HOUSE OF ASSEMBLY

Wednesday 14 March 2012

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

FARMING RIGHTS

Mr VENNING (Schubert) (11:02): I move:

That this house establish a select committee to investigate and report upon factors that impact upon a farmer's 'right to farm', including a specific examination of spray buffers, conflicting land uses, mining, farm sustainability, profitability, and the Development Act 1993.

Right to farm is fundamentally about a farmer's right to carry on the normal practices and procedures of farming activities that he or she has previously pursued in that location. Over many years, poor planning and knowledge and a lack of understanding have led to farmers' rights gradually being eroded to a point where, in some cases, their profitability and sustainability have been reduced almost to the point of being unviable.

Urban encroachment and other developments, conflicting agri pursuits such as viticulture and horticulture, which are incompatible directly adjacent to a broadacre farming enterprise, have led to increased complaints and conflicts amongst farmers—noise, odour, dust and other pollution (particularly chemical use) associated with farming—and consequently an erosion of farmers' rights to carry on with their operations as they were prior to the new development.

It is important to understand that only 10 per cent of Australia's land mass is considered good for farming, which is not very much—only 10 per cent is arable. Most of that is on the coastal fringes where population growth and urban sprawl are the greatest, so we automatically have conflicts. Shifting production to more distant and less suitable land is not in Australia's long-term interests because lower rainfall, less productivity and higher on-costs lead to less competitive pricing, loss of access to local labour and, ultimately, loss of employment as growers fail to compete with cheap imports.

In this, the Australian Year of the Farmer, we should acknowledge our farmers' right to farm. If things are made too difficult for farmers we will see them walk away—and some already have. This is why it is vital the parliamentary select committee conducts a full examination into the various impacts upon the farmers' right to farm and makes recommendations on what may be done to ensure their rights are protected. I should at this stage remind the house, as I always do, of my conflict in relation to being a farmer. I do declare that my family still farms, as do most of my friends and many members of this house.

Spray buffer zones are a major issue for farmers and have the ability to inhibit their productivity and hence viability and sustainability into the future. Buffer zones are intended to prevent or minimise contamination of neighbouring properties and crops as a result of spray drift across boundaries. Until recently, this has been controlled by the manufacturers' requirements as described on the label of each individual chemical container. The requirements for use are determined by the Australian Pesticides and Veterinary Medicines Authority (APVMA).

The APVMA now proposes that a 300-metre buffer zone for ground sprayers be mandatorily applied to all waterways, native vegetation and sensitive crops. This has raised great concern in the farming community and scientists familiar with the subject. The Crop Science Society has expressed concern that the APVMA has used outdated and irrelevant data to determine this zone and not taken into account modern technologies and practices used in Australia.

It believes that farmers are now better trained in spray technology and drift reduction than ever before and already employ techniques that take account of different crops within their own boundaries. The equipment they use, especially self-propelled spray tractors, is state of the art, with equipment to detect temperature inversion (which causes a lot of this problem of spray drift) and also the ability to reduce drift—of this, obviously, I have personal experience.

Mr Marshall: In drift?

Mr VENNING: In the control of drift. It has been a problem in the past, particularly when we are using the volatile chemicals such as ester—which was a favourite cheap hormone chemical—on broadacre crops. It can actually travel up to five or six kilometres, particularly when

temperature inversion occurs. It sits in the atmosphere and just moves downhill or on the wind and off-target damage occurs, then all of a sudden the temperature changes and down it drops. We have seen it; it is not uncommon. The new equipment we have—very expensive, I might add—can detect it and measures can be taken to minimise it (or you do not spray).

The society states that the 300-metre zone will have other unintended and undesirable consequences, including exacerbating roadside weed growth and subsequent fire risk, and that equivalent buffer zones in Europe and the US are much smaller. Another twist to the buffer zone matter comes in the form of neighbours inhibiting a farmer's right to continue to farm his own land. For example, farmer A has been growing a certain crop right up to his fence line, his boundary. Farmer B then chooses to grow something different in a neighbouring paddock that will not tolerate the sprays used by farmer A. Currently, this necessitates farmer A not treating or not using that part of his land adjacent to the boundary, thereby reducing his farm efficiency.

Should farmer A be expected to reduce his productive area to cater for farmer B's new needs, or should farmer B accept that his decision has brought about the need for change and apply the required buffer zones to his own land—in other words, on his side of the fence? Fairness would dictate that farmer B should accept the responsibility for maintaining the required buffer zones as he is the one forcing change. He or she should take the change into account in their business plan. Farmer B should have known before he bought the land alongside farmer A that his existing use would hold sway over any new crop that was not compatible.

I am aware of many cases where vineyards and broadacre farming have ended up alongside each other, and many of the chemicals used to prevent weeds in the farmer's crops are not compatible with vines and grapes. In two cases I am aware of the broadacre farm was in place long before the vineyards were planted alongside. Should the land users in the first instance not have the right to continue farming as they always have? This is the type of issue I hope a select committee can investigate in order to put forward possible recommendations to encourage legislation to be more conducive to farmers conducting a viable and sustainable operation.

A further issue arises with spray buffer zones where rural residential housing development occurs next to a working farm. Given that farms on the urban fringe tend to be small horticultural holdings, a 300-metre no-spray zone would seriously reduce the productivity of that farm, reducing a farmer's profitability and perhaps rendering it unviable. A modest vineyard, orchard or a sprout patch may find itself completely covered by that zone.

Another impediment affecting some farmers is the current right of mineral explorers to access their land and undertake mining operations without the farmers' approval. Note the coal seam gas mining in New South Wales, which is causing great concern today. The Mining Act 1971 and the Petroleum Act 2000 allow for explorers to conduct mineral exploration and mining on most land in South Australia, including freehold and pastoral land, subject to approval by the Department of Primary Industries and Resources South Australia (PIRSA).

Official notice of entry must be given to the landowner 21 days prior to entry. According to the act, an explorer must give a landowner 21 days' notice of intention to enter land for the purposes of exploration or to peg a mineral production tenement or negotiate an access agreement with the landowner setting out the conditions of entry. Under the Mining Act, certain land is exempt from prospecting and mining. Examples are cultivated fields, forest reserves or land within 400 metres of a house, and land within 150 metres of building or structure used for pastoral operations (for example, a shearing shed or a water supply).

The mining and agriculture interface is an issue that is gaining prominence. Some farmers are entering agreements to allow mining on their property; however, there are many who do not want exploration on their properties. Yet, if someone wants to carry out exploration work on their farm, there is very little that can be done to stop it. In some cases, it appears that no regard whatsoever or compensation has been given to the farmer for the interruption and subsequent loss of revenue that the exploration work has resulted in.

The Development Act 1993 forms a part of this motion, as development (as I have outlined previously) has the ability to greatly affect a farmer's ability to farm in a productive and profitable way. Where farming, viticulture, horticulture and residential development intersect, there will be times when producers have restrictions placed on the chemicals—their common tools of trade—that can be used. The development plan needs to be incorporated into an inquiry about right-to-farm issues, with incompatible land uses and change of land uses alongside existing farm enterprises examined.

When new developments are approved, it should be legislated that the obligation to provide a buffer zone between a farm and a new development is on the developer's side, not the farmer's. Currently, the farmer must ensure, when spraying chemicals, that he or she observes the correct buffer zone, regardless of whether or not he or she was farming before development occurred around his or her property; and yet, he or she receives no compensation for having these restrictions imposed upon his or her operations.

All these issues impact the sustainability of farming into the future. If farmers' rights are continually eroded, with more and more regulation and development impacting on their right to farm, many will just walk away. What is the point of farming if you cannot run a viable and profitable farm? I ask: what will happen to our food security then? It is already a serious issue.

This is not a new subject; it has been raised in this place before—certainly by me, over the many, many years that I have been here. We need to stop talking and take some action. We need to provide certainty, firstly to the existing farmers, and also to those who may wish to set up alongside an existing farm with a conflicting farming practice or to live alongside an existing farm.

I hope the government will support this motion. I have had some discussions with various members, and I even encourage them to amend it. My words may be a little emotional; they may wish to amend this motion, and I have no problem with that. A member of the government may even wish to chair it; I have no problem with that either—I have a pretty reasonable idea as to who should be on this select committee. It is all about providing certainty for the future and the security of our food producers.

I certainly encourage the government to consider this. I know they will probably adjourn this today—I have no problem with that, as long as we can get it back onto the *Notice Paper* for discussion in a couple of weeks' time. This is why I have decided to move this motion: I believe a full-scale inquiry into the issues surrounding our South Australian farmers' right to farm is long overdue. I urge all the members to support the motion.

Mr GRIFFITHS (Goyder) (11:14): I also wish to rise and speak in support of the member for Schubert's motion. I do so on the basis of living in Maitland on Yorke Peninsula, which is probably one of the most agriculturally productive lands in all South Australia and where agriculture has shown for a long time that it has driven the economy and the growth in the economy.

I do recognise that there are some great challenges facing farmers. I am lucky enough in Maitland to live on the extreme eastern side of town, so I look over the Yorke Valley itself; it is on the other side of the road from me. So I am impacted by the snails that—

Members interjecting:

Mr GRIFFITHS: No; it's not that.

Mr Pederick: A hundred million dollar view out of your house.

Mr GRIFFITHS: That happens. But when burn-offs occur and the snails come across the road, and snakes, and all that sort of thing, you put up with it because you are part of a community that recognises the importance of agriculture.

Before I came in here I worked in local government, and a lot of the planning issues which I had some involvement in actually related to the conflict between the growth in communities and farming. Indeed, I recall a development that was approved at a salt lake for a brine shrimp farm which suddenly put impacts upon the adjoining property owner about what he could spray and when and the records he had to keep. So we have had to negotiate all the way through.

You look at the fact that our towns have grown; the land that those towns have grown into was farming land. The towns never existed there at the start when it was just open country, so there has been conflict for hundreds of years. It is appropriate that the parliament takes a very close look at that. All of us in this chamber would recognise the importance of agriculture to our state's economy, and it is important that we put in place some really strong principles and guidelines to ensure that protections are there so that farmers have the ability to continue to use their land.

On Yorke Peninsula we have a very significant wind farm proposal of $1.3 billion. We have a lot of mining exploration being undertaken. All that involves negotiation with property owners from an access viewpoint, for the opportunity to actually purchase land for some of these developments to take place, for leases to be entered into for wind turbines to be erected. There is a real diversity of opinion, but the strong message I am getting from people who are concerned about unregulated

growth, or even just over promoted growth opportunities, is that farmers will be the one who miss out. So it is appropriate that the member for Schubert brings this motion to the house. It is important that we look at all these issues to try to work out what solutions are there.

The member has talked about access agreements for mining exploration. I know that on Yorke Peninsula we had a very proactive group of 50 farmers who came together and developed an access agreement that Rex Minerals, the company in question, actually agreed to. It talks about compensation, it talks about respect, about when access is given, and about weed control issues that have to be maintained when any vehicle goes on a property. The people who are concerned about the wind farm proposal want to ensure that they have the ability to manage their farms in the way they choose and not be impacted on by what happens on an adjoining section owned by a different farmer who might agree to a turbine.

People have come to me and said, 'We personally don't want the wind farms on our own land. We are prepared to accept them on our neighbour's property though, as long as we can continue to aerial spray up to our boundary.' So that is a design concept that has to go into the wind farm development in terms of what happens there. It is about negotiation, it is about ensuring that both sides of the equation are listened to and that both sides get respect, and that it is not just the farmer who continually misses out.

The member for Schubert's motion is a passionate one for him and I will always respect that in him, that he is here to represent regional communities. It comes down to what the profitability of farming enterprises must be. Farms are not just a lifestyle choice for people. Farms have to be driven by the opportunity to make a dollar, for them to meet their financial obligations, for them to continue to invest in machinery and buy more land, and invest in the community that supports them, also through businesses, and it is about profitability. If you have a lot of external influences that cause farmers to have to adjust their practices that costs them money and that reduces the amount of productive soil they can actually use, that is a cost to all of us—not just to the farmer concerned, but to all of us.

This motion is a good one. The member for Schubert has informed me that there are some discussions taking place across the chamber about its future. I look forward to the select committee being established and I hope to have the opportunity to present information and my thoughts to that select committee at a future date.

Mr PENGILLY (Finniss) (11:19): I also rise to support the member for Schubert's motion this morning. It is a very good motion, it is a very appropriate motion and he spoke most articulately about his motion and what he wished to achieve.

It is most correct that the farming community, probably across Australia if not across the world, feels under increased pressure from urbanisation and from the fact that people from urban areas wish to move out into the country and the farming areas for a lifestyle that they have not had and, in doing so, show some lack of understanding or, indeed, disregard in some cases for the way that farmers go about their operations. They simply do not know how farming works, how it operates, the pressures on farmers, the seasonal requirements and the climate—if it rains, if it does not rain, if it rains at the wrong time.

They really have no idea, and that has probably been enhanced a bit just lately in my area by everyone telling me, 'It needs to rain. We need to have lots of rain. We have not had rain for months.' Well, I am afraid in my area we actually do not want any rain until after ANZAC Day and I am sure that many in cropping areas understand the same thing. The summer rains that come and go from time to time bring up hosts of weeds and that requires spraying. I know even the member for Schubert this morning was telling me that they have sprayed a lot of their country twice because of weeds that have come up in the summer.

There is a need for those who come to live in the bush to understand what the requirements are. This extends particularly into intensive agricultural practices, whether they be viticulture or vegetable growing, where, increasingly, we have to use more and more sprays either for weed control or pest control. It is just a necessity of life. Nobody likes to use hosts of chemicals, trust me, but if you want to get a return on your investment, you simply have to use them.

It applies similarly to burning. People need to do some burning. We do not do anywhere near as much burning as we used to, but if you have snails, you actually have to burn. If you have snails, you have to burn to try to ensure that you get a crop the next year. I had a case recently of a farmer in my electorate who was told by their next-door neighbour, who has not been there very long and has a professional career, that the next time they burn and put smoke over their property

they are going to sue them because it might damage their hobby farm grapes. This is what the member for Schubert's motion is all about. I think his select committee is a great idea and I hope that the government supports it.

Closer to home, let me just raise the case of what our own bureaucracies are doing—in this case, SA Water, which is seemingly a totalitarian organisation which could not care less about farmers or anyone else for that matter. This relates to a water storage facility that was announced in last year's budget, which I support, for additional storage out of the Middle River Dam on Kangaroo Island to supply the townships of Parndana and Kingscote and other areas.

SA Water, in its own unique way, has decided that it is going to compulsorily acquire land adjacent to a vineyard. This is where the vineyard wants to expand. It is in a rural living zone. I have talked about this matter in the house before. It is arrogantly going about its business in trying to secure this land or put a compulsory acquisition order on it in a vain desire to further its cause. There are other options which, sure, may cost a few more dollars but that amortises out over the life of the project. That argument just does not hold up.

What it is doing is putting this particular vineyard—the Bay of Shoals vineyard—under enormous pressure. It is going to close that vineyard down. It is going to close it down because they simply cannot expand. They are going to have an industrial site adjacent to them on land which will be taken from them for a measly amount of compensation.

Of course, that is just another example of what the member for Schubert is on about in his motion. It is blatantly stupid—absolutely blatantly stupid. Some farmland just out of the main township of Kingscote has been offered to them and I am taking some steps to see if we cannot get some sort of satisfactory outcome, but it should never come to this. We various members in this chamber who have farming land contained within our rural electorates fight for the rights of our communities generally, but we particularly fight for the rights of our farmers.

My own electorate, which is all high-rainfall country, is absolutely critical to the future food needs of Australia and the world and, as time goes on, pressure is being put on local government authorities to provide hobby farms in some areas which are inappropriate. Unfortunately, there are some areas where hobby farms or small landholdings could be appropriate, and the councils have not quite come to grips with that. They need to work out in their own minds how they can make land available for small subdivisions in farming areas, where it is somewhat dubious as to whether they can go on in marginal country.

There is a host of problems, but we have to ensure that our farming community can provide food and fibre to the world, as we have in the past—for well over 100 years in South Australia. We have to provide for that, and this house needs to understand that it is absolutely imperative that this sort of motion gets up and is debated and that a select committee is put in place to assist the farmers of this state.

The government of the day—unfortunately, over the last decade, this Labor mess—is very quick to get out there, pat people on the back and say what a wonderful job it is doing, but it has its bureaucrats out there trying to impede farmers at every opportunity. Primary industries has been wound down to such an extent that it is hardly relevant. Compared with the great organisation that once provided so much assistance under former ministers, it is now a small outfit. We have bloody-minded bureaucrats in the Department of Environment—whether that be EPA or NRM—who run around trying to tell people how to go about their business.

I can tell you that the farming community is well and truly fed up with it, and I think the member for Schubert's motion would certainly flush out some of this stuff and bring it out into the open, and members of that committee could get out and hear from farmers about the pressures they are under. They must have the right to farm as they have always done. It is hard enough to make a quid out of farming on a good day or in good seasons. We have had a run of good seasons and that will come to an end, and prices have been reasonable and that will also come to an end.

The impediments put in the way of the farming community in this state, and across the nation, are simply not conducive to the future of Australia, South Australia and, more particularly, my electorate. So, I urge the house, and I urge the government, to get behind the member for Schubert's motion and support it. It is a good motion. It is common sense, it is sound in its basis, and they could do much worse than to support the motion on this particular occasion.

The Hon. R.B. SUCH (Fisher) (11:28): I will be brief. Before getting into the substance of this motion, I think this important issue highlights the fact that the government needs to allocate

more time for committee reports to be dealt with. I think the current system, in which we are trying to debate a select committee motion and then trying to deal with about 12 other issues, is just impossible, and I do not think it does justice to the work of the Public Works Committee and others who have put a lot of time into preparing reports.

