone acting on behalf of the business, there has to be an alignment back to the boss who authorised that, I would assume.

The Hon. A. KOUTSANTONIS: I talked about dark forces. You might remember even when we were on the committee the reticence of some franchisees to give evidence on the public record. I think that it is important that there be an anonymous function because the complaint could be about your accountant, the complaint could be about your master franchisor. Until the franchisee or the complainant gets an idea about the validity of their complaint, or, perhaps, does not want to involve themselves personally in the complaint but just wants to inform the commissioner on a type of practice that may be inappropriate or in breach of the codes of conduct, I think it is entirely appropriate to have anonymous types of complaint mechanisms.

I will say that, as a member of parliament (as we both are), I am sure that you get letters sent to you. Some letters are sent to you with your name and address and some are sent anonymously. I throw the anonymous ones away. People who sign their names get the full attention and the privilege they deserve. I protect their identities, of course. The people who send me anonymous complaints, that is a very different matter. Of course, it depends on what is in the complaint, but, generally, anonymous letters are treated as anonymous letters unlike letters that have names to them. But there has to be the scope and ability to keep some complaints confidential. It could be just an informing role rather than a complaint role.

Mr GRIFFITHS: Minister, I agree with you entirely. If you are willing to sign a name, it has validity in my eyes also. But that is my concern where a complaint comes to the commissioner anonymously; it could be an entirely frivolous and vexatious issue. I know the commissioner will have staff who will think it is impossible, but then sometimes the impossible is true. I know there is no perfect situation to that but I would be concerned about a priority being given. I would attach a very low priority to anonymous complaints.

The Hon. A. KOUTSANTONIS: We have that with our police force. Police operate Crimestoppers through a private sponsorship program. They receive anonymous complaints constantly and police make a judgement call on whether they think those complaints are worthy of investigation or not, but those anonymous tips that they receive often go a great way to helping solve crime. I would be reticent to see the ability of—for example, I will give you a hypothetical—a farming family making a complaint about a farming supplier who is the sole supplier in that industry. If they want to inform about a type of practice that is going on rather than actually make a complaint, I think it is entirely appropriate that it be anonymous. It is up to the commissioner to decide then whether it is worthwhile.

Mr GRIFFITHS: In the same clause, you talk about commercial dealings. Is there any form of definition on that?

The Hon. A. KOUTSANTONIS: 'Commercial dealings', I am advised, was used because it allows greater flexibility for the commissioner to investigate complaints or assist in their resolution as compared to the Victorian legislation which uses 'unfair market practices'. It allows the commissioner to assist the parties to preserve their commercial dealings through the timely resolution of disputes. The expression of 'commercial dealings' is also common to other functions and this ensures consistency across the commissioner's functions.

Mr GRIFFITHS: I am interested to see to what extent you intend to use the expertise available within the commissioner. Is it intended that legislation that would have some impact on small business will actually go via the commissioner for comment to you as part of your policy, your preparation of legislation?

The Hon. A. KOUTSANTONIS: If the government is fortunate enough to carry this legislation through both houses of parliament and gain the Governor's assent, I would absolutely be consulting with the small business commissioner about future legislation regarding small business policy—indeed, industry policy generally. Why wouldn't you? If they are at the coalface, why wouldn't you seek their views? The same way I have sought the views of the Farmers Federation, the MTA, the Council of Small Business of Australia—all of those representative bodies that represent small business that are supporting this legislation, other than the Franchise Council of Australia and the Liberal Party.

Mr GRIFFITHS: It is my understanding that the commissioner intends to establish links with organisations, and I think that 'memorandum of understanding' was a term used, but I might be wrong on that. Is the intention to establish links across all sectors? I am not sure. How many formal agreements do you intend to have to ensure that there is dialogue between industry associations and the SBC to make things work? As time evolves, is it going to look at every opportunity to get the message out there about what the commissioner does?