I welcome this select committee. I think the select committee process is a good one. In recent times, governments have become a bit wary of them but, properly conducted, select committees are a very useful mechanism for enlightening us about issues, and I think particularly of the cemeteries select committee (I believe we will see the outcome of that shortly in this house) and various other select committees.

I do not believe that there is an absolute right to farm. I know what the member for Schubert is suggesting, and I know he has it in inverted commas, which means that he qualifies it. No-one has an absolute right to do much at all—not even the queen, although years ago they had the right to take off your head or whatever. There are important issues that need to be examined, and the member for Schubert has indicated some of them in terms of land use, conflicting land use, and the ability and opportunity for people to farm. I think the thrust of it should be about allowing farmers to do what is appropriate and reasonable in terms of their farming pursuit; but there never will be, and cannot be, an absolute right to farm because that would transcend every other consideration. We know through the challenge of trying to get a bill of rights in Australia that some person's right becomes someone else's wrong.

Nevertheless, I think the issues that could be canvassed and should be canvassed by this select committee are very important. I think we are approaching a situation where the buzz words 'food security' have taken on a more serious focus, and I think there are a lot of other issues, as indicated in the motion, relating to farming and so on that should be addressed.

I would urge the government to support a select committee to look at these issues that are confronting the ability of farmers to farm. Whether the wording here is exactly right we can talk about, obviously, but I would urge the government and all members to support it because I think it will help clarify some issues. It may not provide the answers for every single one but it will at least clarify some of the challenges faced by farmers today and people involved in horticulture and so on.

Mr PEDERICK (Hammond) (11:31): I rise to acknowledge this motion. As we have heard from the member for Schubert, and other members in this place, farming is being challenged more and more as to where it can operate and how it operates. Certainly, in relation to spray buffers, farmers are supposed to have a certain spray buffer if they are next to a new residential development, but my understanding is that these residential developments can build right up to the farmer's fence, so where is the equity in that? I do not think there is any equity.

Then we have the issue of different types of farming being next to each other, such as broadacre farming and vineyards; and there is another issue with sprays that might be safe enough to use in broadacre cropping but, obviously, will damage broadleaf plants like vines. For a long time now we have had the situation that Estercide 800 cannot be used within many kilometres of vineyards because of the inversion layer effect that can happen. It does not have to be a windy day, but the spray goes up into the atmosphere, translocates and knocks out part of a vineyard.

Farmers are well aware of their obligations, and you certainly have to take a lot of note when spraying crops. As the member for Schubert rightly said, technology has moved on so far, especially in recent years. It is expensive technology but, when you have spray equipment now with windshields so that you can spray in windier conditions and, obviously, with global positioning systems, you can spray a lot more accurately.

Everyone needs to be aware of the limitations on what farmers can do. As we have seen urban infill and encroachment of development onto our farming lands, some people do not realise what happens when they move into a farming area. I have had some issues in my electorate at Finniss where there are some small, I guess you would call them, lifestyle blocks with dried weeds accumulating in their yards, and issues like that. People need to be aware with winds and plants that dry off in the summer time that these things can happen in rural areas. So there needs to be a general understanding of what goes on in these communities.

Certainly, we recognise that both mining and farming need to coexist so that we can enjoy the wealth of this great state and what it can produce, but we need the mining companies to be far more aware of farmers' needs. It has certainly been brought to my attention up in the Mallee at Mindarie and Strathalbyn on the Fleurieu Peninsula.

Certainly, up in the Mallee there were some real issues where the initial mining company, Australian Zircon, got far ahead of where they should have been and far ahead of the rehabilitation program that was supposed to be in place. They also got behind in compensation payments, and they have been behind in compensation payments for farmers that have had their land mined. Apart from the fact that the rehabilitation was a mess, people were not getting the appropriate financial recompense for what was happening on the land.

I understand there is another company about to start up there with Chinese backing. I think it is called Southern Zircon. Let's hope procedures are followed in a better way so that the miners and the farmers can get on together, because there are many, many kilometres of strands of zircon, rutile, etc., that have the potential to be mined in that area.

Everyone needs to know where they sit in the scheme of things. The farmers need to know where they fit and the miners need to know where they fit, but what I find is that sometimes one or both parties just refuse to talk. That is why SACOME and SAFF have been working through guiding principles, so that farmers and miners can work together to get the appropriate outcomes in regard to that.

I know there will always be some difficulties, but so long as people can work through it, work through the buffer zones and do it in a businesslike manner, I think we can have a win to both parties. I certainly acknowledge that this is something that needs further investigation under the select committee. I notice the member for Schubert brought up the Australian Pesticides and Veterinary Medicines Authority, and they are talking about 300-metre buffer zones around native scrub and other areas. This is just ridiculous and it shows how far removed some of these people in Canberra are from reality.

We had an issue in my electorate and around the state where they were talking about banning the use of diuron, a commonly used chemical especially used in knock down prior to seeding, because they were worried about the Barrier Reef. Well, I do not think that a 100 or 200 millilitre per hectare application of diuron at Bowhill is going to affect the Barrier Reef. I really do not think that is going to happen. There needs to be a bit of reality. I know that with regard to farming in Queensland and the higher rate they use in banana crops may have an effect, but let's get real.

While I am talking about the APVMA, we need to make sure that farmers have the right access to chemicals to control mice outbreaks. I think they are far removed from reality there as well. Farmers should be able to mix chemicals on farm in a price conscious manner instead of having to basically borrow money so that they can keep mice at bay. I think a lot of the authorities need to get in the real world. I think this is something that another part of the select committee could look into.

Far too often in this day and age we see regulatory authorities that have no real idea about what happens on the ground and no real idea of what happens with people, especially farming families who have been farming for generations. They just do what they do: they learn, they use new technology. Sadly, they do not get much extension work out of PIRSA anymore because that has been gutted by this current government, but they are using other groups like the agriculture excellence alliance groups and the no-till farming groups to ensure their farming future.

Farmers are keen to do the job; they just need to be rewarded, and they just need people to be aware of how difficult their task is. Sadly, there are some in the city who do not appreciate that and do not appreciate the contribution farmers make to this state. So, I fully recommend the establishment of this select committee and acknowledge the member for Schubert for introducing it.

Mr VAN HOLST PELLEKAAN (Stuart) (11:39): My colleagues have spoken in great detail about a lot of the very important issues here. I certainly fully support the member for Schubert in his motion that this house establish a select committee to investigate and report upon factors that impact upon a farmer's right to farm.

This is a very important issue for my electorate, and this motion is very much about farming, but I would highlight that some of these same issues exist in the pastoral areas of Stuart, Giles and Flinders. The same issues exist with regard to interaction between pastoral activities and mining. We have a bill on the way to consider how wind farms and solar farms might encroach upon people's rights to pursue their pastoral enterprise. However, we are here to talk primarily about farming, and two weeks ago we all spoke very genuinely and very passionately about the

Australian Year of the Farmer. We all had the opportunity to talk about how important farming is, so I hope the house is well aware of that.

A strong, successful, sustainable and environmentally responsible farming enterprise is one of the very, very best uses that our land in South Australia can be put to—not the only positive one but one of the very, very best. Our world, our nation and our state needs food and fibre production and without it we will all be lost, both in a very real-world sense and also commercially and economically.

So our farmers do need protection; they do not need overprotection. They need to be protected in a very, very common-sense way, in the same way as a pub or hotel if a resident moves in next door and wants to complain about the noise or the foot traffic. The pub might have been there for 50 or 100 years and it is a bit rich for the new resident to come along and complain about the existing enterprise. The same is true of people who live near airports.

The sorts of difficult interactions between farming enterprises and others (who are typically more recent local residents) include impacts on residents from spraying, noise and dust, but they also include an impact on the farmer. Local residential developments often bring in weeds and ferals, town dogs that roam onto farms and the dumping of rubbish on farmland.

It is very much a two-way street but I think the common-sense issue here is that if the farming enterprise is there first and the residential area grows and encroaches into the farming zone, the farmer should not be penalised. As long as the farmer is operating in an environmentally and socially responsible way, they should not have to turn their whole enterprise upside-down because people have decided that they would like to come and live next door.

The encroachment issue is a very interesting and important one. It is worth pointing out—and I hope if this motion is successful this will be something that the select committee looks at very, very closely—that encroachment of residential areas, industrial areas or any other different land use into farming land happens because a previous farmer sold their land. While I certainly do want to protect the rights of farmers from encroachment, I would not like any legislation to be proposed that would prevent a farmer from selling his land, because that is a very, very important thing.

If a farming family is fortunate enough to have recently purchased wisely, or has been very fortunate through nothing that they did in their generation but perhaps their grandparents or their great-grandparents happened to buy farming land which is now particularly valuable because it is particularly close to residential or commercially-viable areas, then I would not want them to miss out on the opportunity to sell that land. So it is important to mention that the encroachment upon farming usually comes because farmers choose to sell and that is an important opportunity that should not be taken away from them.

I would hate, in an effort to protect the rights of farmers, for there to be some obligation to continue to farm. That is a very, very important thing for this select committee to look at. Whoever holds land, regardless of what they do with it (whether they want to build a factory, a highway, an airport, a mine or continue to farm on it) must use that land responsibly—a common-sense approach based on the fact that whichever enterprise was there first does have some prior rights and opportunities over the enterprise. Whether it happened to be a home or whatever else that came second and chose to be right next door, they chose to come and be right next door knowing what goes on there already.

This is a very important issue in the electorate of Stuart. It is also a very important issue throughout regional South Australia. We deal with these issues in Stuart all the time with regard to mining. We have power stations very close to grazing land, we have mines next to grazing land, we have residential encroachments into farming areas all the time, and they can be very positive. Certainly, the southern end of Stuart, south of Kapunda and around the Truro area, is a very important area.

My wife and I moved to Wilmington; I moved from the outback and Rebecca moved up from Adelaide. We live approximately 150 metres away from a paddock that is regularly cropped. We know and understand that it will be dusty, that there will be chaff in the air at times and we might get allergies or hay fever, but it is our choice to live there. We love where we live and we understand that the farming enterprise was there before us. We chose to go there: I think that is the spirit in which residential and other developments should grow, as they should, throughout our state.

Mr BROCK (Frome) (11:46): I rise to support the member for Schubert's application to establish a select committee to investigate and report on the factors that impact upon a farmer's right to farm, including a specific examination of spray buffers, conflicting land uses, mining, farm sustainability, profitability and the Development Act 1993. As previous speakers have indicated, farmers have every right to continue farming as they have been; if they want to move away from farming opportunities, then they should have the right to do that.

In the electorate of Frome there is a wide range of activities: viticulture, grain, mining, wind turbines and fishing and there is a wide range of activities and people who have been there for many years. As the member for Stuart indicated, the farming communities were there first. If we elect to live in those areas then we should appreciate and respect the farmer, or the operation, who has been there.

I will let you know of an incident that occurred while I was mayor of the Port Pirie Regional Council. Conroy's Abattoirs has been in Port Pirie for many years. As the city of Port Pirie started to grow it grew in a southerly direction and then came towards the existing and long established abattoir, which has been there for many years. We then had new residents complaining of the smell, the odour that may come from that premises at different times. As the member for Stuart indicated, if you move into an area and there is something there, such as neighbours, if you go into an area and you know who your neighbours are, then you understand what is there, you know the region you are going into.

The thing we also need to understand and recommend on is food security going forward. In my travels from my home town of Port Pirie to Adelaide for parliament, I see many areas of farming communities that are being withdrawn and reduced. While that is some people's philosophy on progress, I do not think it is progress. I think we need to ensure that we maintain the best land for agricultural use and work around that.

As for the idea of a select committee into this, I will explain my experience on the Select Committee on the Grain Handling Industry of South Australia. You talk to one person and it opens another three doors. A select committee can delve into real issues. I will not talk for too long because I know the member for Mount Gambier wants to get up, but I would encourage the government to support the member for Schubert's application for a select committee. As the member for Schubert indicated, he is quite prepared for the government to alter or change the motion and to have a government member as chair of that committee, if it means getting it up. I congratulate the member for Schubert and I fully support the establishment of a select committee into farmers' rights.

Mr PEGLER (Mount Gambier) (11:50): I would first of all like to say that I support the intention of the member for Schubert's motion. I think he is being a bit ambitious when he wants a select committee to actually address all the issues of sustainability and profitability on farms, but I certainly support the rest of the motion, and I certainly support the intention of the motion.

The issue of buffer zones is a much more complex one when we look into it. Those people who wish to grow vineyards next to people who wish to spray should have the right to grow those vineyards, but those people who wish to spray should also ensure that their sprays stay within their own farms. There does need to be a proper examination of how the actual buffer zones work and what the rules are for who can spray and when they can spray, etc.

For many years I was the mayor of the District Council of Grant, and I used to get a lot of people ringing me up complaining because farmers were irrigating of a night-time or ploughing paddocks next door to them, or had smelly silage pits, or were putting out fertilisers, such as pig manure, that may stink.

Those people had moved out into those areas for a lifestyle and as hobby farmers, and my answer to them was always that they were moving into a primary industry zone and that is where those sorts of industries were carried out and they would just have to put up with it. I am a great supporter of the fact that farmers should be able to go about their farming activities in the proper manner.

The other issue that should also be looked at is the hobby and lifestyle farming enterprises. There has to be a much better education program, as far as their having stray dogs or dogs that stray and not doing anything with their weeds. They often have diseased livestock on their properties, which can put major farming enterprises very much at risk. I certainly support the intention of the motion, and I will always support the right of a farmer to be able to farm in the proper manner.

Debate adjourned on motion of Mr Sibbons.

PUBLIC WORKS COMMITTEE: CEDUNA ABORIGINAL CHILDREN AND FAMILY CENTRE

The Hon. M.J. WRIGHT (Lee) (11:53): I move:

That the 430th report of the committee, on the Ceduna Aboriginal Children and Family Centre, be noted.

It is proposed that the Public Works Committee report on the proposal to construct the Ceduna Aboriginal Children and Family Centre. The project proposed by the Department for Education and Child Development consists of the construction of a new Aboriginal children and family centre in Ceduna at an estimated project cost of $5.95 million, excluding GST. Given this, 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 TRELOAR (Flinders) (11:54): I rise to make a few comments on this report. I appreciate the committee's good work. The reason I rise is, of course, that Ceduna is in the Flinders electorate and is, indeed, the second largest town in my electorate. Interestingly, 25 per cent of the population of Ceduna is in fact Aboriginal, and I would suggest that that is probably the highest level of any town anywhere in South Australia, in the settled areas at least.

I congratulate the committee on their work and would like to make a few comments about this particular centre. The intention of this new centre is to provide quality early childhood care and learning programs. It is particularly important, I believe, because the key to any child's success is a well-delivered basic education. The opportunities that anybody in the Australian community finds in life arise directly as a result of our education.

The challenge for our community, particularly in those areas that have large Aboriginal populations, is in the first instance to get the Aboriginal children to school, then the further challenge is to keep them there. I know it is with great difficulty that the education department is attempting to address this issue. This centre is going to be delivering quality early childhood education, laying the foundation for a lifetime of learning. The support that it will provide to the Aboriginal families in Ceduna to assist in that education is also critical, because the support of the family is critical to the child's success as well.

It is with great pleasure that I note this report. I look forward to watching the new building development take place in Ceduna. In fact, Ceduna has been quite fortunate in recent times. It has had quite a host of building activity, some government spend and also some spending from the mining industry. This will further add to the community and the opportunities for the Aboriginal children.

Mr PENGILLY (Finniss) (11:57): The opposition members supported the project in committee and support it today.

Motion carried.

PUBLIC WORKS COMMITTEE: CHRISTIES BEACH ABORIGINAL CHILDREN AND FAMILY CENTRE

The Hon. M.J. WRIGHT (Lee) (11:57): I move:

That the 431st report of the committee, entitled Christies Beach Aboriginal Children and Family Centre, be noted.

The project proposed by the Department for Education and Child Development consists of the construction of a new Aboriginal Children and Family Centre in Christies Beach, at an estimated project cost of $4.625 million, excluding GST. Given this, 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) (11:58): The opposition supports the project.

Motion carried.

PUBLIC WORKS COMMITTEE: WHYALLA ABORIGINAL CHILDREN AND FAMILY CENTRE

The Hon. M.J. WRIGHT (Lee) (11:58): I move:

That the 432nd report of the committee, entitled Whyalla Aboriginal Children and Family Centre, be noted.

The project proposed by the Department for Education and Child Development consists of the construction of a new Aboriginal Children and Family Centre in Whyalla, at an estimated project

cost of $5.05 million, excluding GST. Given this, 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) (11:59): We also support this project.

Motion carried.

STATUTES AMENDMENT (SHOP TRADING AND HOLIDAYS) BILL

Adjourned debate on second reading.

(Continued from 13 March 2012.)

Mr VAN HOLST PELLEKAAN (Stuart) (12:00): Picking up my remarks from where I finished yesterday, I restate my main point, and that is that the opposition is not opposed at all to the payment of penalty rates at appropriate times. We do support extending shop trading hours, but we do not support the two new proposed half-day holidays, and we do not accept that it is impossible to do one without the other.

When I left off yesterday, I was moving on to choices. Choices are very important. Small, medium and large businesses must have choices and flexibility to be as efficient as possible to provide service, as well to support their own interests, as well as possible. As I said earlier, one of the reasons they need to have the opportunity to support their own interests is that, if they are not successful, they cannot employ people, and that will always be one of my main drivers. You need successful businesses to create employment so that the rest of society—the vast majority of people in South Australia—can have productive, useful employment, and that employment has to include access to choice as well. It is not only businesses that deserve to have choice and flexibility; employees deserve choice and flexibility.

While I certainly do agree that most people would like and deserve to be paid more to work outside of normal business hours, it is also important that people have the opportunity and the flexibility to work outside normal business hours. I do not accept the government's premise that every single person who works outside of nine to five Monday to Friday on a regular working week is being dragged or whipped into doing that by the employer. It is just not the case; employees want choice as well.

I can give a very real world, close-to-home example. My wife, Rebecca, is a nurse. She is paid on an hourly rate. Her hourly rate on the weekends is substantially higher than it is during the week, and she chooses not to work weekends. She is not chasing the money, and it is not that we are exceptionally wealthy or anything like that; that has been her practice for 10 to 15 years, long before we ever met each other. When she was a young woman supporting herself, living her own life, paying her own rent and doing all the normal things that most South Australians do, she preferred to work regular business hours—and it was not about trying to entice her with more money; some people prefer that.

I will give another example in my own personal life. I started out my working life doing labouring and construction. I was fortunate to be a healthy, strong young lad, and I liked to have flexibility with my work. I moved into hospitality work. I did a lot of hospitality work while I was playing basketball in the NBL because that fitted in—it had flexible hours. While I went to university, I did a lot of hospitality working—I did a lot of waiting, bar work and security work, that sort of thing—and I was really pleased to have flexibility, to have the opportunity to work at different times. I am not being churlish about this. Of course, I was grateful to earn more money at the times that were outside of regular business hours as well—that was terrific—and I certainly was not trying to knock that back.

But I have to say that the opportunity to work different, unusual hours, not the mainstream hours, is very important. So, for the government to try to pretend that absolutely nobody ever wants to do that and, if they are going to do that or ever even just be asked to do that, they must be paid more, is not true. That sort of flexibility is important. Shop trading hours is important for the employee and the employer.

As I said, I started out doing labouring work. I have also been an employer with outback roadhouses. I employed between 55 to 60 people at a time depending upon the season of the year (more in winter when we were busy and it was a tourism season), and I found that my own personal experience was exactly the same for many of the people whom I employed. They liked to

have flexibility; they liked the opportunity to have a second job. It was not all about forcing them to come and work out of hours, and consequently they had to be paid more.

With respect to this issue about unions, there is no doubt that a deal has been done here between the shoppies union, the government and Business SA to get this done. I would be quite happy to put on record that I have no objection to unions. I object to unionism. All people deserve good, strong and effective advocacy groups. Employers deserve it; employees deserve it. It does not matter what you do, everyone deserves to have strong advocacy groups operating on your behalf and to have good access to them. But when those groups—whether it be an employer's or an employee's group, like a union—start to call the shots within the government, that is going too far, that is completely inappropriate and that is stepping well outside the bounds of representing their constituents—essentially their members—appropriately, and that is where we are at the moment with this legislation.

The opposition has no concerns about paying penalty rates for the public holidays that we have. We can provide more flexibility to shop trading hours in our state straightaway. The member for Adelaide has demonstrated that now on two occasions. She has worked with employees, with employers, with unions, with business groups and with local residents in the electorate that she represents. She has now for the second time put her own bill forward, proving that the opposition supports what the government wants to do with regard to deregulation of shopping hours.

What we do not support is the fact that it is impossible to do it without putting on the two new extra public holidays. These two new extra half-day public holidays will put a terribly unfair burden on businesses all over the state, and it is completely irresponsible for anyone to say that businesses outside the Adelaide business district—including the River Torrens precinct—have to pay extra wages so that, whether you are in Ceduna or you are in Cockburn, you have to pay extra wages at these other times on Christmas Eve and New Year's Eve so that businesses in Adelaide can have the more flexible trading hours which they deserve and which, as I said yesterday, we actually already enjoy without any of those other problems in the city.

I heard one of my colleagues—I think that it might have been the member for Davenport—saying yesterday in this debate that there are a lot of people who actually like to work on Christmas Eve, they like to work on New Year's Eve. I remember when I used to work on those sorts of days and I used to work out of hours. I was living week to week, earning just enough to get by and that sort of thing, as most people often do, particularly in earlier years.

I was incredibly glad to work at times when my friends were out and about partying, not because I did not want to be with them but because you have a double saving: not only are you not spending your money but, simultaneously, you are actually earning some money. I thought that was pretty good because you can go and have fun at lots of other times as well. But to be able to earn money at a time where, most likely, you would have been spending and quite potentially wasting your money, I thought was a fantastic opportunity. So, I did not need to be dragged kicking and screaming to that, and I was very pleased to work at those sorts of times.

I will just finish by saying again that deregulation of shopping hours in the Adelaide business district is a positive thing. We have agreed with everything that the government has proposed except for the two public holidays. They are not necessary. Anyone who wants to pretend that they are is playing a silly, silly game, or they have found themselves in a negotiation with the union that they cannot get themselves out of.

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (12:08): Very briefly, Mr Deputy Speaker, I rise in support of this bill because, in a former life, I worked a number of years as a console operator at a BP. Sometimes I dream of those days, sir, but—

Members interjecting:

The Hon. T.R. KENYON: Sometimes, every now and then. I can agree quite easily in many respects with what the member for Stuart was saying, but I deliberately worked Saturday nights, and I worked Saturday nights for a number of reasons, one of which was precisely as he outlined: my mates were out drinking beer and I was not. That was a good thing and I funded a lot of ski trips and surfing trips on the back of that savings strategy. Also, I point out that it was a lot easier to do that because Saturday nights had a loading. It was a lot easier to say yes to Saturday night work because it had a loading and it made life a bit easier and made it easier to work on those nights.

In my view, there is no problem with having two extra half holidays on New Year's Eve and Christmas Eve, simply because social trends are changing around those nights. For a very long time Christmas Eve was not a night you went out. In fact, there were some quite restrictive trading arrangements on those nights, particularly around when licensed premises could and could not open. For a long time it involved meals, and so forth. That is changing.

New Year's Eve has always been a very large evening, a big night. People want to go out, go to parties, go to street parties and go out with their mates. It has always been like that, and it has been hard for employers even to find people on many occasions. In fact, again when I was working at the BP it was a casual arrangement, so I could just say no, and BP ended up having to pay double time or double time and a half simply to just get people to say yes.

Penalty rates are an attraction, and they get people to accept work. Also, with a lot of enterprise bargaining arrangements the choice kicks in when it is a declared public holiday. An increasing number of people are going out on Christmas Eve and starting to see it as a time to go out, before going home and spending the next day with their family. It is a time to spend with friends on New Year's Eve, and that means that people who are required to work pay the price. They cannot go out with their friends and enjoy themselves. There should be a penalty for that, there should holidays, and I support the bill.

Dr McFETRIDGE (Morphett) (12:12): We all have anecdotes about how hard we worked and what we did to earn a crust. I think the worst job I ever had was sweeping out chicken sheds. It took me all weekend and I got 20 bucks for it. I needed the money as I was at uni studying then. I used to work at Trash and Treasure out at the Shandon Drive-In at Elizabeth; I would get up at 4.30 on a Sunday morning, go out and work my backside off all day and get home by about six. I cannot remember what I got paid, but it was not a whole lot—there was not a lot of incentive other than that I needed the money.

There is evidence that there are people out there who would exploit the good nature of people in dire circumstances if they are able to, but they are few and far between. What we are seeing here today is legislation that claims to be one thing but really is another. It will not achieve anything near the bonanza for businesses that has been proclaimed. It will not produce the freeing up of shopping hours and deregulation that so many people in this place want. We do not have anti-trust laws in Australia to my knowledge. I am not a lawyer; I am a humble veterinarian.

I believe there is a real issue with the duopoly we have in Woolworths and Coles and their power to squeeze the life out of small retail businesses. We need to make sure that what we do will give people a fair go. I am a strong believer in the fact that people in South Australia, whether they are mums and dads running businesses or bigger companies putting a lot of money on the line, they want a fair go. They want to be able to operate their business and want some return on their investment and on their effort.

I know in my veterinary practice that by law we had to provide access to veterinary services 24 hours a day, seven days a week, 365 days a year, whether that was directly in my practice or via referral to an after-hours practice—for many years it was through my practice. I remember getting up in the middle of the night, answering phone calls, and going out and doing calls. I was able to charge an after-hours fee because I wanted some return. If it was one of my other vets who was working for me, I wanted them to have some incentive to go out and do that work, so I understand the need for penalty rates at particular times.

I do understand the need to be able to make your business work because turnover is vanity and profit is sanity. If you are going broke you are going nowhere fast, and none of us want that for businesses in South Australia. We hear about all these companies turning over millions and millions, but, if you are spending a million and one and turning over a million, you are going backwards. That is not sustainable. So we need to make sure that what we do in this place is going to be sustainable. We need to make sure that we do not combine or confuse issues that should be quite rightly resolved by the industrial relations system and issues that should be otherwise legislated for in this parliament.

We have a situation where we want to extend trading hours. We want to make some improvements in the access to shops for people in South Australia, particularly in the CBD, and we want to do that through this particular legislation. The big issue with this is the two half holidays. I will read out some emails from some of my constituents down at Glenelg about the issues they are facing, because this is a real problem for them.

Down at Glenelg we are in the very fortunate position of being the only gazetted tourist precinct in South Australia. Under the legislation, shops at Glenelg can open for many hours of the day, any day of the week, any time of the year. In fact, there is a big push by Jetty Road traders and the council at Glenelg to have as many of the shops open as possible so that passengers coming in on the cruise ship on Good Friday can come down to the Bay and shop. Buses are being put on to bring them down to the Bay. Other special events are being put on and, of course, many of the shops are being opened. The proprietors of those shops are willing to pay to have their employees come in and do what they want. What they do not want is extra public holidays being declared at the whim of this government making a union deal.

I openly boast that I have 106 restaurants and cafes within walking distance of my office down at Glenelg, and I am very proud of that. However, when these businesses are paying rent of $1,000 per square metre—

An honourable member interjecting:

Dr McFETRIDGE: —more than that in some cases—that is a lot of cups of coffee, a lot of pizzas, a lot of meals that these businesses have to sell. We need to make sure that we are not putting further impositions on these people. We need to allow them to run their businesses and go home at night with some reward for their effort, because that is what we all want.

We have a strange situation in South Australia where every Sunday, as I understand it, is a public holiday. That is just the way it has been. I assume that penalty rates are being paid in those cases. We have New Year's Day, Australia Day, Adelaide Cup Day and Good Friday, which varies according to the lunar cycle. The day after Good Friday—7 April this year and 30 March next year; it varies a bit—is a public holiday. Easter Monday is a gazetted public holiday, as is ANZAC Day, of course. As Easter Monday and ANZAC Day fell on the 25 April in 2011, Easter Tuesday was a public holiday. I remember that.

The Queen's Birthday combines with Volunteers Day this year, which is on 11 June. Next year it is on 10 June. Labour Day is the first Monday in October. This year it is 1 October and next year it is 7 October. We have Christmas Day and we have Proclamation Day—never to be confused with mainland settlement day—down at the Bay on 28 December every year. This year, though, the holiday is on Wednesday 26 December, and, next year, it is on Thursday 26 December.

The need to have gazetted public holidays has been around for a long time. People enjoy the holidays. I enjoyed the last long weekend. Unfortunately, I did not get down to the track to see the wonderful spectacle of the Adelaide Cup as I had other commitments, but it is a great holiday, enjoyed by all South Australians.

What we are seeing here with this bill is a very ill thought-out attempt to try to deregulate shopping hours in South Australia. The end result is hopefully to increase the vibrancy of the CBD. While down at Glenelg it can happen already, I think the CBD needs a bit of extra help. Sure, there are some problems, and, as the shadow treasurer, the member for Davenport has pointed out, there are some issues that surround the police, the ambos, corrections officers and some other people, but that should be sorted out by the Industrial Relations Commission. In fact, in a letter to me from the Police Association of South Australia, Mark Carroll, the President, states:

> The Police Association has attempted, through many enterprise-agreement negotiations, to address its members' concerns in respect of payment on New Year's Eve. SA Police rosters a large contingent of police officers who work on New Year's Eve to start between 7pm and 7.30pm.
>
> Owing to this rostered start time, our members are not entitled to any payment at public holiday rates for work they perform after midnight. This is because they work the majority of their rostered shift on the non-public holiday New Year's Eve.

As Mark Carroll says, on behalf of the Police Association, they are enterprise bargaining agreement issues that should have been sorted out by this government a long time ago, and not trying to blur the whole issue here by bringing in the police, firies, nurses, ambos and correctional officers. They all have a genuine need to be given recognition for the hours they work and the shifts they work, but not by this piece of legislation. This is a piece of legislation that will, I hope, achieve some of its aims but it certainly does not need to have the two half public holidays in there.

Ms SANDERSON (Adelaide) (12:20): As the member for Adelaide, I am very supportive of initiatives that will invigorate the city and improve tourism and businesses. Whilst more shopping hours does not mean more money available to be spent, I believe the city is in a unique situation as a tourist precinct. When Glenelg was determined a tourist precinct some 10 years ago, it was on

the basis of visitor numbers, high levels of interstate and international tourists, the number of businesses, the number of people attracted to events in the area, the number of accommodation rooms available, and major tourism-related developments.

The CBD has far more accommodation beds, it has many major tourism-related facilities, such as the Museum, the Art Gallery, the State Library, the Zoo, Ayers House Museum, the future Riverbank and the Oval redevelopments. In the middle of 'mad March' there can be no mistake that there are plenty of events that attract people to the area.

The CBD, on public holidays, has access to people from interstate, intrastate and overseas and the valuable shopping dollars they bring. Opening the Rundle Mall precinct on non-religious public holidays was one of the first bills I brought to parliament. I spoke about it in my maiden speech and many other speeches in parliament. I presented a petition with almost 2,000 signatures that I had collected, calling on the parliament to open Rundle Mall. Basically, I have been working on this for several years.

When I introduced my bill last year, the Labor Party unanimously voted it down. It was voted down because the SDA would not support more retail shopping hours in the city as its members apparently did not want to work on public holidays. Now, somehow, they are happy to work on public holidays as long as the rest of the state gets two extra half-day public holidays, which will not affect retail and the city at all. Surely this is a joke.

The argument of higher wages for those who work Christmas Eve and New Year's Eve is a separate argument and should be argued on its own merits. Why is their wage claim not considered the same as everyone else's by Fair Work Australia? Each industry negotiates the best wages and conditions on behalf of its workers. For example, some people such as nurses and firemen get six weeks' annual leave and work shifts. How is it fair not to consider any of the conditions and wages that have been negotiated over the years and just make a blanket ruling to pay 2.5 times the normal rate to everyone working Christmas Eve or New Year's Eve?

If this is the case, why do we not get rid of Fair Work Australia and the government can determine wage rates and conditions? What about the budget implications? Where will the money come from? This state is in massive debt. Surely it has a responsibility to determine the financial implications of this legislation to the state. Every dollar paid out by the government comes from the taxpayer's pocket. Should we at least consult with them, or perhaps you prefer the announce and defend approach?

Another issue I have with linking the two is that whilst we have had time to consult about opening Rundle Mall, as I brought this to parliament last year, we have not had the opportunity to consult our constituents regarding the extra public holidays. Currently, all states (except New South Wales) have 11 public holidays per year, adding two extra half-days will again add to the cost of running a business in this state, which is already the highest taxed state in Australia with businesses shutting down or leaving in droves.

Our economy is in a very bad position and many small businesses are struggling to survive. Let's consider each industry on its merits and not confuse the issue by combining two completely separate issues. Let's look at who is for and who is against. Those against the government bill come from a wide-ranging cross-section of small, medium and large businesses who have formed a group called the SA Business Coalition.

The coalition includes the AHA, Clubs of SA, the SA Wine Industry, Restaurant and Catering, Sip'n Save, the MTA, the South Australian Tourism Industry Council, the SA Liquor Stores Association, the SA Dairy Association, the Australian Meat Industry Council, Tourism Accommodation Australia, the NRA, Thirsty Camel, Australian Newsagents, the Aged Care Association of Australia, Caravan and Camping, the Shopping Centre Council of Australia, Family Business Australia, Baking Associations of Australia, AADA, the Boating Industry Association, Supported Accommodation and Care Services, and Service Station Division. That is a cross-section of many businesses who will be unfairly affected by this legislation.

Those who are in support of the government bill include the Adelaide City Council. The Adelaide City Council was instrumental in the bill that I brought to parliament last year. Their concern is more about opening the city than about the extra two half-day public holidays; however, they feel this is the only way that they will get it with a Labor government.

Romeo's, the Chapley Group and Drake, also listed as in favour of the current legislation proposed by the government, are all independent supermarkets that feel that they would be

threatened by Coles and Woolworths if total deregulation went ahead. They have been fed a story by Labor that if they do not accept this 'pig of a deal' they will get total deregulation and that somehow this deal will ensure that no government in the future revisits the issue; which is absolute rubbish.

The Australian Services Union, the TWU, the Police Association, SA Unions, United Voice, the Rail, Tram and Bus Union, and the Australian Nursing and Midwifery Federation are also in support of the bill. Many of these workers are employed already by the government, so if the government feels so strongly about paying double time and a half on the two extra public holidays, it can now. There is no need for legislation to harm small businesses throughout the state.

An award is a minimum, not a maximum. Why punish small businesses that are struggling to survive? Other people listed in favour of this bill are the city retailers Maras group, Globalize, Rundle Mall, Adelaide Central Plaza, Shades and Southern Cross Arcade. All these people were also fully supportive of my bill, which did not include the two extra half-day public holidays. All they want is trading in Rundle Mall, which is unanimously wanted by both Liberal and Labor and all the Independents, so there is no need to couple this good piece of legislation with negative pieces of legislation.