The Hon. A. KOUTSANTONIS: I think it depends on the industry association and the industry groups. I am advised that some industry groups want formal arrangements; others want informal arrangements. I think that once the bill passes and is assented to and we have a commissioner, that is something we can work towards. I think it is important to allow a cooperative approach rather than a mandated approach. I think it is important that cooperation be at the forefront of the commissioner's mind because no system of legislation can overcome bad will. You need good will for these things to work.

That is one of the reasons why—and I am surprised I have been criticised—the original bill given out to consultation and the bill presented to the parliament are different because I actually listened to the industry groups that were talking to me about the concerns that they are facing, what they actually need to resolve the problems. So that is why I am surprised I got some criticism. What I want is a cooperative approach with those industries, and that is what I have done in the formulation of this bill, and that is the standard that I want the commissioner to continue.

Mr GRIFFITHS: The questioning about the consultation and this bill is due to the substantial changes that have come about, but we have all talked about that. You and I would both recognise that any business failure is a great shame to the people involved and to the state's economy—and any level of failure. If a business is in administration or receivership and they are defined as being a small business and, therefore, the commissioner is willing to assist them in some way, will support still be available to them?

The Hon. A. KOUTSANTONIS: There are many reasons businesses fail. It could be selling a product that no-one wants or a bad location. I am concerned about businesses that fail because of unconscionable conduct, not dealing in good faith, or unfair dealings; that is, if a business is operating profitably and because of contractual obligations and unfair market practices they are made uncompetitive, because all of a sudden their costs are increased because they are buying stock they do not need, they are employing people they do not need, or they are renovating a store that has just been renovated. You know what I am talking about.

However, if there is already a legal argument that is before the courts, the commissioner obviously has no jurisdiction because it is before those courts. You cannot have two concurrent inquiries into the same thing, especially if judicial bodies come into it, so there are those restrictions.

Mr GRIFFITHS: I want to ask you a question raised by a member for Stuart. There was a concern from his point of view, not just today but in our party room discussion, about whether in this legislation there is any levy or tax to be raised to fund the commissioner's activities.

The Hon. A. KOUTSANTONIS: I can rule out comprehensively the government introducing any new levies to support the role of the small business commissioner on a statewide-based taxation system.

Mr GRIFFITHS: I refer to clause 5(1)(c) and the words 'to disseminate'. I am seeking clarification on how it is intended for the commissioner to disseminate information to the state.

The Hon. A. KOUTSANTONIS: The function, I am advised, of the commissioner is to provide small businesses with relevant and useful information to assist them in their decision-making in relation to commercial dealings. This information will be available on the commissioner's website and through a variety of information brochures produced by the commissioner.

The provision of such information should assist small businesses in making informed decisions and minimising the likelihood of disputes wherever possible. The information can also be disseminated through relevant industry associations. It would be expected that the commissioner will have strong industry links so as to facilitate the wider dissemination of information relevant to small businesses in a particular industry.

One example is in the area of retail leasing, where it is vital that the potential retail tenants understand what information they should be provided with by landlords under new law. The commissioner will also be able to provide other information that retail tenants can usefully consider when entering retail leases. A further example involves the commissioner assisting franchisees or prospective franchisees in understanding the nature, benefits and potential pitfalls of franchising.

Mr GRIFFITHS: Part of the reason I asked the question is that in my recollection Business SA also raised the point about the dissemination of information. It leads back to the question I asked you before about relationships that you will have with associations to ensure that there is a commonality of information that goes out, not necessarily duplication, so that either the association does it or the commissioner does it.

The Hon. A. KOUTSANTONIS: My view and the government's view is that the premier business representative body in this state is Business SA. We have recognised that by helping them with government grants to do certain work that we feel is their role. However, if we have a government website that provides information and Business SA wants to put a link on its website to information we have, or the commissioner wants to run information evenings with Business SA industry bodies to educate them on what is going on with codes of practice and industry codes that are being regulated, well, I am sure that he or she will do that. If I was a business in South Australia I would join Business SA.