The Hon. M.J. Atkinson: What about Family First? What do they think?

Ms SANDERSON: They agree with my bill. Business SA's Peter Vaughan, supposedly representing businesses, has now linked up with the SDA union. I, like many others, have terminated my membership with Business SA in disgust because this is not representing small businesses in South Australia at all. If two new public holidays are such a good idea, they should be won on their own arguments and not coupled with shop trading hours. An open and transparent government would separate the bills and allow us to do our job of consulting our constituents.

To the member who called this a package, this is a dirty deal done by a powerful union from the right which installed the premier from the left. Do the people of South Australia really want a puppet for the SDA running our state? As we have seen, the government can declare any day or time open for trade. It did with Proclamation Day, Australia Day, and on Monday for Adelaide Cup. It has also permitted opening early on Sundays for cruise ships that have come in.

If this legislation fails, it is up to the government whether it opens the city on public holidays. Yes, opening Rundle Mall and creating a vibrant city is a great idea and is almost unanimously supported throughout the state. As I mentioned earlier, opening Rundle Mall was the first private member's bill I brought to parliament with the full support of the Liberal Party. However, in its current form, coupled with the two extra half-day public holidays, I reject this bill.

Mr Marshall: Excellent speech.

The DEPUTY SPEAKER: I call the member for Mount Gambier—and we don't need a running commentary from the member for Norwood, thank you very much.

Mr Marshall: I defend my right to agree with my colleagues.

The Hon. J.W. WEATHERILL: Mr Deputy Speaker, can I just add that you are within your rights, sir, to eject people, under standing orders.

The DEPUTY SPEAKER: I have contemplated that.

Mr Marshall: Is this part of your new civility code?

The DEPUTY SPEAKER: Member for Norwood!

The Hon. I.F. EVANS: Regarding the Premier's point of order, Mr Deputy Speaker—

The DEPUTY SPEAKER: I think it was a comment rather than a point of order.

The Hon. I.F. EVANS: Could I also make the point you are entitled to eject people from both sides of the house for interjection?

The DEPUTY SPEAKER: Yes.

Mr Marshall: Hardly likely.

The DEPUTY SPEAKER: Member for Norwood, you will withdraw that comment or leave the chamber.

Mr MARSHALL: I am happy to withdraw that comment.

The DEPUTY SPEAKER: For the member for Davenport's benefit, I have on a number of occasions told the member for Croydon to tone it down as well.

Mr Marshall interjecting:

The DEPUTY SPEAKER: Member for Norwood!

The Hon. I.F. EVANS: Point of order: why make that point to me and not to the Premier as well?

The DEPUTY SPEAKER: Because the Premier was not actually making a point of order; he was actually making a comment. You chose to make it a point of order.

The Hon. I.F. EVANS: Mr Deputy Speaker, by your own admission, the Premier's action was out of order and you took no action against him. You just admitted to the house what the Premier did was not a point of order. We all know you cannot just make a comment, so I think I have illustrated my point.

The DEPUTY SPEAKER: Member for Mount Gambier.

Mr PEGLER (Mount Gambier) (12:30): Thank you, Mr Deputy Speaker, and I am pleased that you have sorted that out. In my opening address to this session of parliament—my address in reply—I did say how important it was that, when we make decisions in this place, we make sure that those decisions do not have adverse effects on other areas in this state, and I will not be able to support this bill because of that reason.

I certainly support the intention of the bill; I do believe that the shops in Rundle Mall should be open more often, and that we should have a vibrant CBD. I understand the Labor Party, with 25 of its 26 members all coming from Adelaide, wanting to see the CBD open more, and I certainly support that. I can understand the shoppies union, in the interest of their members, pushing for two extra half holidays on Christmas Eve and New Year's Eve so that they can achieve more for their members.

What does disappoint me is the stance that Business SA has taken. I will just read a bit from their website:

> We actively lobby on your behalf to achieve the best business environment for this State. We are your voice.
>
> We represent and advocate strongly the business perspective on current and emerging policy issues. We lead without fear, favour or any kind of bias.
>
> We consult closely with our members—

And I would question the consultation process they went through in this deal—

> and work with the government and political leaders to achieve positive and constructive outcomes for local industry and commerce.
>
> The strength of our membership base, which ranges from small to medium size businesses to large companies and multinationals, enables us to gather valuable insight.

I would suggest that Business SA certainly did not consult strongly with their members right throughout the state, and did not look at what the repercussions of this bill would be.

I can understand the police and health workers unions wanting to see these two half holidays come in, and I certainly understand that they may wish to be paid extra for working on Christmas Eve and New Year's Eve, but we also must take into consideration that their present industrial awards and enterprise bargaining agreements take into consideration the fact that some of those people may have to work on those nights.

The effect on the cafes, hotels and restaurants in my electorate immediately would be looking at a 250 per cent increase in wage bills on those nights. If you look at an average restaurant in Mount Gambier that is selling a $30 plate of food, at the moment about $10 of that goes to the cost of the food itself, $10 in wages and another $10 in running the restaurant and trying to make a bit of a profit. If this bill goes through, on those nights either they will have to shut or put their meals up to about $45. They will then lose the faith of their clientele, and it would be much harder for those restaurants, so the only alternative for them is to actually shut.

With our hotels, the permanent employees—the front of house staff in those hotels that have accommodation, and of course, the security staff—will all see that immediate increase if these two public holidays are determined. The casuals in the hotels will remain the same as they are at

the moment until 2015, under an agreement that has been bought down. From 2015, they would probably be looking at a 275 per cent increase. There is no way known that our hotels would be able to operate in the same way as they do now with those extra imposts on them.

I was voted into this place as an Independent who acts in the best interest of Mount Gambier. I do not have to answer to the Labor Party or to the Liberal Party, or to the unions or to the business houses—

Mr Gardner: What about Peter Malinauskas?

Mr PEGLER: I beg your pardon! I will always act in the best interests of Mount Gambier and I do not want to see our restaurants, cafes and hotels close and the people employed in those places without a job on those nights. So whilst I do support the fact that the shops should be open more often in the CBD, I do not support the fact that it will happen at the expense of many of the entertainment areas, etc., in my electorate. I cannot support this bill in its present form.

Mr GARDNER (Morialta) (12:36): I am pleased to have the opportunity to speak on the Statutes Amendment (Shop Trading and Holidays) Bill. The bill seeks to do four things, three of which are related to each other and one of which is not.

First, as many speakers have said, we are amending the Shop Trading Hours Act to extend shop trading hours on most public holidays in the CBD (boundaries between the terraces and the Torrens), a goal which the Liberal Party supports, and which it has supported for some time, and which was reflected by the support the Liberal Party gave to the member for Adelaide's bill last year which would have achieved largely the same thing.

Secondly, we are looking to amend the Shop Trading Hours Act to reduce red tape and regulation in relation to the exemption process. It is a worthy goal and we support that. Thirdly, we are amending the Shop Trading Hours Act to remove some obsolete provisions, and we support that as well. Of course, all those are related to each other. It helps to create a vibrant city—a goal which, as I said, the Liberal Party has supported for many years and which the Labor Party has consistently objected to and opposed for many years.

Fourthly, we are amending the Holidays Act to create two extra part-day public holidays from 5pm until 12 midnight on Christmas Eve and New Year's Eve. As members have put forward, this is effectively an industrial relations measure wrapped up in the language of making a vibrant city. It is something that is more appropriately dealt with in a distinct act. I am an old-fashioned sort of person when it comes to looking at legislation, and I think that we should be judging things on their merits. Presenting bills as packages, as some sort of deal, as something that is presented by Peter Malinauskas and Peter Vaughan as a fait accompli and therefore the government has to sign up to it, is not a suitable way to approach legislation—and we will not be sucked into doing so, as the government has been.

Government speakers have largely—not universally; some of them have gone to the merits of the bill—spoken about how they are apparently the ones who want a city full of vibrancy. A second theme that has run through many of these contributions has been this straw man, whether this bill seems to be an argument between total deregulation or the partial liberalisation that is on offer here. The Minister for Small Business described it by saying:

> There is a choice in a community and the choice is this: 24-hour deregulated trading hours—that is, every small business in this state exposed to your deregulated market—versus our compensating employees for working on those days and just confining it to the CBD, because all South Australians know and accept that the CBD should be open.

I will get back to that in a moment, but I want to clearly put on the record that this bill is an alternative, between the status quo or somewhat of a liberalisation of shopping hours in the CBD. This straw man that is being put up—that it is either the bill that is ahead of us or total deregulation—is not actually the case at all, and it is inappropriate for ministers to present the debate in such a way.

The opposition supports the government's bill inasmuch as it seeks to create a more vibrant CBD. In fact, in that way it has reflected bills put to this parliament by the Liberal Party as recently as November 2010, which the government opposed. The lead speaker for the government on that occasion was the member for Little Para, who at the time said:

> The government does not support the re-establishment of discriminatory, anti-competitive trading hour differences between the Adelaide metro area retail sector...

He then went on to say:

> Clearly, this bill would significantly disadvantage retailers and retail workers in suburban shopping centres.

Are we to believe him then or are we to believe them now? The Labor Party has no credibility on this issue at all. The lead speaker for the government on that bill went on to say:

> To open Rundle Mall at the proposed times will surely result in an overall reduction in the money being spent in centres like Elizabeth. It is anti-competitive and may ultimately disadvantage retail workers, especially young retail workers who do not have the option of extra hours in the city.

That is what the government thought on 25 November. The member for Mawson has some form on this. He told us how he lived in Switzerland for two years:

> The shops there are not open on Sundays, and guess what? People survive.

He went on to say:

> There are plenty of opportunities for people to go shopping. There are shopping precincts in South Australia that are open on Sundays, so opening up the mall is not the be-all and end-all.

The Minister for Small Business said yesterday:

> ...all South Australians know and accept that the CBD should be open.

The government has no credibility on this. The Deputy Premier pointed out that:

> ...we regard the revitalisation of the City of Adelaide as being the number one priority for the government. There is no doubt that changing the regime in the City of Adelaide for shopping is an important element in creating a vibrant city. That is not just from the point of view of the people who might live in or visit the city but also from the point of view of people visiting from interstate or overseas who might want to be able to have a place where they can go and shop and do the things they would expect to do in a major capital city anywhere in the world.

Are we to seriously expect, from pronouncements by the Minister for Small Business and by the Deputy Premier, that the government believes any longer, as they did previously, that opening up the CBD is not appropriate on public holidays? Clearly, they cannot walk back from this. They have finally accepted the rationale, they have finally accepted the truth that opening up the CBD on public holidays, with the obvious exceptions of Christmas Day, Good Friday and ANZAC Day in the morning, is in the state's best interests.

If they are serious about what the new Premier put in the Governor's speech about having a vibrant Adelaide, they have made clear the necessity for extended shopping hours to take place. The opposition supports them on that and that is why we will be supporting the first three parts of the bill, as I described before: amending the Shop Trading Hours Act to extend shop trading hours on most public holidays in the CBD, to reduce red tape and regulation and to remove some obsolete provisions. That is the first part of the bill—the bill that deals with making Adelaide a vibrant city. The opposition supports it and we look forward to it happening in the very near future.

The other part of the bill is completely unrelated—putting two extra part-day public holidays from 5pm until midnight on Christmas Eve and New Year's Eve for every business, for everyone in South Australia. As the Liberal Party and other speakers have said, these considerations are more appropriately dealt with in the consideration of somebody's entire package.

I will not go over all of the ground that has already been covered in that part of the debate, but I want to bring to the house's attention issues particularly related to the disability sector that will be affected by this bill. One managing director of a company that deals in this area has gone public and I will get to him in a moment, but I have spoken to a number of others who rely on having good relations with the government and have therefore been unwilling to go on the record for fear of being dealt with in a less favourable manner for having done so.

I will start with Andrew Marshall, the Managing Director of SACARE, who, on 7 March, courageously went on FIVEaa to point out the impact this will have on those individuals who require personal care services just to get through their daily lives and that includes from 5pm until midnight on any night, not just those two holidays. Mr Marshall went on to say:

> If it goes ahead—

he is talking about this bill—

> most of the community based clients to whom we provide services and other people provide services are funded by Disability SA.
>
> Disability SA...look at a funding package that they apply to someone and they will either say it is too dear to provide a service at that time on these two particular days...or alternatively they will take the whole package and they

will shave hours off it so that they can fall back into their normal budgets. At the moment if an individual...got five hours a day service and those five hours happened to drop in the evening when they want a meal prepared or go to bed or whatever, that time will be shaved back to three and a half hours or whatever it takes to maintain the dollar cost for...the period of time that that service is being provided.

The issue here is that we are not just talking about those people who might want to go and buy groceries at any time of the day or night, or on a public holiday; we are not just talking about the people who might want to go to dinner on Christmas Eve and New Year's Eve, and might have to pay more to go to a bar or a restaurant; and we are not just talking about that sector of the economy which may be forced to shut because of the extra costs imposed upon those businesses.

This bill also has consequences to some of the most vulnerable people in our community; people who are reliant on assistance for the things that they do that anyone in this chamber takes for granted such as getting out of bed, and having a shower. They are reliant on the personal care services provided by these companies, either through the block funding supplied by Disability SA, or on the personal contracts brokered on behalf of Disability SA.

These companies are not getting the extra pay rises from government in accordance with the police or the other public services to compensate for the lack of services that they are no longer able to provide for the same cost. We are talking about a significant cost impost. I spoke to another CEO of one of these organisations and, to put it into perspective, regular care service in this sort of environment might attract $20 per hour. This bill will put that cost up for these periods to $45 per hour, along with other costs. We are effectively talking about $60 per hour for somebody to go to these houses and help people go to bed.

As this person put it to me, the question that the government needs to answer—if they are unwilling to provide the extra funding which we have had no indication that they will, and I will get further into that in a moment—if they are unwilling to provide the extra funding, the head of one of these companies said, 'Which person, which client, are they not going to put to bed that night? Which clients are they are not going to help have dinner that night?'

The government has no answer for this. The government has been silent on it. On Friday night, minister Hunter, from the other place, was on the television news saying that he had told the Treasurer that we needed a significant increase in funding to disability services in this year's budget, just so that we will be on an even par with the other states. Minister Hunter was honest enough to tell the news crews that the Treasurer had said, 'We are in constrained financial times,' and he had some pessimism about whether that would take place, and that is even before this bill goes through, which will put extra costs onto these personal care services.

At the moment, the government needs to have a serious look at the block funding that they provide to groups to look after a number of these clients because, in many—I dare say, in most—of these cases the block funding does not meet the costs involved in providing these services, and these services vary from time to time. Some of them need help getting out of bed, some need help washing, and some need help going about daily tasks, in many ways.

Often a carer may visit a client three or four, or two or five times a day, depending on the level of service required and, under this bill, if any of those services fall after 5pm on New Year's Eve or Christmas Eve, then those services may either not be provided at all, or severely curtailed. Perhaps the government thinks it is appropriate that somebody with a disability who needs assistance going to bed, must do so before 5 o'clock on Christmas Eve or New Year's Eve, because that is certainly the outcome that will be prompted by this bill.

The lack of interest by the government is very concerning. I will not be supporting the parts of the bill that amends the Holidays Act to create these two extra part-day public holidays. It is more appropriate for those issues to be dealt with in the standard measures in which we deal with questions about entitlements and workplace entitlements. A bill that is ostensibly designed to increase the vibrancy of the city, which is a worthy goal, is not the appropriate place to debate that, and I question whether it is appropriate for the government to blindly sign up to this package presented by Peter Malinauskas and Peter Vaughan, which does not represent South Australian business as a whole, other than the independent grocers who, of course, are very concerned about their own interests, but opening up the city will not hurt them.

Other than a few other individuals such as Peter Vaughan, this bill does not have the support of businesses in South Australia. An overwhelming proportion of the businesses and business groups in South Australia are opposed to this part of the bill. We support the government

in opening up the city. We look forward to the opportunity to amend the bill so that it will do just that.

Mr PENGILLY (Finniss) (12:50): I will not keep the house a long time on this. There have been many words from our side of the house on the stupidity of this. Only in South Australia could we have this ludicrous situation that we are debating a bill such as this. I find it absolutely ridiculous. Monday, you would have to say, was a fine example of where stupidity reigned supreme in South Australia. Mr John Chapman fronted, amongst others, the Premier, Peter Vaughan from Business SA and Stephen Yarwood, the Lord Mayor. I would have to say that those gentlemen looked like startled kangaroos in a wheat crop when their heads shot up. They did not expect to be ambushed by John Chapman and I think they thought they could get away with what they are doing. I just find it totally ridiculous, quite frankly.

Heaven help the state with Business SA being run as it is currently. I suspect that whoever takes on Business SA after Mr Vaughan retires—and he should go sooner rather than later—is going to have to pick up a mess and sort it all out and try to get some credibility into an organisation which once had some degree of respect. Unfortunately, now, the wheels have fallen off and we have this mess to deal with in the parliament.

I would like to pick up on some points that the member for Davenport made the other day in his speech. There is absolutely no thought whatsoever for the impact on businesses outside the city. This is the issue. The member for Davenport brought out in his speech the effect on places such as Mount Gambier, Port Pirie and others. I would like to tell the house, Madam Speaker, that this is going to have a dramatic effect on businesses in my electorate—in Victor Harbor, Port Elliot, Middleton, Yankalilla, Mount Compass, Penneshaw, Kingscote, American River or Parndana, it doesn't matter. Right across my electorate this foolish sort of activity—

The Hon. M.J. Atkinson: American River.

Mr PENGILLY: American River I said, Mick. You were missing. You were too busy thinking about the Attorney-General. The impact on businesses across my electorate, and other electorates, is most important to consider and they are not being considered. They have been totally ignored and, unfortunately, what we have is that the new Premier, put in place by the SDA, is doing exactly what his master is telling him, and that is the sad situation we have in South Australia.

In this state we are seeing common sense and any sensible outcome go out the door, while the other states laugh at this state over our shopping hours debate that goes on and on. It is just a sad day when we have to go through this debacle in the parliament. I hope, ultimately, that the government changes and we get a decent Liberal government in place in South Australia. Mr Malinauskas is saying we will finally put an end to all this nonsense but all Mr Malinauskas is doing is stirring up more trouble. He is impinging on the rights of small business across the state outside the central city area. I find it totally ludicrous and ridiculous, and we will just have to wait to see what the outcome will be. Until such time as some firm action is taken, we are just going to continue to debate foolishness.

The Hon. R.B. SUCH (Fisher) (12:54): I do not support this bill in its current form. I understand and notice that the opposition has some amendments. I would like to look beyond just the narrow focus of this bill. Someone said to me this morning (someone who is not involved in politics and someone who is fairly smart) that this state needs to get its shop trading hours sorted out once and for all to stop what is a continuous circus going on where—

The Hon. M.J. Atkinson: Was that Leon?

The Hon. R.B. SUCH: No, it wasn't Leon. It was someone else; it was a relative. It needs to be sorted out. It has been said here that business needs certainty, but it also is confusing to the public. I am sure that there are a lot of people who did not realise that they could shop earlier this week. There is misunderstanding and confusion about the whole thing. If there is one lesson that we should learn from what is going on it is to sort out shop trading hours once and for all—get a sensible and reasonable arrangement and stick to it.

I do not have a problem with these specific public holidays, but I think sometime in the future the government needs to look at the whole issue of public holidays. I have argued this before. Some I would call core public holidays, like Christmas Day, but there are others which people could take maybe as an additional day on their holiday without having to shut down the whole state under the guise of a public holiday.

The penalty provision of 2½ times I think is excessive. People ask why we are losing jobs overseas. I can tell you why: because we are outpricing ourselves in terms of what we are paying, and I say that collectively. It is not fair to pick on people who work in call centres, Holdens, or elsewhere. The whole of society—and governments in particular—has to have a look at what we are paying ourselves. You can pay yourself only what the community and what the economy generates by way of wealth, otherwise you go down the path of Greece, Italy, Spain and Portugal. If you try to live beyond what you actually generate in wealth, you soon end up on the slippery slope down into debt and into further problems.

As a society our productivity is pathetic. It is less than half of that of Singapore, and Singapore does not have anywhere near the resources we have and we cannot even match them for productivity; so that tells you something. It is because as a nation we are milking the system in a way that is not warranted by the amount of wealth creation.

We are milking the system because in many cases many people—not everyone in the workforce—are overpaid for what they do. They have all these benefits: additional leave, long service leave, leave loading, public holidays. We have a situation where it is hard to get people doing constructive things because there are so many holidays and breaks, and it is no wonder we are not very productive. It is more important what you do in your work time than just simply the hours you put in, but you will not produce much if you are not in a work-type environment.

I think it is time as a nation that we have a look at this whole issue. If it was not for the holes in the ground up north we would be in a fairly parlous state economically because we are living beyond our means and the wealth we create.

The benefits of this bill will extend beyond shop assistants. Shop assistants work hard and I have high regard for them. I know many of them in the shops in Rundle Mall by their first name. However, as I said earlier, you do not need to be paying a penalty rate of 2½ times. If you had a more moderate penalty regime, you would create so many jobs and you would not have any unemployment at all.

I understand that the police in their latest EB have an extra one month holiday after five years of service. So, they get their six weeks annual leave, they get their long service leave, and now they get another month. How many more holidays, penalties and provisions do people want? I conclude by saying I do not support this bill in its current format, and I will be supporting many of the amendments moved by the opposition because then they make great sense.

Mr BROCK (Frome) (12:59): I seek leave to continue my remarks.

Leave granted; debate adjourned.

ZOOS SA

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (13:00): I seek leave to make a personal explanation.

Leave granted.

The Hon. J.J. SNELLING: In response to an earlier question about the Zoo, I understood that the government had already placed an observer on the board at the time the financial package was finalised late last year. Now, with further and better particulars, I can advise that the government does not currently have a board director or observer, but the role and scope of the observer is part of the ongoing discussions with Zoos SA.

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

MCGEE, MR EUGENE

Ms CHAPMAN (Bragg): Presented a petition signed by 25 residents of South Australia requesting the house to urge the Attorney-General to refer the conduct of Mr Eugene McGee in relation to the death of Mr Ian Humphrey on 30 November 2003 to the Legal Practitioners Disciplinary Tribunal.

ANSWERS TO QUESTIONS

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

AMBULANCE STATIONS

59 Dr McFETRIDGE (Morphett) (26 June 2010) (First Session). What was the cost of constructing each of the new ambulance stations in Port Adelaide, Prospect and Adelaide CBD?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts): I am advised:

The Port Adelaide station had a total project cost of $1.8 million.

The Prospect station has a total project cost of $2 million.

A new station in the Adelaide CBD is being constructed in Parkside. The total cost of the project is estimated at $2.9 million, of which approximately $1.9 million to date is associated with capital construction costs.

PUBLIC SECTOR EMPLOYEES

In reply to **Dr McFETRIDGE (Morphett)** (11 October 2010) (Estimates Committee A).

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts): I am advised:

(a) Positions Abolished—TEC $100,000 or more:

Department/Agency	Position Title	TEC Cost
Country Health SA	Director Business Systems	$102,625.00
Country Health SA	Executive Director Aged & Major Projects	$203,131.00
Country Health SA	Executive Director Operations & Early Childhood	$206,796.00
Country Health SA	Executive Director Service Operations	$214,033.00
Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Clinical Leader	$125,017.00
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Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Clinical Leader	$125,017.00
Adelaide Health Service	Executive Director/DON St Margaret's Rehabilitation Hospital	$107,039.00
Adelaide Health Service	Executive Director, HR&OD	$199,875.00
Adelaide Health Service	Strategic Manager, Employee Relations	$137,863.00
Adelaide Health Service	Executive Director Finance	$190,958.00
Department of Health	Public Health Physician	$134,816.53
Department of Health	Principal Scientific Officer	$126,281.68
Department of Health	Executive Consultant	$183,541.15
Department of Health	Director, Employee Relations	$121,461.57
Department of Health	Director, Health System Performance	$261,229.10
Department of Health	Director, ICT Projects	$119,481.51
Department of Health	Director, ICT Contracts & Performance	$109,001.19
Department of Health	Director SAES Project	$126,850.01
Department of Health	Manager, Workforce Reform & Information	$107,538.42
Children, Youth & Women's Health Service	Neurosurgery Medical Unit Head	$149,716.95

(b) Positions Created—TEC $100,000 or more:

Department/Agency	Position Title	TEC Cost
Country Health SA	Manager Clinical Engineering	$118,441.00
Country Health SA	Chief Operating Officer	$229,033.00
Country Health SA	Mental Health Deputy Clinical Director	$235,395.00
Country Health SA	Medical Administrator	$117,697.00
Country Health SA	Manager Performance & Projects	$101,182.00
Adelaide Health Service	Chief Dental Officer	$129,348.00
Adelaide Health Service	Director, Clinical Business	$129,348.00
Adelaide Health Service	Director Special Needs Unit	$129,348.00
Adelaide Health Service	Senior Dental Practitioner	$125,017.00
Adelaide Health Service	Senior Dental Practitioner	$125,017.00
Adelaide Health Service	Senior Dental Practitioner	$125,017.00
Adelaide Health Service	Senior Dental Practitioner	$125,017.00
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Adelaide Health Service	Senior Dental Practitioner	$125,017.00
Adelaide Health Service	Senior Dental Practitioner	$125,017.00
Adelaide Health Service	Director Safety and Quality	$116,672.00
Department of Health	Director, Health System & Information Performance	$223,680.95
Department of Health	Deputy Executive Director Workforce Division	$199,875.40
Department of Health	Principal Audit Manager	$109,980.37
Department of Health	Director, ICT Operations	$197,842.15
Department of Health	Director, ICT Programs	$210,637.34
Department of Health	Director, Financial Turnaround	$225,118.90
Department of Health	Chief Pharmacist	$113,700.36
Children, Youth & Women's Health Service	Medical Imaging Head of Sonography and Ultrasound	$128,260.30
Children, Youth & Women's Health Service	Health Informatics, Planning Performance, Outcomes—ICT and Information Systems	$101,182.52

CARNEGIE MELLON UNIVERSITY

In reply to **Mrs REDMOND (Heysen—Leader of the Opposition)** (8 November 2010) (First Session).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development): I have been advised of the following:

CMU-A's 2012 enrolment figure is 114. Recruitment is currently underway for the May and August 2012 intakes, which is expected to increase this figure.

CMU-A's annual enrolment levels since 2006 are as follows:

2006	2007	2008	2009	2010	2011
55	76	108	114	113	115

A total of 34 students graduated in 2011. Following the December 2011 graduation, CMU-A has graduated a total of 232 students since establishing the campus in 2006.

There are no plans to provide State Government funding above or beyond the capped funding outlined in CMU-A's current Assistance Agreement which expires in 2014.

The 2010-14 Assistance Agreement with CMU-A requires that the State's Representative meet regularly with CMU-A's representative, and that the parties work cooperatively together to optimise CMU-A's performance.

All funding provided to CMU-A by the State Government is in accordance with the terms and conditions of the 2006-10 and 2010-14 Assistance Agreements. Bequests or other sources of funding received by CMU-A or its parent university will have no impact on the capped funding available through these Agreements.

CARNEGIE MELLON UNIVERSITY

In reply to **Mrs REDMOND (Heysen—Leader of the Opposition)** (8 November 2010) (First Session).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development): I advised the following:

Funding provided in accordance with the terms and conditions of CMU-A's 2010 Assistance Agreement with the State Government was disbursed through the Supplies and Services Expenditure line.

Under CMU-A's 2010 Assistance Agreement with the State Government, provision was made for funding capped at $3.8m for years 2010-14 (which incorporated an amount of $1 million unexpended and carried forward from the 2005 Agreement, and new funding of up to $2.8 million contingent on actual scholarship-related enrolments).

SASANELLI, MR N.

In reply to **Mrs REDMOND (Heysen—Leader of the Opposition)** (10 November 2010) (First Session).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development): I am advised:

No.

ROYAL ADELAIDE HOSPITAL

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:01): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: The ministerial statement, for the benefit of the house, is about the remediation of the new RAH site. I have been asked a number of questions about it both here and by the media, so I thought I would take the opportunity to give a detailed explanation as to what is happening.

Remediating the site is part of the construction contract for the new hospital. SA Health Partnership has a contract with Hansen Yuncken Leighton Contractors Joint Venture (HYLC) to design and construct the hospital. HYLC has in turn subcontracted elements of the remediation process to a number of specialist firms. Financial details of subcontracts are commercial-in-confidence.

However, I can report that an estimated total of 462,000 tonnes of soil will be removed from the new RAH site. As at the end of February 2012, about 55 per cent or just over half the soil—that is, 257,200 tonnes—has been removed from the site. This is the critical bit: upon leaving the site, the soil was classified by those who were responsible for removing it.

On leaving the site, 76,700 tonnes was classified as waste landfill; 29,900 tonnes was classified as intermediate landfill cover; 115,800 tonnes was low-level contaminated waste; and there is also 34,800 tonnes of what was suspected to be high-level contaminated waste, which is an informal term—the technical term for that is above low-level contaminated waste.

The rest of the soil is expected to be removed by late 2012 and is anticipated to be classified as either intermediate landfill cover or waste fill. The figures I have given are in tonnes, although under some of the specifications you will see the amount given in cubic metres, but I have used tonnes today just to be consistent.

The tonne to cubic metre conversion rate does vary depending on the density of the material and how wet it is and so on. As a general rule, as many would know, it is about 2:1—so, two tonnes to every cubic metre. Waste fill and intermediate landfill cover are taken straight off the new RAH site in accordance with EPA guidelines to other sites either for landfill or for re-use.

Low-level contaminated waste is taken to a Southern Resource Co engineered landfill site in southern Adelaide. Suspected high-level waste is also taken to a Southern Resource Co facility in southern Adelaide. High-level waste is from hotspots of contamination. I visited the site last week and I was advised that there are currently 19 hot spots.

Using a cautious approach, suspected high-level waste is taken to a licensed landfill site where it is held in temporary storage so it can be further tested to confirm if it is in fact high-level waste and, if it is, if required, treatment via bioremediation, chemical fixation/stabilisation process applies. Testing has found so far that no soil from the site has been classified as high-level contaminated waste—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Madam Speaker, I come in here with all of the facts about the case. If they have evidence that is contrary to this, they should demonstrate it.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The facts are, as I said, that testing has found that so far no soil from the site has been classified as high-level contaminated waste and, therefore, can be disposed of to landfill without treatment. The remediation process is overseen by an independent environmental site auditor, who is licensed by the EPA and appointed by the state. The EPA also has done some testing to ensure that the process they have used is correct, I am advised by the EPA.

SA Health Partnership takes the risk of the cost of remediating any known contamination, that is contamination that was in existence prior to 20 May—

Mr Hamilton-Smith: There isn't any; it's gone by magic.

The SPEAKER: Order, the member for Waite!

The Hon. J.D. HILL: That is, contamination that was in existence prior to 20 May 2011, as identified in the state's extensive on-site remediation investigations. These costs are within the SA Health Partnership's $1.85 billion design and construction costs. The state takes 80 per cent of the cost of remediating additional unknown contamination, that is contamination that is not foreseen from the extensive on-site remediation investigations undertaken by the state. SA Health Partnership takes the remaining 20 per cent of the cost of remediating unknown contamination, which should incentivise SA Health Partnerships to minimise the cost of conducting such works.

Any claim arising regarding remediation will be assessed at the end of the remediation process on what is known as an 'open book' basis, when all information related to remediation of the site is available. So, in order for the state to pay extra, it has to be demonstrated that it was unforeseen and that there is an additional cost. The contractual arrangements are clear and are available on the state procurement website.

At the completion of all remediation work an audit report is required from the independent environmental auditor certifying that the site has been remediated to the extent necessary for a hospital. It is the responsibility of SA Health Partnership to obtain this approval.

VISITORS

The SPEAKER: Before I call the next minister, I would like to welcome to the gallery a group of Year 11/12 students from Christian Brothers College, who are guests of the member for Adelaide. Welcome and we hope you enjoy your time here. It is nice to see you here today.

WINGFIELD WASTE DEPOT

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (14:08): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.M. RANKINE: I advised the house yesterday about the fire at the Mulhern Waste Oil depot on Wing Street at Wingfield. I am advised that the first MFS crew arrived at the incident within five minutes and identified a large petrochemical fire that was developing rapidly.

Ms Chapman interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: Give it a break. You are so rude. In all, more than 100 MFS firefighters and CFS volunteers responded to the fire. By late afternoon, at approximately 6pm, firefighters, supported by the water bombing aircraft, had made good progress in containing the fire. The MFS and myself are extremely appreciative of the CFS and SES volunteers for their prompt response times and support.

During the course of the day an MFS firefighter was injured in an explosion. The firefighter sustained minor burns to one hand and was treated at the scene and later at hospital. Several other firefighters were treated at the scene for heat exhaustion by SA Ambulance Service paramedics, who have done a great job and remained on the scene throughout the incident to monitor the health and wellbeing of firefighters.

MFS crews addressed water supply issues with the deployment of a high-volume hose relay and the CFS tankers. Throughout the incident a large plume of smoke was visible across Adelaide's skyline. Initially, the community and media expressed concerns about the smoke being highly toxic in nature. I have been advised that this was not the case.

Services, such as electricity and gas, were isolated to the premises and adjacent businesses during the height of the fire. These isolations were conducted as close to the incident where it was safe to do so to limit the level of disruption. Officers from the EPA, the Technical Advice Coordinator and the MFS Hazmat Response Team were on site during the incident and provided advice regarding the toxicity of the smoke and pollutants potentially entering the environment. The fire was contained at 11pm yesterday.

MFS crews remain at the site carrying out overhaul and fire suppression activities in the many hot spots that remain. Fire cause investigators from the MFS and SAPOL will conduct an investigation when it is safe to do so. There is no estimate of damage at this stage. SAPOL has advised that early investigations have revealed that the cause at this stage is not suspicious.

At the press conference this morning Roy Thompson, Assistant Chief Officer with the MFS, said that it was the worst fire he had been to in his 25 years as a firie and one of the largest we have seen in Adelaide in many years. Roy commended all personnel from across emergency services on their high level of commitment and for the exceptional collaboration under extreme circumstances.

I would like to echo Roy's words of praise and thank every officer involved in this team effort for their professionalism and for their courage. I would also like to thank the Salvation Army who were on site providing meals to personnel throughout the whole event. It is a testament to the work of the MFS, CFS, SES and SAPOL that the damage was contained and no member of the public was hurt.

I am pleased to be able to advise the house that the firefighter who was injured has been discharged from hospital and returned to his family. At approximately 3pm today the emergency team managing the site will be meeting to determine whether the site can now be handed over to the EPA.

The SPEAKER: Thank you, minister. I am sure that all members here join you in thanking those volunteers who helped out, and we also send our wishes to the firefighter who was hurt.

Honourable members: Hear, hear!