Mr GRIFFITHS: Subclause (e) talks about noncompliance with industry codes. I am certainly aware of the efforts that have been made in franchising. As part of the contribution you and the member for Light have made, you have talked about the farming sector. When I had the briefing with Professor Zumbo and Mr Sinkunas you talked about the fact that farming was going to be a target area, but are there any other code areas that you are giving thought to?

The Hon. A. KOUTSANTONIS: I foresee, obviously, independent contractors developing industry codes with the commissioner. Motor trades are very interested in developing industry codes. I understand the farming and grain handling industries will be interested in developing industry codes, as I assume will other small businesses across the state with generic types which are similar and which have associations that represent them. I would see that they could be voluntary or they could be enforced. This is all about developing them with the commissioner.

Mr GRIFFITHS: That was going to be my question. Will the development of additional codes be either voluntary or enforceable? If they are voluntary by nature, who determines that? Will it be the particular sector itself or will you and the commissioner have control over that?

[Sitting extended beyond 18:00 on motion of Hon. A. Koutsantonis]

The Hon. A. KOUTSANTONIS: I do not want to mince words about this, because I understand this has caused some concern within the Liberal Party. The minister will have the ability to prescribe codes. I will give you an example of that. Business SA, Optometrists SA Association,

the Motor Trade Association, the South Australian Farmers Federation, the Housing Industry Association, the Hardware Association of SA, the Business Development Council, the Regional Communities Consultative Committee, the Royal Institution of Chartered Surveyors Oceania, the Council of Small Business of Australia, the Independent Contractors of Australia, family businesses, service industry (various), Restaurant & Catering SA, the Australian Meat Industry Council and the Australian Medical Association have all been made aware of the ability of the minister to prescribe these codes. Ultimately, I will do that, or all ministers will do that, on the advice of the commissioner and the industry bodies.

Mr GRIFFITHS: Will whether they are voluntary or compulsory be the determination you make on an industry by industry basis?

The Hon. A. KOUTSANTONIS: Absolutely. If I have the Small Business Commissioner and the industry group saying, 'No, we just need a voluntary code', why would I prescribe it? I have to reinforce this to the shadow minister. You can find boogiemen in every piece of legislation. Okay? I understand that, being a former opposition MP myself, but I can assure you that is not how government works.

Ultimately, prescribing a mandatory code is a political decision that will bring about political consequences. So, if I prescribe a code that is exceptionally unpopular amongst that industry for a small vested interest, there will be a political price to pay. Now, I assume that the shadow minister wants to be a minister one day in a Liberal government.

Mr Griffiths: I live with that dream.

The Hon. A. KOUTSANTONIS: You do live with that dream. I like being a minister in a Labor government and wish to remain a minister in a Labor government because I want to govern, as do you. Small peripheral parties are the ones that are afraid of these powers given to ministers. I say to the Liberal Party: do not be afraid of this if you want to be a mainstream political party that is there to govern.

Mr GRIFFITHS: Just so I can get on the record also, it is my understanding that the introduction of a code will be done by regulation, which is—

The Hon. A. Koutsantonis interjecting:

Mr GRIFFITHS: —yes, notice of motion to disallow. Okay. The minister has acknowledged that.

The Hon. A. KOUTSANTONIS: Yes. To the house, there is no secret ability for the government to regulate a code of practice without the industry knowing about it and there is always going to be a mechanism to disallow it through the parliament—qualified.

Mr GRIFFITHS: That is the qualifier, I am advised. Mr Sinkunas will be the one who gets in trouble.

The Hon. A. Koutsantonis: No, it will be me.

Mr GRIFFITHS: True. Westminster system, minister; very true. Just a question that might be covered later on in the clauses but if I can just ask it now: where mediation is occurring and the mediation itself has been entered into voluntarily by both sides, but a resolution cannot be found, the mediator or the professional mediation service that is employed will never make an arbitrary decision, will they? It will just be an inconclusive result and then left up to one side to determine if they want to pursue legal proceedings.