PAPERS

The following paper was laid on the table:

By the Minister for Finance (Hon M.F. O'Brien)—

Procurement Working Group—Purchase of Printer Cartridges at Inflated Prices—Attachments

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:12): I bring up the fourth report of the committee.

Report received.

PUBLIC WORKS COMMITTEE

The Hon. M.J. WRIGHT (Lee) (14:13): I bring up the 440th report of the committee, entitled Port Augusta Special School Redevelopment.

Report received and ordered to be published.

QUESTION TIME

MCGEE, MR EUGENE

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): My question is to the Attorney-General. Does the Attorney maintain that former attorney-general Atkinson could have referred the Eugene McGee case to the Legal Practitioners Disciplinary Tribunal, and, if so, why?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:14): Thank you, Madam Speaker, and I thank the honourable member for her question. This morning I was asked a couple of questions on the radio, and there was a particular question raised about the matter of the conspiracy trial which went on with Mr McGee. It was my recollection that that had occurred prior to 2010. That, in fact, is not the case; as it turns out, it was in 2010, and my recollection was mistaken about that. Otherwise, I think it is fairly clear—

Members interjecting:

The Hon. J.R. RAU: Otherwise, I think it is fairly clear under section 82 of the Legal Practitioners Act that the Attorney has the discretion to make a reference to the tribunal.

Members interjecting:

The SPEAKER: Order! The member for Lee.

DISABILITY SERVICES

The Hon. M.J. WRIGHT (Lee) (14:15): My question is to the Premier. Will the Premier provide the house with an update on the government's plans to reform disability services in South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:15): I thank the member for his question. In December last year, I announced a significant reform to disability support services in South Australia. The introduction of the new way of funding disability services—or individualised funding—is the centrepiece of this reform, and I am pleased—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —to advise the house that the first stage of this new system has now commenced. Letters were sent out to 2,250 existing disability service clients advising them they can now make choices about how their own funding allocation will be managed. Last Friday, I had the opportunity to meet a remarkable woman, Naomi Clarke. I went to her home. She had recently started receiving individualised funding and her story, I think, is a testament to how powerful the benefits of this new system will be.

Under the old system, Naomi was allocated 50 hours of support a week, but under self-managed funding, Naomi has been able to select a service provider that better suits her needs and has been able to negotiate for 60 hours of services per week instead of the previous 50. Those 10 additional hours of support enable Naomi to access overnight support, which ultimately will mean she will be able to stay at her family home with her husband, Paul. Otherwise, she would have had to stay away from home, which was very distressing for her and her husband.

She told me that the system had literally changed her life. The family can now plan ahead, knowing that they have full control over who comes into their house, what time carers come and go, and Naomi is now a purchaser of services rather than a recipient of services selected by a government agency. The family is even planning to go away to Kangaroo Island—something that

seemed impossible just a few weeks ago—and Naomi is looking forward to returning to her former work as a photographer.

Just as we were at this premises, a woman who saw us with all of the cameras came from next door, and said, 'I am also a disability services client; my child has cerebral palsy.' She told of a similar story: she had respite care that she decided to roll up and use in a different way, which enabled her to grab back control of her life. She was able to buy some equipment, which meant that she did not need some additional support.

This has been the feature of the old system: people desperately trying to get what support they could get and frankly having to maximise the level of disability and what they don't have, to try and get as much as they can, and they hang on to that for dear life because they know resources are scarce. In this way, they have control of the resources, they get greater control over their own life, and this is making a massive benefit for not only their wellbeing, their sense of independence, and their dignity.

DISABILITY SERVICES

Mr GARDNER (Morialta) (14:18): Supplementary question, Madam Speaker. Regarding the Premier's response in relation to the 2,200 people who got letters last week, when are the other 90 per cent of Disability SA clients going to have the same opportunity?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:18): Thank you; it is a good question. There is a staged rollout of the self-managed funding model. I do not have the details with me at the moment, but it certainly moves through the various types of service providers and different types of disabilities. So, I think at some point it will be people with intellectual disabilities supported by carers, parents or guardians, and we move through the various stages. I think the last area of support is some of the more challenging areas of supported accommodation.

So, there is a program to roll this out. This is a different program of rolling it out from the one recommended by Monsignor David Cappo—he suggested a much longer time frame. We were persuaded—I certainly have been persuaded for some time—that self-managed funding is really a precondition for reform. We do not want to put resources into a system that doesn't work; we want to reform the system first, and that is why we have chosen to have a comprehensive rollout of our disability services system in this way under the new funding model.

I was powerfully influenced, when I was Minister for Disabilities, by Dr Paul Collier who was, of course, the Dignity for Disability candidate who tragically died before the last election, and by his story about the way in which he had to, essentially, compromise his dignity to receive disability services; not able to make choices about when to go to sleep, about what to watch on television, about who would come into his house. This reform addresses those needs, and I pay tribute to his leadership in this area. I also acknowledge the former minister for disability, the member for Wright, who played an important role in bringing us to this place.

MCGEE, MR EUGENE

Mrs REDMOND (Heysen—Leader of the Opposition) (14:20): My question is to the Premier. Does the Premier support his Attorney-General's view that the Eugene McGee case should not be referred to the Legal Practitioners Disciplinary Tribunal or does the Premier support the former attorney's view that it should be?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:20): This is an extraordinary question from the Leader of the Opposition, because on 8 December last year she approved the Attorney-General's handling of this issue by saying that the Attorney-General was correct at law, and that the only way—

Mrs REDMOND: Point of order, Madam Speaker.

Members interjecting:

The SPEAKER: Order!

Mrs REDMOND: Anything that I said last year has nothing to do with whether the Premier thinks—

Members interjecting:

The SPEAKER: Thank you; sit down.

Mrs REDMOND: —that the issue should be referred to the disciplinary tribunal.

Members interjecting:

The SPEAKER: Order! I have no idea what you just said, Leader of the Opposition, as—

Mrs Redmond interjecting:

The SPEAKER: Order! There was yelling from both sides. Premier, continue to answer; I do not uphold that point of order.

The Hon. J.W. WEATHERILL: My view has been powerfully influenced by the Leader of the Opposition who, in December last year—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —approved the Attorney-General's handling of the issue, saying 'the Attorney-General is correct at law' and that 'the only way to deal with it is to stop it from happening again.'

I might say that the Attorney-General has done just that. He has taken steps just yesterday to introduce legislation that will ensure that the injustice—that I think we all share in this house—that was done to Mr Ian Humphrey and his family will not be perpetrated again. I believe all right-thinking members of this chamber share the distress—of course we cannot share the depth of it—felt by Ms Di Gilchrist-Humphrey and her family for the lack of justice they have received as a result of this incident.

What we have seen from day one, in relation to this matter, is the previous attorney-general, the present member for Croydon, taking significant steps—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —to respond to what we felt was an injustice by: increasing the maximum penalty for death by dangerous driving from 10 to 15 years; by creating an offence of aggravated death by dangerous driving with a maximum penalty of life in prison; creating an offence of leaving an accident scene after causing death or harm by careless driving, with a maximum penalty of 15 years' imprisonment; increasing the maximum penalty for failure to stop and assist where a person was killed from a $5,000 fine to a 5-year imprisonment; creating an offence of aggravated driving without due care, with a maximum penalty of 12 years' imprisonment; creating a presumption against bail for any driver accused of breaking these laws; requiring written notice of intent to introduce an expert witness at trial at least 28 days before the trial.

We are responding, and continue to respond, to what we feel is an enormous injustice.

MCGEE, MR EUGENE

Mrs REDMOND (Heysen—Leader of the Opposition) (14:23): I have a supplementary question. Does the Premier believe that the Eugene McGee case should be referred to the disciplinary tribunal?

The SPEAKER: I think he has answered that question; however—

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:23): Madam Speaker, I agree with the Leader of the Opposition.

Mrs Redmond: Yes or no?

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! A minister does not have to answer yes or no to a question; they answer it how they choose.

TORRENS TRANSIT

Mrs VLAHOS (Taylor) (14:24): My question is to the Minister for Transport Services. Can the minister advise the house what the state government is doing to protect employees who have been transferred from Torrens Transit to Transfield?

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:24): Transfield continues to honour their contractual obligations in relation to employment provisions and continues to uphold all long service leave and sick leave entitlements of employees who have transferred from Torrens Transit. Under the previous bus contract arrangements, Torrens Transit has to pay state government a reasonable allowance for the potential liability of the incoming operator for the long service leave and sick leave entitlements of transferring employees, based on the length of their service. All employees who have transferred are aware that their entitlements are preserved and protected in the new employee arrangements.

Under the arrangements in place between the department and the contractors, the amount that Torrens Transit pays the department for the transfer out of these obligations is being negotiated and resolved based on independent actuarial advice. The funds paid to the department through these arrangements will be paid through to the new operator.

Commonwealth law also dictates that employees cannot lose award entitlements, and a process is in place to ensure that the transfer of business provisions in the Fair Work Act 2009 applies in this instance. I understand that the actual allowance that Torrens Transit is required to provide government is currently being determined and a resolution is expected within the next few weeks. I have had extensive consultations and meetings with the union concerned—

Ms Chapman: And they're sick of waiting.

The SPEAKER: Order, the member for Bragg!

The Hon. C.C. FOX: —the Transport Workers Union—in relation to this matter. They have worked tirelessly on behalf of their members, and we are very happy to assist them in this process.

ZOOS SA

The Hon. I.F. EVANS (Davenport) (14:26): My question is to the Treasurer. How did the Treasurer negotiate a multimillion dollar bailout with the Zoo over a five-month period and not realise that the government didn't have observers on the Zoo board?

The Treasurer has negotiated a multimillion dollar bailout package with the Zoo. There has been some confusion about an extra $1.2 million being paid to the Zoo because of a miscommunication. In November, when the package was announced, the Treasurer said:

> ...we'll continue having two Government appointed observers on the board, so anything that comes up...with regards to the Zoo we will know about through our observers on the board reporting back to Government.

Yesterday, when asked about representatives on the zoo board, the Treasurer told the house:

> We had observers on the board, one of which was an official from Treasury.

Today, the Treasurer made a ministerial statement indicating that yesterday's statement was incorrect and that the government does not have a director or observer on the board.

Members interjecting:

The SPEAKER: Order! Treasurer.

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:27): Well, it was my understanding that we did have observers of the board. Members might recollect that we had two members of the board. I then received advice from the Crown Solicitor that the fiduciary duty of members of the board was to the board and not to the government and, therefore, that restricted what advice they would be able to relay back to the government about what was going on in the Zoo board.

I had indicated that we would change the status of those members of the board to observers. I understood that to be the case. It wasn't, but it doesn't matter because the fact is that the information was being provided to Treasury as we conducted the negotiations with the Zoo about a financial settlement to ensure their ongoing viability. We had more information available to us than I expect would have been provided as a matter of course to the board and certainly far more information than would have been able to be provided back to the government if the government had continued with having members on the board.

Members interjecting:

The SPEAKER: Order!

ADULT COMMUNITY EDUCATION

Ms THOMPSON (Reynell) (14:28): My question is to the Minister for Employment, Higher Education and Skills. Can the minister inform the house what the state government is doing to improve adult community education across South Australia?

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (14:29): I thank the member for Reynell for her question. I have been very pleased to work with the member for Reynell on adult community education over the last few months. She has quite a strong advocacy for it, and it has been a joy to work with her.

The state government is committed to developing adult community education and training in South Australia. It recognises the valuable contribution that the sector makes to the lives of individuals, communities and the broader community. Over the next year, the state government has committed approximately $3.25 million to support more than 80 community-based, not-for-profit organisations to deliver accredited and non-accredited training. This will see more than 14,000 participants enrolled in programs across the state. Adult community education organisations are invited to apply for grants of up to $25,000 to deliver programs that provide for people engaging or re-engaging in learning.

We know there are many South Australians who face a number of challenges entering the labour market. In many cases, the most significant barrier preventing these people from participating in the workforce is their literacy and numeracy skills. That is why we are also offering grants of up to $50,000 for accredited foundation programs. These are programs which integrate the development of literacy and numeracy skills and education—

Members interjecting:

The SPEAKER: Order! It is very difficult to hear.

The Hon. T.R. KENYON: —and improved pathways to further learning and work. Adult community education provides not only employment and skill development but also significant personal outcomes that cannot be measured and do, in a very real way, impact on the very quality of life and confidence of every individual.

Over six years, the state government will invest more than $6 million across South Australia to support an additional 6,000 foundation skills training places aimed at increasing adult literacy and numeracy skills. I commend the adult community education sector for its important role in developing the literacy and numeracy skills of people choosing to start their training journey. I call on all applicable organisations to consider applying for the current round of Adult Community Education Grants, which is open until Friday 13 April this year.

The SPEAKER: Members, you might like to note the exemplary behaviour today of the member for Unley. I think perhaps we should make a permanent arrangement for him to have his mother in the gallery, and I might also make arrangements for other mothers to be present in the gallery. I think my job would be a lot easier. Welcome. The member for Davenport.

ZOOS SA

The Hon. I.F. EVANS (Davenport) (14:31): My question is to the Treasurer. Is the reason that the observers on the Zoo board did not advise the Treasurer that the Zoo bailout was $1.2 million short, as the Treasurer told the house yesterday, because the observers on the Zoo board simply did not exist?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (14:32): Look, I have explained the reasons for the $1.2 million bailout being less—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: The financial settlement—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: I have explained the reasons for the $1.2 million settlement being less than it needed to be, simply because the Zoo was of the understanding, based upon a letter from the Department of Environment and Natural Resources, that an earlier drawdown—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order! Member for Davenport, you've asked your question.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: Madam Speaker, can I say how refreshing it is to see the member for Davenport finally out of hibernation. It occurred to me the other day that the Zoo and the parliamentary Liberal Party—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —there's a parallel—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: There's a parallel between the problems that confront the parliamentary Liberal Party, and confront the Zoo because—

Members interjecting:

The SPEAKER: Order! Point of order.

Mr WILLIAMS: Point of order, Madam Speaker. I think even you will agree at this stage that the minister is entering into debate instead of answering a very important question as to how he lost two observers.

Members interjecting:

The SPEAKER: Order! Thank you, member for MacKillop. I do direct the Treasurer back to the substance of the question.

The Hon. J.J. SNELLING: If you might just indulge me just a moment, both the Zoo—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: —and the parliamentary Liberal Party have a problem with one of its attractions, in that it is not able to get much, shall we say, vigour, out of one of their star attractions, and it is great to see the member for Davenport back in harness, asking a few questions, doing a bit of media for a change—something that we haven't seen for a number of months.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: Nonetheless, the simple fact is that we entered an arrangement with the Zoo. There was a misunderstanding over the nature of an earlier payment.

Members interjecting:

The SPEAKER: Order, member for Davenport!

The Hon. J.J. SNELLING: The Zoo understood it to be a one-off grant and expended it accordingly. The government had provided it and made a decision on the basis of it being a drawdown. The opposition can try and cloud the issue all they want.

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: This government makes no apologies—

Members interjecting:

The SPEAKER: Order!

The Hon. J.J. SNELLING: This government makes no apologies for doing what it had to do to ensure the financial sustainability of the Zoo to ensure the Zoo remained open. The Liberal Party would have had the Zoo unable to meet its financial obligations and would have seen the Zoo closed. That is the issue.

Mr WILLIAMS: Point of order: the minister is again debating.

The SPEAKER: Order! I think the minister has finished his answer. The member for Florey.

VETERANS' ADVISORY COUNCIL

Ms BEDFORD (Florey) (14:35): My question is to the Treasurer—

Members interjecting:

The SPEAKER: Order!

Ms BEDFORD: Can the Treasurer inform the house about the new membership of the Veterans' Advisory Council for 2012?

The Hon. J.J. SNELLING (Playford—Treasurer, Minister for Workers Rehabilitation, Minister for Defence Industries, Minister for Veterans' Affairs) (15:35): I thank the member for Florey for the question. I also acknowledge the member for Florey's passion and dedication to our veterans' community. She attends many, many veterans events, and I think she has quite a close relationship with the Royal Australian Regiment Association, from memory, as well.

Members may recall that in 2008 the government created a veterans' affairs portfolio, and subsequently a Veterans' Advisory Council. Our initiative was welcomed by the veterans' community and has become a model for state veterans' affairs representation around the country. We kept the promise made to the veterans' community in South Australia that they would have representation at the highest levels of government. Indeed, this representation will be even more important in the lead up to the celebrations of the Centenary of Anzac.

Our Veterans' Advisory Council is chaired by former governor Sir Eric Neal AC, CVO, a man of enormous experience who is admired and respected throughout the ex-service community. We are very pleased to have his service and commitment.

State president of the RSL, Mr Jock Statton OAM, serves as Deputy Chair. One of the strengths of the VAC is its diversity. The 16 members represent a mix of gender, service, former rank and conflict. This means that any recommendation made by the VAC carries the views of the vast majority of the veterans' community South Australia.

The most senior member is World War II veteran and former prisoner of war Mr Bill Schmitt AM, who is something of a living legend within our veterans' community. Other members have seen service in Korea, Malaya, Vietnam, Rwanda, Bougainville, East Timor, Iraq, Bosnia and Namibia. One member is still serving and is soon to be deployed to Afghanistan.

After three years of hard work on the VAC the following members are stepping aside: Mr Greg Blyth, who is now National President of TPI Association; Lieutenant Colonel Moose Dunlop OAM, RAR Association; Mrs Brenda Fergusson, War Widows Guild; Squadron Leader David Helman JP, RAAF Association; and Mr David Kerr JP, Naval Association of Australia.

I would like to take this opportunity to thank these members for their hard work and dedication in providing advice on behalf of the veterans' community. The new members of the Veterans' Advisory Council are:

- Mr Michael von Berg MC, who is a Vietnam veteran, a former commando and member of the SAS. He was awarded the Military Cross for leadership and courage in action in Vietnam in 1966. Mr von Berg is the President of the Royal Australian Regiment Association.
- Mrs Kath Harrison is the President of the War Widows Guild of Australia (SA Inc). She became a war widow in 1983 and is a trained welfare officer with the Department of Veterans' Affairs. She is also a member of Legacy Widows, the RAN Corvette Association (SA Branch), the Kensington Sub Branch of the RSL, Partners of Veterans Association (SA Branch); and the Repatriation General Hospital Consumer Council.

- Mr Leon Eddy is the President of the Totally and Permanently Incapacitated Ex-Servicemen and Ex-Service Women's Association of Australia (SA Branch). He was a national serviceman who served with the 9th Battalion Royal Australian Regiment in Vietnam. Mr Eddy joined TPISA in 2000 and became president in October 2011.
- Ms Cheryl Fittock served for five years in the Women's Royal Australian Naval Service between 1971 and 1976. During that time she served with *HMAS Cerberus, HMAS Harman* and *HMAS Coonawarra*. Ms Fittock has been president of the WRANS sub section of the Naval Association of Australia since 2010 and is also a member of the RAN Communications Branch Association. She is a delegate to the Department of Veterans' Affairs, the Deputy Commissioner's Consultative Forum, and a member of the Two Wells RSL.

These new members bring a wealth of experience to the VAC. I was pleased to publicly congratulate the new members on their appointment and it was good to thank the retiring members for their service at a reception last week.

BUS CONTRACTS

Ms CHAPMAN (Bragg) (14:40): My question is to the Minister for Transport Services. Why did the minister yesterday state in relation to bus contractor penalties, 'this is absolutely commercial-in-confidence...we can't tell how much we're fining them', when departmental officers have previously revealed the penalty rates, and indeed the total amount by defaulting bus contractors, to the Budget and Finance Committee?

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:40): I am not quite sure whether the particular instance the member refers to was in camera or not. What I can say is that my decision is my decision, it is not the decision of the contract.

Members interjecting:

The SPEAKER: Order! Member for Bragg, you have asked the question, now listen to the answer.

The Hon. C.C. FOX: Should the member for Bragg wish, at any point, to ask me in this place what those are then, of course, I would be compelled by the nature of this place to stand up and tell that truth.

BUS CONTRACTS

Ms CHAPMAN (Bragg) (14:41): I have a supplementary question. Is the definition of 'commercial-in-confidence' your view?

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:41): I believe the member for Bragg is a lawyer, so I am assuming she knows what 'commercial-in-confidence' means.

Members interjecting:

The SPEAKER: Order! Member for Torrens.

TRADE SCHOOLS FOR THE FUTURE

Mrs GERAGHTY (Torrens) (14:42): My question is to the Minister for Education and Child Development. Can the minister inform the house about support offered to students wishing to undertake apprenticeships while still at school through the Trade Schools for the Future initiative.

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:42): I thank the member for Torrens. I was in the member's electorate last week, visiting a couple of schools in Dernancourt, and I acknowledge what fantastic schools they are and the member's advocacy on their behalf. I also acknowledge CBC, and some of its students are here today. It is a very fine school. I visited the school last year. It is great to have you here.

This government is absolutely serious about creating every chance for every child; that is why we aim to provide students with a diversity of options throughout their schooling life. The successful network of Trade Schools for the Future is an important part of this work. It links every state high school and helps young people to combine—

Members interjecting:

The SPEAKER: Order! There is too much background noise.

The Hon. G. PORTOLESI: —both their SACE studies with vocational education and training by undertaking school-based apprenticeships or traineeships. Twenty apprenticeship brokers work with schools to connect young people with employers. This means that our young people are getting a head start in a wide range of trades and work areas, ranging from business administration to construction, the automotive industry (very important in South Australia), and community services.

In this community of South Australia, we recently passed a very significant milestone of 3,000 young people who have started a school-based apprenticeship or traineeship since our Trade Schools for the Future initiative started in 2008. Recently (last week or the week before), I attended the official opening of the Mark Oliphant College, and I congratulate them. It is an outstanding school .

Mr Pisoni interjecting:

The SPEAKER: Order, member for Unley!

The Hon. G. PORTOLESI: At the opening, I was very pleased to meet Gemma Doughty, a year 11 student who has been identified as school-based apprentice No. 3,000. During our conversation, Gemma mentioned how much she was enjoying the program and that it was giving her firsthand experience in a workplace environment, which I think is very important. I take this opportunity to congratulate Gemma. I also had the pleasure of meeting her mother, who is enrolled in a certificate III course in community services, and I thank the local Bubble 'n' Squeak Child Development Centre for providing this opportunity to Gemma.

Trade Schools for the Future is providing a broader range of choices for young people in our community. Schools can offer both academic and vocational education and training, creating so many more choices than used to exist before. It is this very successful partnership that brings teachers, parents, families, employers and apprenticeship brokers together to better support our young people for the future.

RENMARK PARINGA LEVEE BANKS

Mr WHETSTONE (Chaffey) (14:45): My question is to the Minister for Water and the River Murray. Will the minister explain why the government is refusing to provide funding to the Renmark Paringa council to repair flood levee banks that protect the town from flooding? With your leave, I will explain, Madam.

The levee banks were built in the late 1950s to protect Renmark from high rivers. Communities are again at risk from eastern state floods heading our way in approximately six weeks. Is the government prepared to risk a town for the sake of $860,000?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:46): I thank the honourable member for his disorderly question.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: The honourable member was correct to say that in 1959, I think, as a result of the 1956 floods, levees were built around Renmark and Paringa. They were financed by the state government of the day and constructed utilising state government funds. Part of the arrangement, of course, was for the council then to accept responsibility for the maintenance and care of those levee banks.

It is clear that the council has not discharged its responsibilities with respect to the maintenance and care of those levee banks. I do not agree with the information I have received at least about the figures with respect to the water coming down, and what that might do to those particular levee banks, because we know that at 93,000 megalitres last year, they held—

The Hon. J.M. Rankine interjecting:

The Hon. P. CAICA: I stand corrected—94,000 megalitres or whatever it was per day, and they held up. The information I have at the moment is that we will not reach that same level, so I expect they would be safe. Notwithstanding that, though, something needs to be done about

those levee banks. In the first instance, I think the council should take its responsibility that it committed to back in 1959 with respect to the maintenance of those levee banks.

The other point I would make is that we are working with council, and will continue to work with council, to look at a suitable outcome because quite frankly, if they did breach, if this year we had a '56 flood, for example—and there is no indication that we will—Renmark would be in a bit of strife. What I also know is that the argument that I put here today, that the council has responsibility for that, will not wash because it will come back to us to say, 'Why didn't you do something about it?' So, we are working with the council, and the honourable member is aware of that.

We will continue to work with the council to look at ways in which they can discharge their responsibility. The member knows as well as anyone else that some of the local members—his constituents—within that area have done certain things to those levee banks, so there is a collective responsibility up there to fix them, and we will help them through that and we will continue to work through that with the local council.

The SPEAKER: Before I call the next question, I just remind the member for Chaffey that explanations are just that when you are asking a question. They are not an opportunity to make a comment or suggest a hypothetical situation. The member for Light.

SMALL BUSINESS COMMISSIONER

Mr PICCOLO (Light) (14:49): My question is to the Minister for Small Business. Minister, are you aware of any recent federal policy announcements that might impact on the Small Business Commissioner initiatives in this state?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:49): Yes, I am.

The Hon. I.F. EVANS: Madam Speaker, point of order. How is the minister responsible for a federal policy?

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. Evans interjecting:

The SPEAKER: Member for Davenport, order! The question was not about the minister being responsible; it was about how it would impact on South Australia—quite in order.

The Hon. A. KOUTSANTONIS: I think he protests a bit too much—the feigned laughter, the feigned strain.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: You don't want to disfigure yourself with all the interjecting. You don't want the face to move out of position. It's very expensive what you have done, you have to look after it.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. Conlon: He paid for that? He should get his money back.

The Hon. A. KOUTSANTONIS: Yes. The mullet has gone, though; it is very impressive. The Small Business Commissioner initiative—and I thank the member for Light, who I think is the father of franchise reform in the nation, a man who has fought long and hard for franchise reform. The initiative of the Small Business Commissioner is growing, and momentum continues to grow around the nation. Today our Prime Minister announced that the Commonwealth of Australia will have a small business commissioner. The federal commissioner will act as a one-stop shop for small business people, representing their concerns and interests directly to the government.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: It will get better.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Small business owners will be able to access information, advice and referral to external services such as dispute resolution services. The Weatherill government strongly supports and welcomes this important announcement. I can inform the house that our Small Business Commissioner is very close to being appointed and our commissioner will work very closely with the federal commissioner to promote the rights and interests of small businesses.

There was another federal announcement last week by the federal shadow small business minister, the Hon. Bruce Billson. In a speech to the Council of Small Business of Australia—you might be familiar with this organisation—he strongly advocated the federal Liberal Party's desire for a small business commissioner style arrangement. He said:

> The Ombudsman [or Commissioner] can also play a valuable role in supporting mediation and dispute resolution under existing mandatory codes where there is not confidence in the objectiveness and effectiveness of industry sponsored mediators.

Does this sound familiar? Because the South Australian Small Business Commissioner will 'mediate disputes where there is no confidence in the objectiveness of industry-sponsored mediators' and 'seeks resolutions under mandatory industry codes'. Other jurisdictions that have already established a commission, or are in the process of doing so, are the Liberal governments of New South Wales, Western Australia and Victoria, as well as the governments of Queensland and Tasmania.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Madam Speaker—

The SPEAKER: Minister, can you just hold for a moment. Would members on my left be quiet; I cannot hear the minister, and he is usually very loud, so you must be making an incredible amount of noise. Minister.

The Hon. A. KOUTSANTONIS: There are only two organisations left in the country that openly criticise the Small Business Commissioner reforms—only two: the Franchise Council of Australia, who support master franchisors, and the dark forces at work in the Liberal Party.

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: Coincidence? I think not. This has taken—

Members interjecting:

The SPEAKER: Order!

The Hon. A. KOUTSANTONIS: This reform by the federal Liberal Party has taken the member for Norwood by surprise. He did not know their automotive policy, he did not know their defence policy and now he does not know their small business policy. Rather than grooming, I would start doing some research.

Members interjecting:

The SPEAKER: Order!

Mr Marshall interjecting:

The SPEAKER: Member for Norwood, pull your head in or you will leave again.

Members interjecting:

The SPEAKER: Order! The member for Unley. Remember, someone will be listening very carefully to your question.

CARBON TAX

Mr PISONI (Unley) (14:54): My question is to the Minister for Employment. Will the minister explain why he was unaware of Treasury modelling that revealed the carbon tax will cost

South Australia 1,500 jobs next year, and now that he is aware of this modelling, will he advise in which industries there will be fewer jobs because of the carbon tax in South Australia?

The SPEAKER: That was almost a question that was asked yesterday; but, the Minister for Employment.

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (14:54): Ma'am, very simply, there was no South Australian Treasury modelling done on the carbon tax. The Department of Treasury and Finance in the Mid-Year Budget Review 2011-12—

Mr Marshall interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: —made an allowance for the potential economic impact of a price on carbon on South Australia's economic growth rate, employment growth and prices. It was made very explicit in the Mid-Year Budget Review document. The Department of Treasury and Finance has not undertaken, I am advised, any economic modelling to assess the employment impact on a price of carbon. The assessment of the impact—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg! Minister.

The Hon. T.R. KENYON: The assessment of the impact is based on commonwealth Treasury modelling, which is publicly available and also referred to in the federal Mid-Year Economic and Fiscal Outlook, where they said:

> In addition to the one-off increase in headline inflation, the carbon price is expected to reduce real GDP and employment growth by less than a quarter of a percentage point in 2012-13.

The introduction of a carbon tax is a major economic reform. Given that the commonwealth Treasury had publicly released modelling on the economic impacts of the carbon tax, it was sensible for the South Australian government to make an allowance for these impacts in our own budget forecasts. While we believe that the short-term economic impacts of a carbon tax are minimal, we have made a conservative allowance for the potential of the tax to have some impact on prices, economic growth and employment in line with what the federal government has said, and to do otherwise would be irresponsible.

The Leader of the Opposition's comparisons of this carbon price impact—which is for a single year only—with those flowing from the Olympic Dam expansion are mischievous. The Olympic Dam expansion will provide a boost to employment, not just in a single year—

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: —but over many years, with 6,000 workers predicted in the construction phase, a doubling of the operational workforce to 8,000 and an estimated indirect jobs impact of 15,000. That is 10 times the number quoted yesterday by the Leader of the Opposition.

HEALTH CHAT

Ms BETTISON (Ramsay) (14:57): My question is to the Minister for Health and Ageing. Can the minister inform the house what feedback was received from South Australians in the first ever Health Chat conducted last week?

An honourable member: They couldn't get through!

The SPEAKER: Order!

An honourable member: You put them on hold.

The SPEAKER: Order!

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:57): Thank you, Madam Speaker, and I thank the member for Ramsay for this important question. Last Tuesday evening, as many

members and many of the public would know, the health system invited South Australians to phone in and speak directly to me as the minister and to senior members of the Department of Health bureaucracy and the leaders of the various hospital systems, including the CE of health.

We asked people to talk to us about their issues in relation to the health system, and I thought it was good for two reasons—

Mr Williams interjecting:

The SPEAKER: Member for MacKillop, if I talk to you again, you will leave.

The Hon. J.D. HILL: So, Madam Speaker, I invited members of the public to ring in. I thought it was good for my official senior level people and me, as the minister, to hear directly what people in the community think. Obviously, as a member of parliament I speak to my constituents but sometimes senior officials, I think, and all of us deal with statistics, policies and platforms and it is good to hear what real people think about the system.

I was really pleased with the outcomes of that response, and, thanks to the terrific publicity (particularly one of the television channels which ran it halfway through its news bulletin which caused something of a spike), we did receive 617 phone calls to the hotline during the two-hour period. There were more phone calls than we could deal with, so I do apologise—as I did last week—to those who called. We did, in fact, field about 110 of those who called and we talked—

Members interjecting:

The Hon. J.D. HILL: I said that we spoke to 110 people.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: I just said it. We got to talk to 110 callers out of the—

Members interjecting:

The Hon. J.D. HILL: I just said all that. Madam Speaker—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Anyway, I will leave it up to the shadow minister if he wants to ask any questions later.

Members interjecting:

The SPEAKER: Order! The member for Waite, behave or you will leave.

Members interjecting:

The Hon. J.D. HILL: Madam Speaker—

Members interjecting:

The SPEAKER: The Minister for Transport also, order! You will allow the minister to answer this important question.

The Hon. J.D. HILL: Thank you. I actually provided the answer to the question he was interjecting on, so he wasn't listening. There were 600 and something calls; 110 of those were answered, and I apologised at the time to those who were not able to get through. But it was interesting to hear the people talking, and I spoke to a good number of people and heard about their personal experiences with the health system.

Most of the callers I spoke to wanted to talk to me about personal issues they had about either members of their family or themselves. I am advised that about 30 per cent of the callers were from the country—so that is about roughly the proportion you would expect. Mental health accounted for about 10 per cent of calls—which is probably the appropriate percentage—and about 30 per cent of the calls related to medical issues, either of the caller or a family member, and I must say that most of the people I got to speak to were in that category.

Common issues raised included elective surgery, outpatient services, hospital redevelopments, health employment, the Patient Assistance Transport Scheme, availability of doctors in country communities, and dental services. Calls about workforce issues included

questions about processes and work opportunities for the newly qualified and those trained overseas. Calls about dental services included questions about sterilisation of equipment and infection control, financial assistance to travel to Adelaide for oral surgery, and concerns with access to dental services in the Far North.

We also received a handful of ideas, including the suggestions of charging a gap fee for emergency department patients and improving signage on toilet doors in hospitals. About half the callers requested a follow-up, and staff within both my office and the department are working on that. Of the callers who did not require a response, about 20 per cent commented positively about the health care they had received or the system in general, while about 12.5 per cent provided negative feedback. Most callers said they were pleased to have the opportunity to speak directly with the people who run South Australia's health system.

I believe it was a worthwhile exercise, and we do plan to conduct it regularly; we will do it again in a few months' time to make sure South Australians have more opportunities. I give an undertaking: we will have more telephone lines, and we will do it over a longer period of time so that more people can get through.

SHARED SERVICES SA

The Hon. I.F. EVANS (Davenport) (15:01): My question is to the Minister for Finance. Has the Department of Treasury and Finance decided to bring back under the department any of their administrative functions that were conducted through Shared Services, or any of the administrative functions that were proposed to be conducted through Shared Services? If so, why, and which functions?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (15:02): The IT function, and at this point in time they haven't given me a reason, but that's their decision.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

SHARED SERVICES SA

The Hon. I.F. EVANS (Davenport) (15:02): As a supplementary, what is the cost to budget of bringing the IT services back under Department of Treasury and Finance and out of Shared Services?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (15:02): I will return to the house with an answer. My understanding is—

Members interjecting:

The SPEAKER: Order!

The Hon. M.F. O'BRIEN: —the cost impact is negligible, but I will certainly get you—

Members interjecting:

The Hon. M.F. O'BRIEN: Yes. My understanding is that the cost impact was negligible, but I will return to the house with a definite answer.

Members interjecting:

The SPEAKER: Order! The member for Port Adelaide.