The Hon. A. KOUTSANTONIS: With any mediation, I do not think arbitration works in these matters. If we are going to have arbitration, go to court. What mediation is there for, and the reason it is so successful in Victoria, where they have over 80 per cent of disputes resolved in mediation, is that all the parties are brought together, they have their mediation, they have their dispute and then they sign a binding agreement that is legally enforceable in a court. That is the best way to solve business to business disputes.

The alternative is straight to court with no mediation, or mediation that is not meaningful, and, obviously, a great cost. My fear is for the weaker party. When I say the weaker party, not in legal terms, not in terms of legal right or position in law in terms of their argument, but in terms of income, which is usually the mum-and-dad-investor who has got the house mortgaged to have the business and cannot afford the QCs that the larger corporations can. I assume a court would view any dispute that did not take advantage of the mediation in a certain way.

Mr GRIFFITHS: I have another question on mediation. It is my understanding that the government does provide some level of financial support to mediation services that already exist. While it is quite likely that those mediation services will tender for the primary role that the commissioner is going to have available, for those other mediation services that are unsuccessful, that do get a level of government support, is there any intention to, as part of the forward planning, take the dollar support away from them and only focus on—I get nods of the head. Okay.

The Hon. A. KOUTSANTONIS: I will put on the record there are no plans of the government to do that.

Mr GRIFFITHS: I need to pose this question in relation to subclause (2) where it refers to 'good faith'—and I know that has been discussed at length. I am advised that the original intention had been for that expression to be in the following words: 'to act fairly, honestly, reasonably and in a cooperative manner' but now it has been changed to 'fairly and in good faith'. I am interested as to the reason for the change, minister.

The Hon. A. KOUTSANTONIS: I need to make it clear to the opposition that the wording of clause 5(2) is not an enforcement power; it is a broad statement encouraging parties to business transactions to act cooperatively, objectively, fairly and reasonably in their dealings with each other. The law is very familiar with the word 'reasonably': it is one of the great leverage points of law, I am advised. However, in this instance it is simply a statement of what the commissioner encourages in business-to-business transactions, but it is not an enforcement power.

A statutory definition of 'good faith' may be included in an industry code some time in the future, but the wording of clause 5(2) is not a defined statutory duty of what it is to act in good faith. I want to be very clear on this to allay any concerns—you are voting against it anyway—you may have. A concise definition of what it is to act in good faith is something which we are currently looking at and which should be required in potential industry codes in the future, so I want to make that clear to you so you understand that.

Clause passed.

Clause 6.

Mr GRIFFITHS: Minister, just to seek clarification on behalf of one of my colleagues who posed a question to me that this clause gives you the opportunity for a ministerial direction but then subclause (2)(a) says 'may not give a direction'—and the chair has probably answered it—'in relation to'. Can you put on the record the distinction between your opportunity for a ministerial direction and the intent of that subclause?

The Hon. A. KOUTSANTONIS: Let's say, for example, that the commissioner is conducting an investigation into a business of which I know the proprietor. It would be inappropriate for me to cease that investigation. Let's say he was investigating the dealings of Catch Tim. It would be inappropriate for a minister of the Crown to stop that investigation. I think it is entirely appropriate that my powers in terms of investigations should be about directing an investigation, but not ceasing an investigation.

Mr GRIFFITHS: Or influencing it.

The Hon. A. KOUTSANTONIS: Or influencing it. I do not want to create a political body: I want to create a regulatory body, and that is why, I am advised.

Mr GRIFFITHS: I love the inclusion of the words 'I am advised'. I seek an explanation as to why you have included this provision because my assumption would be that regular dialogue would occur between the commissioner and the minister and, therefore, I cannot even imagine a situation where the commissioner says to a minister, 'There is this issue that I think I need to investigate'—or vice-versa—and it was not done. It might be just to ensure that due process is upheld, but it says here that it has to be in writing when you communicate, I believe.

The Hon. A. KOUTSANTONIS: Yes.

Mr GRIFFITHS: Yes, in writing. Is there an intention to have a regular dialogue between you and the commissioner to ensure that there is an agreement in place?

The Hon. A. KOUTSANTONIS: With any statutory officer—when I was minister for gambling, I would meet with the gambling commissioner weekly. There is no statutory requirement, I understand, to do that, but it was in the interest of good government that he and I (it could be she and I) met regularly to discuss what was going on. But I think it is important that if a political officer

gives a direction to a permanent regulatory body that it be recorded and open to the public. The best disinfectant here is sunshine.

Mr GRIFFITHS: I agree entirely with that.

The Hon. A. KOUTSANTONIS: Good.

Mr GRIFFITHS: Well, I agree with that aspect of it. You are going to catch me out. Madam Chair, that is the end of questioning on clause 6.

Clause passed.

Clause 7.

Mr GRIFFITHS: In subclause (1) where you talk about a term not exceeding five years, can you give an indication as to what the initial appointment period is likely to be?

The Hon. A. KOUTSANTONIS: I assume it would be five years. I think that is a standard process in government—five years, three years and two years—is it not? So that is the standard process. I do not think it should be appointed for life. I like the idea of five-year terms. That is what the former Liberal government brought into place to start with.

Mr GRIFFITHS: I understand that, but I am seeking an indication of what the first time might be, but you have stated that it would be up to that. As part of that, my assumption would be that some form of performance review would be undertaken. It is an annual reporting process; I understand that, but will there be a performance review and who would conduct that? Is that where a consultant would come in and do that for you?

The Hon. A. KOUTSANTONIS: The Parliament of South Australia. The annual report is tabled here annually, and the parliament will peruse that annual report and if they wish to make comment on it, of course they can, like any other body—like the Auditor-General. Like any regulatory body, if they provide an annual report to us—us being the highest court in the land—we will sit in judgement of them.

Mr GRIFFITHS: Minister, I understand that, and that is an important process to be upheld, but, on the way in which the commissioner manages staff—the office related stuff that we in this chamber do not get the chance to observe—is there intended, as part of the position description, to be a performance review opportunity where KPIs have to be met—you know all those buzz words, that sort of thing—not just the yearly annual report review that parliament would conduct, where indeed there are questioning opportunities but, more importantly, the administration of the office review?

The Hon. A. KOUTSANTONIS: I am advised that the Public Service Management Act will apply to all staff. It is a contract position. Ultimately, if the parliament is unhappy with the commissioner's performance, he or she can be dismissed.

Mr GRIFFITHS: That is the end of my questioning on clause 7.

Clause passed.

Clause 8.

Mr GRIFFITHS: Minister you refer to the possibility that you may appoint a deputy or acting commissioner. Certainly I can see an acting commissioner as being a definite situation, but is it envisaged as part of the setup structure to appoint a deputy?

The Hon. A. KOUTSANTONIS: I think the clause provides that the minister may appoint a person who may be a public service employee to be a deputy. As well as the commissioner, I imagine there will be probably be someone in the office, or someone of similar standing in the department, much like it operates with other commissioner roles such as liquor licensing or consumer affairs.

Mr GRIFFITHS: The reason I asked the question is because of the use of the word 'may', not 'shall'. I seek some clarification on that especially in the first instance. It is the use of the word 'may' and not 'shall'; I took your answer as meaning that it shall happen.

The Hon. A. KOUTSANTONIS: The discretion is with the minister. Obviously there are budgetary implications, annual leave implications and illness provisions; people get sick, they go on holidays, budgets increase, budgets decrease; things happen.

Clause passed.

Clause 9 passed.

Clause 10.

Mr GRIFFITHS: With staffing, minister, I understand from the briefing that it could potentially be between $1.1 million and $1.5 million in total operating costs Can you confirm if that is the range and how many staff you envisage appointing over the course of the current financial year?

The Hon. A. KOUTSANTONIS: I am advised that the resourcing will be in the range of approximately $1 million plus—up to $1.2 million or $1.3 million. Obviously, resourcing is a matter for the budget and the government makes no apology for making its decisions based on that. The parliament's role here is to—and I am not trying to tell you how to do your job—decide whether or not you want the commissioner, and the way he or she is resourced is a matter for the government. Ultimately, it would probably be five to seven staff.

Mr GRIFFITHS: I have a question on subclause (2) where it refers to making use of other staff who work within the Public Service. It is an accounting issue, I know. The expertise that is taken from other departments, is the wages cost of that intended to be brought back within the SBC budget or is that just a completely separate issue absorbed by that department as part of the intergovernmental relationships?

The Hon. A. KOUTSANTONIS: We want the ability for the commissioner to second expertise in and out of the office as necessary. DTED being the supporting agency (that is the Department of Trade and Economic Development) obviously will support the commissioner. These are internal discussions that they are going to have. If the commissioner wants to bring in a team of 85 forensic experts, that will be a question for me and the Treasurer, no doubt, to discuss about SBC. Ultimately, it will be DTED's role in conjunction with the chief executive to sort this out.

Clause passed.

Clause 11 passed.

Clause 12.

Mr GRIFFITHS: Minister, you are probably not surprised that I have some questions on this clause about the requirement to require information. I seek some clarification. I understand that the commissioner 'may by notice served in writing personally or by post require a person to give the commissioner information'. Is that across all levels of the investigation? Is the information required for mediation to occur or is the information only required where the commission decides to issue a court action?

The Hon. A. KOUTSANTONIS: The advice I have received is that it is the experience of the Victorian Small Business Commissioner that the reason the remaining 20 per cent of mediations are not solved in the commission is because of the intransigence of some people who do not supply information on a timely basis (or at all) and wish to exercise their options elsewhere.

This is a way of the commissioner actually having some teeth. I will give you a few examples: if the commissioner is deciding to run an investigation, before he or she makes that decision, he or she may request some written response about the accusations made. Obviously, you are entitled to know what the accusations against you are. The commissioner may write to a business and say, 'These are the accusations against you. We require this information, that information and this information.' It is on a case-by-case basis.

I anticipate generally that the majority of businesses involved in disputes will be willing to work with the commissioner. The inverse of this is: if the commissioner does not have this power, what use are the investigative powers at all? The ability to require information is paramount and it came out in the consultation that a lot of businesses wanted the penalties to be a lot higher.

Mr GRIFFITHS: I can imagine that the position of people involved in a request for an investigation is going to be somewhat different depending on whether they are being told that it is going to result in mediation or whether there is a strong possibility of going to court in the early stages if it is determined that there might be strength for that to occur.

The reason I pose this question is as a result of feedback from you that the Law Society comment on this as I understand it was that the ability of the commissioner to require that this should only be in the case where criminal proceedings are commenced by the commissioner. I

pose that question on behalf of the Law Society. It is from the feedback and the consultation that you undertook and it is an important issue.

The Hon. A. KOUTSANTONIS: I understand that this is the same power that the ACCC has and, quite frankly, I do not think there is any way that we are infringing on people's right to silence in a criminal investigation. If there are criminal matters, they would best be referred to the police rather than the small business commissioner. If the small business commissioner uncovers criminal activity, I would imagine that it is incumbent on him or her to report that immediately to SAPOL.

Like any statutory officer who has the ability to require documents, such as a parliamentary committee, the Liquor and Gambling Commissioner, whoever has the ability to get information, if that information uncovers criminal activity, good, and they refer it to police. In terms of the legal rights here, I defer to those who speak Latin rather than those of us who speak Greek and English but I would imagine that, if the commissioner uncovers criminal activity, it is a good thing.

Mr GRIFFITHS: I understand that and support that concept. If I can ask this then: will there be a structured request for information to be provided in some legally recognisable form or is it intended just to be in a letter form?

The Hon. A. KOUTSANTONIS: I imagine that the commissioner will take advice through crown law on how best to require this information. I do not think it is a couple of lads in a ute turning up any more. I think it is probably through a letter or email.

Mr GRIFFITHS: I have a question on subclause (3) then where the word 'incriminate' is used. It provides that 'a person cannot be compelled to give information under this section if the information might tend to incriminate the person'. That is an easily objective assessment made by a person in deciding, 'No, I don't want to give that information because I believe it might incriminate me.' Is there any intention for some other party—the commissioner or whoever—to have the ability to adjudicate on 'incriminating'. I do not know how you would do that without actually reviewing the information either, but it is just a question I am seeking some details on.

The Hon. A. KOUTSANTONIS: I would imagine that if someone is claiming legal professional privilege or they are claiming that they do not want to give any evidence against themselves because it is a criminal matter, the commissioner will then pass on all that information to police and the DPP, and the DPP will take the appropriate action.

Mr GRIFFITHS: This clause does not refer to whether it is information being sought for mediation or for the prosecution of a criminal matter, so that is where my question comes about.

The Hon. A. KOUTSANTONIS: If the commissioner wishes to have mediation between two parties and one of the parties writes back and says, 'I'm not going to give you any information because the information may incriminate me,' the commissioner has decisions to make and would seek advice from the Crown about how best to pursue that. That may be through SAPOL, it may be through the DPP, it may be through the ACCC or it may be through some other avenue, but the commissioner will seek advice.

Clause passed.

Clause 13.

Mr GRIFFITHS: On subclause (1), the last line provides 'the administration of this act except', but then subclause (3) below provides 'in connection with the administration of this act'. I posed this question during the briefing, and I wondered whether it was an unnecessary duplication.

The Hon. A. KOUTSANTONIS: I am advised that this is entirely appropriate, according to parliamentary counsel, one of the most esteemed legal chambers in the country. I offer the shadow minister another briefing on the matter, but I understand that the first part of section (1) will relate to one of the subsections. I am advised that it is valid and I urge the shadow minister to gain a more detailed briefing from parliamentary counsel. I am advised that subsection (1)—how can I say this, not being a trained lawyer—is excellent.

Mr GRIFFITHS: It may be appropriate, if a briefing is arranged, that we both attend. The maximum penalty set is $20,000. Where did that figure come from? Has some precedent been set for that to be used?

The Hon. A. KOUTSANTONIS: I am advised that that is the standard penalty applied in South Australia for this type of infringement.

Clause passed.

Clause 14.

Mr GRIFFITHS: I refer to subclause (2), where it talks about 'regulations may fix fees in respect to measures designed'. I understand the Victorian experience that it is about $195 per party involved, with a total cost of $700, and the rest of that is absorbed by the commissioner's budget. Can the minister outline what the fees are intended to be?

The Hon. A. KOUTSANTONIS: That is currently on my desk. I will be considering it, but I can advise the house that it will be very similar to the Victorian model.

Clause passed.

Schedule 1.

Mr GRIFFITHS: In relation to Part 2 section 3(5), I have a question where it refers to the deletion of the word 'Commissioner' and the substitution of 'Commissioner for Consumer Affairs or the Small Business Commissioner'. Looking at it in isolation, the use of the word 'or' creates some confusion about who is going to have responsibility. Can the minister give an indication that that will not be the case?

The Hon. A. KOUTSANTONIS: The advice I have received from parliamentary counsel is that the use of the term 'or' is for a clearer demarcation of the roles of the two bodies. Rather than there being any ambiguity, the term 'or' clearly states who has the roles and functions of the particular dispute.

Mr GRIFFITHS: As opposed to the word 'and', which can mean both?

The Hon. A. KOUTSANTONIS: Yes. That is the advice I have received, and I am sticking by it.

Mr GRIFFITHS: If I can go to clause 14, which is the insertion of a new clause under part 3A, section 28E talks about 'A person must not, in trade or commerce, contravene a prescribed industry code.' What happens where it is a voluntary code?

The Hon. A. KOUTSANTONIS: There is only a penalty in place for a prescribed code.

Mr GRIFFITHS: If I can ask some general questions, we have talked about additional codes that you may implement and the level of consultation that occurs there. I think you have already commented that you have not considered any others yet. Have you given an outline of the areas where they might be attracted?

The question that has been posed to me, and it goes back to the premise of the contribution I made to this, is that it should be done on a national basis. Can you outline briefly, and I know you have probably done that as part of your second reading finalisation speech, the reason why this has all occurred for industry-specific codes?

The Hon. A. KOUTSANTONIS: Due to the consultation. The advice I received was, and the consultation brought about, that industry groups were searching for greater protection because of unconscionable conduct needing good faith dealings. I notice the 'opposition bencher' shaking his head in agreement with the government's view, and I welcome his support.

Ultimately, I would love the federal government to step into this space. Until they do, it is incumbent on me and this government to ensure that South Australian businesses are trading fairly, that there is no unconscionable conduct, that everyone deals in good faith and that franchises are allowed to be confident, outward-looking businesses that employ South Australians and go on to do great things. The problem is that, in Australia, franchising is giving the ability to master franchisors to churn. I want to end churning. I would love the federal government to stop churning. I would love the federal government to step into this place; alas, it has not.

Mr GRIFFITHS: I just seek clarification. I presume there is a ministerial council for small business ministers. Have you put this issue on the agenda in an attempt to have a national resolution to it?

The Hon. A. KOUTSANTONIS: I have spoken at length with Senator Sherry about this. I have spoken about it with other ministers. I have not spoken about it with the new New South Wales minister or the new Victorian minister, but South Australia's views are well known around the country. This government is very proud of its stand on this issue, and I encourage other jurisdictions to follow South Australia's lead.

Mr GRIFFITHS: Jumping forward to the very top of page 15, subclause (2), minister, where it talks about civil penalty proceedings that are undertaken, are the costs of those actions met by the commissioner's budget or, indeed, by the small business activity that is involved?

The Hon. A. KOUTSANTONIS: Any legal proceedings through a court are run through the Crown Solicitor's Office, and the costs are borne by them and are awarded by the courts. That is the advice I have received.

Mr GRIFFITHS: If I can jump forward to page 17, where it refers to late payment. Is there any form of penalty attached to a late payment of an expiation fee?

The Hon. A. KOUTSANTONIS: I am advised that proposed section 86E authorises the commissioner to accept late payment of an expiation fee at any time before proceedings are commenced for a civil penalty order for the alleged contravention to which the payment relates.

Mr GRIFFITHS: Just on that, how long does the commissioner wait before they commence proceedings?

The Hon. A. KOUTSANTONIS: I want the commissioner to be not as rigid. Having some experience in expiation notices, I think it is important that there be some flexibility given to the commissioner in this pursuit. I do not want to see the commissioner being too rigid in the way he deals with small businesses. Ultimately, these are small businesses so, if there is a penalty put in place and the business wants to negotiate the payment of that expiation fee with the commissioner, we should allow that negotiation to proceed and give maximum flexibility to the commissioner. If the commissioner is then frustrated, he can take civil proceedings.

Mr GRIFFITHS: I indicate that that is the end of my questioning on this bill.

Schedule passed.

Title passed.

Bill reported without amendment.

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Mineral Resources Development, Minister for Industry and Trade, Minister for Small Business, Minister for Correctional Services) (18:40): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 18:41 the house adjourned until Thursday 15 September 2011 at 10:30.