MURRAY-DARLING BASIN

Dr CLOSE (Port Adelaide) (15:03): My question is to the Minister for Sustainability, Environment and Conservation. Can the minister inform the house about the status of the ongoing vegetation work in the Coorong, Lower Lakes and Murray Mouth region?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:03): I thank the honourable member for Port Adelaide for her very, very important question. It was just a few short years ago that we experienced severe drought across

the Murray-Darling Basin, which had a devastating ecological, cultural, economic and social impact across the basin, but in particular down at the Coorong, Lower Lakes and Murray Mouth region.

The drought saw flows into the lakes dry up, the water levels in both lakes Alexandrina and Albert plummet. Native fish and plant species came close to extinction. Salinity levels skyrocketed, and the region's communities and traditional owners suffered immeasurably. Acid sulphate soils developed in association with the record low water levels in the lakes and the Goolwa Channel.

Scientific investigations found that one of the ways to tackle the threat posed by acidification was to add carbon to the soil by revegetating exposed lake beds during drought and the lake edges once the water had returned. The vegetation program being undertaken in the region is funded by both the commonwealth and South Australian governments up to a total of $39.61 million and has been an important contributing factor to the region's recovery from drought. As well as adding vital carbon to the soil, the vegetation works to help stabilise the soil and reduce erosion.

This is believed to be the largest project of its kind ever attempted in Australia. Since the first planting trials were undertaken in 2009 more than two million sedges and other plants have been planted at many sites throughout the region. In addition, around 10,000 hectares of lake bed has been seeded by air. The traditional owners, the Ngarrindjeri people, have been at the forefront of vegetation work, with community and Ngarrindjeri nurseries propagating plants required for planting, and dozens of community groups undertaking the planting work.

Further to the plantings, more than 160 kilometres of fencing has been erected along lakefront properties to protect the lake edge, and more than 130 stock watering points have also been established. The South Australian Murray-Darling Basin NRM Board, the Goolwa to Wellington Local Action Planning Group, the Ngarrindjeri and DENR have also undertaken pest and weed control work across the region to support this very important vegetation program.

Planning is well advanced for this year's vegetation work. Around 600,000 plants—with at least half being propagated by community and Ngarrindjeri nurseries—are set to be planted at more than 40 sites across the region. The latest phase of the fencing program is also underway, with funding available until April for landholders to build shoreline fences on their properties. Pest and weed management will enter a new phase in the coming weeks with a focus on the buffering of revegetation sites and identifying high priority areas for the benefit of biodiversity in the region.

These projects are building resilience into the region's environment so that it can better cope with future droughts and floods. Perhaps most important of all, the vegetation program is bring communities together to work for a healthy and prosperous future for the region. The Coorong, Lower Lakes and Murray Mouth region is still recovering, making it critical that we get the Murray-Darling Basin plan right to ensure that the region is able to fully recover.

HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSIONER

Mr HAMILTON-SMITH (Waite) (15:07): My question is to the Minister for Health and Ageing. Why is he axing the Health and Community Services Complaints Commissioner, Ms Leena Sudano, and at what point did he lose confidence in Ms Sudano? With your leave—

The Hon. P.F. CONLON: I have a point of order. 'Axing', 'losing confidence'; it is all comment. It is absolutely disorderly.

The SPEAKER: Yes; the member for Waite has been here long enough to know how to ask a question. I ask him to look at the language of his question and be very careful in what he is saying.

Mr HAMILTON-SMITH: I will explain the question, Madam Speaker. The office ensures openness and accountability by dealing with complaints from the public about health and community services, including disability and child protection complaints, public, private and non-government. Ms Sudano, on 1 March, in public evidence told parliament's Economic and Finance Committee that 'the organisation is...to face cuts of between 21 and 29 per cent of its budget'. Ms Sudano raised concerns that some of the minister's decisions were based on what she called 'an unsupportable premise'. She said of the Minister for Health, 'It was clear to me that I was unlikely to enjoy the support of the minister.' Ms Sudano added that she was very concerned about what she described as 'continuing instability—'

The SPEAKER: Member for Waite, this is going on quite considerably. This is not an opportunity to debate—

Mr HAMILTON-SMITH: I am quoting directly from the evidence—

The SPEAKER: —it is more of a grievance. I ask you to get to the point of the question.

Mr HAMILTON-SMITH: I am getting to the point. Because of a lack of support and resources the agency did not—

The Hon. P.F. CONLON: Point of order. I have been very tolerant, but he has not actually even sought leave of the house to explain the question, nor has it been granted.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: I make a further point of order, Madam Speaker. The explanation bears no resemblance to the question; it is more like a speech.

The SPEAKER: Order! Member for Waite, would you just ask your question please?

Mr HAMILTON-SMITH: I have asked the question, Madam Speaker. Should I repeat it?

The SPEAKER: Yes; can you repeat it? I didn't properly hear what you said anyway.

Mr HAMILTON-SMITH: Why is the minister axing—

The Hon. P.F. CONLON: Point of order.

Mr HAMILTON-SMITH: Would you like me to say why is the minister closing—

The SPEAKER: It is a point of order; you are talking about the word 'axing' again. I ask you to remove that word.

Mr HAMILTON-SMITH: Why is the minister closing the Health and Community Services Complaints Commissioner, Ms Leena Sudano, and at what point did he lose confidence in Ms Sudano? If I can complete my explanation—

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Point of order, Madam Speaker.

The SPEAKER: Another point of order. Minister.

The Hon. P.F. CONLON: For the benefit of the member for Waite, to state that the minister has lost confidence in Leena Sudano is—

Members interjecting:

The Hon. P.F. CONLON: When you're done.

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: To state that the minister has lost confidence is pure comment and is disorderly. He has made no attempt to make his question orderly.

Mr HAMILTON-SMITH: Madam Speaker, I will rephrase the question.

The SPEAKER: Member for Waite, I would ask you to sit down and look at your question and you can ask it later.

Mr HAMILTON-SMITH: I am ready to go, Madam Speaker. Has the minister lost confidence—

The SPEAKER: No, you will sit down for now. Member for Morialta.

CAVAN TRAINING CENTRE

Mr GARDNER (Morialta) (15:10): My question is for the Premier.

Members interjecting:

The SPEAKER: Order!

Mr GARDNER: Now that the government has received the report of the investigation into the Cavan breakout, will the Premier commit to releasing the findings of that report to the parliament and the public?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:10): Yes, we will release those elements of the report that are—

Mr Pisoni: Not 'those elements': the report.

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Would you like to hear the answer?

Mr Pisoni: Not 'those elements': the report.

The Hon. J.W. WEATHERILL: You see, the way it works is you get to ask the questions and I get to supply the answers, otherwise it gets very confusing. The answer to the question is: yes, we will release the report, but it is subject—

Mr Gardner: When?

The Hon. J.W. WEATHERILL: Well, that's a different question, so you can ask another one after you get to ask your first one.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I am actually going to give them the answer they want to hear, but they are so desperate to hear bad news that they keep jumping the gun. We are going to release the report. The only caveat on that is, of course, the Young Offenders Act, which requires certain information not be made public; but, subject to that caveat, we are more than happy to release the final report when it is delivered to the minister.

HEALTH AND COMMUNITY SERVICES COMPLAINTS COMMISSIONER

Mrs GERAGHTY (Torrens) (15:12): My question is to the Minister for Health.

Members interjecting:

The SPEAKER: Order!

Mrs GERAGHTY: Can the minister give details of what is happening with the Health Complaints Commission?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:12): I am very happy to answer this question. I would have liked to have answered the question from the member opposite, so I hope I will address the issues that he raised.

The Health Complaints Commission was established by legislation some seven or eight years ago and the current incumbent, Ms Sudano, was appointed at that time for a seven-year term. That seven-year term comes to an end towards the middle of this year.

Members interjecting:

The SPEAKER: Order! The Leader of the Opposition, be quiet. The Minister for Transport, be quiet.

The Hon. J.D. HILL: The term comes to the conclusion at the end of this year. I indicated to her that we would be advertising for that position. It is my view, and it is certainly a view that I think cabinet shares, that these kinds of positions, that are long-term, independent authorities appointed for a longish period of time, should be advertised from time to time, otherwise you—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: We did it, for example, with the guardian of children. So, this is a policy—

Ms Chapman interjecting:

The SPEAKER: Order, member for Bragg! Order!

The Hon. J.D. HILL: I am happy to answer all the questions. They can ask me a dozen questions, I will answer all of them.

Mr Williams interjecting:

The SPEAKER: Member for MacKillop!

The Hon. J.D. HILL: The government made a determination, based on a submission from me, that the position should be readvertised, as is, I think, proper for a position that has a seven-year term, and that is exactly what we did. The commissioner spoke to me about it and wrote to me finally and said that she wasn't going to seek renomination for that position.

An honourable member: Why?

The Hon. J.D. HILL: Well, you would have to ask her why she made that decision. I am not going to verbal her the way that you are trying to verbal me, I would say to the opposition. Leena Sudano indicated to me that she was not going to reapply for the position.

Ms Chapman: Lea Stevens was better than you.

The SPEAKER: Order!

The Hon. J.D. HILL: You are entitled to your opinions, member for Bragg.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: The question about funding was the other point that was made by the member opposite, which I go to. The funding for the office of the commissioner has been maintained this year. The former families and communities department (now Department for Communities and Social Inclusion) decided that they were not getting value for money for the funding they were providing to the office for work in relation to, I think, the disability sector.

There were very few requests for the use of the commissioner in that area, and they were putting in several hundred thousand dollars, from memory, and they said they were going to use that money for other purposes. That was conveyed to the commissioner. I went to the Treasury and ensured that we had bridging funding of the same quantum for this financial year. So, there was no reduction in funding for these services; in fact, there was a reduction in the work that was expected by the commissioner over that period of time.

Members will also recall that there was an independent investigation conducted into the operations of the commission and, in particular, it benchmarked the cost of the provision of services by our commissioner against other commissions or equivalent commissions around Australia, and it found that the cost in South Australia was very high and that the budget that was given to the commissioner was completely adequate for the job that she had to do.

She disagreed with that assessment, I think it is fair to say, and she has maintained that disagreement. It doesn't mean she is right, but it means she has a different view about it. I also draw to members' attention an investigation into these matters by the upper house committee a year or two ago which had similar findings to those of that independent investigation.

So, the bottom line is that we have made a decision to consider whether or not, from a cost-benefit point of view, the position of the commissioner should be included within the office of the Ombudsman because they provide Ombudsman-style services. I think that is a good idea. We will put that out for consultation and discussion and certainly seek the views of those on the other side as to whether or not it has merit.

In the meantime, we will appoint an acting or interim commissioner for a year while we go through that investigation process. Ms Sudano has decided not to apply for the job. That was her decision not mine.

Members interjecting:

The SPEAKER: Order!

GRIEVANCE DEBATE

ZOOS SA

The Hon. I.F. EVANS (Davenport) (15:17): It has been a bad week for the Treasurer; it has been an embarrassing week for the Treasurer, followed by a very embarrassing day today for the Treasurer. I should apologise to the Treasurer because, if you believe the Treasurer, I keep on embarrassing him while I am asleep. If I start to wake, I feel sorry for the Treasurer.

How can a treasurer negotiate with the Zoo for five months on the understanding that the government had observers on the Zoo board, and for all of those five months there were no observers on the Zoo board? Not one—not one. Where did the observers go? Has anyone seen them? We could put out a search party. We are looking for the Zoo observers because the Treasurer sat there for five months saying, 'Don't worry, there are observers on the Zoo board.'

On 14 November, when the government announced their rescue package, the Treasurer made the intention of the government very clear: 'We will continue to have two government appointed observers on the board so that anything that comes up with regard to the Zoo we will know about through our observers on the board reporting back to government.' So, we are all brought to this view that the government is going to have observers on the board so the Treasurer is kept informed. Then we have the miscommunication. We have to bail them out to the tune of another $1.2 million.

Let's be clear, let's be crystal clear. The Liberal Party has always supported the Zoo and always wanted the Zoo to be kept open. I invite the Treasurer to go to the Zoo and look at all the plaques that say, 'Opened by Iain Evans, Minister for the Environment.' We support the Zoo and we want it open. What the public want is proper management of their finances.

It is simply unbelievable that the Treasurer sat there for five months and must have been saying, 'Gee, I wonder what those observers are doing at the Zoo? We're not hearing much from them. There can't be much happening.' Then, when he got the phone call to say, 'Treasurer, we need a $1.2 million bailout,' did the Treasurer say, 'I know, I'll ring the observers. Maybe I'll ask them. What do the observers think?' They were not there. It was the Invisible Man and Casper the Ghost! They simply do not exist.

The Treasurer comes into the parliament, and this week the tactics committee of the Premier's office would have been sitting there saying, 'What will that sneaky opposition ask us about this week?' I reckon the Adelaide Zoo would have been on their list. It was in the media over the weekend. I noticed I was on the TV—the Treasurer was not there much; so, in their tactics the Zoo would have been there.

We came in and we asked him a really simple question: what did the observers say? The Treasurer said, 'Well, actually, we had observers on the board,' etc. Then he comes in today and says, 'Actually, there were no observers.' If the public want an example of the clumsy misadministration of this government, look no further than their simple $1 million fiasco with the Zoo.

The South Australian public should not panic because, between the federal government and the state government, they are talking about giving Holden about $200 million. Who are they going to send in to negotiate? They are going to send the Treasurer in to negotiate. Well, Treasurer, I hope you have some observers there for that meeting. This is an embarrassment.

Then we had the other issue today. We had the Minister for Finance stand up and say, 'Well, actually, Treasury have taken back their IT out of Shared Services,' and he does not know why. The reality is that the two finance portfolios in this government are not working together and they are not working well. How can the Minister for Finance not know why the IT was taken out of Shared Services and put back to Treasury?

Surely that went to cabinet. Surely they are going to start unpicking Shared Services—that would have gone to cabinet. How did they not know? It has been a bad week for the Treasurer. It started off with economic commentators saying that we are in recession and it ends with the Treasurer saying he did not realise the observers simply did not exist.

COUNTRY NEWSPAPERS CENTENARY

Mr BIGNELL (Mawson) (15:22): I rise today to continue my celebration of the SA country press centenary as we salute all those great newspapers around the state. Last sitting week I

spoke about the centenary celebrations and how I was fortunate to attend the launch of a great book by Kym Tilbrook celebrating the centenary of country newspapers in South Australia.

I missed out on attending the SA Country Press Awards 2012, but I understand it was a tremendous night. I have been before and it is always good to go along and speak to the editors and journos who do such a great job in communicating to their local areas. As I have said before in this place, I grew up in the country and I was a journalist in the city, and I have always realised the great role that country newspapers play in their community.

I would like to congratulate the prizewinners for the SA Country Press Awards 2012. For the Best Newspaper Under 2,500 Circulation, the winner was *The Loxton News*. Second place went to the *Plains Producer*, and third place went to the *Eyre Peninsula Tribune*. The *Plains Producer* is run by the Manuel family, and Terry Williams is the editor. Terry and I used to work together at the Adelaide *News*. Whenever I go through Balaklava I always call in to see Terry and Andrew Manuel, who has taken over the running of the family business. The Manuels are a really great family. It was great to see Margaret Manuel at the launch of the centenary book as well.

For the Best Newspaper with 2,500 to 6,000 Circulation, first place went to *The Murray Valley Standard*; second place went to the *Whyalla News*, which I know is a great newspaper in the electorate of Giles; and third place went to the *Northern Argus.*

For the Best Newspaper Over 6,000 Circulation, first place went to *The Border Watch* in Mount Gambier, the paper that I grew up on. It was always a fantastic newspaper, along with the Penola *Pennant* and *The South Eastern Times*. I used to read them quite a bit. Second prize went to *The Bunyip* in Gawler. Of course, every second page of *The Bunyip* in Gawler seems to have a picture of the member for Light in it. In the centenary book he is featured quite prominently. He is obviously a hardworking local member who gets in the paper as well as getting results and being re-elected. Third place went to *The Courier* of Mount Barker, which always features in the best country newspapers in South Australia. Excellence in Journalism, first prize went to Sandra Morello of *The Border Watch*, second prize went to Genevieve Cooper of *The Courier* and third prize went to Paul Mitchell of *The Murray Pioneer*.

We then get to Best Editorial Writing and the judge of that was Kym Tilbrook, the former *Advertiser* journalist, whose family has a long history of newspaper ownership in country South Australia. Kym picked *The Islander* of Kangaroo Island in first place for editorial writing. I will read his comments:

> All three editorials submitted by editor Shauna Black were of a very high calibre. She went for the jugular in her editorial on local MP, Michael Pengilly, who lives on the island. Mr Pengilly had tweeted that the Prime Minister was 'a real dog', a statement that went viral. Shauna's well-crafted editorial left no doubt about what The Islander thought about its local MP. She branded his statement as disrespectful, rude, aggressive and inappropriate. But Shauna didn't end the criticism there. The final barb delivered a telling blow against Mr Pengilly. It said: 'For Kangaroo Island, the concerns are that we are represented by someone who cannot be taken seriously in Parliament; someone who will have few supporters and little influence in his own party to advocate for the island's needs; and that his demeanour may reflect badly on all of us.' One local emailed Shauna: 'I'll send you a Christmas card, even if Michael Pengilly doesn't.' Shauna also had some stinging barbs for the new Kangaroo Island Council elected in November, 2010.

And the judge's comments go on. Second place went to the *Northern Argus* of Clare and third place went to *The Border Watch* of Mount Gambier. The winner of the Best Sports Story was *The Murray Valley Standard* and Ben Brennan—congratulations to Ben—runner up was the *Barossa & Light Herald*, where Mike Teakle and Graham Fischer combined. Graham and I used to work together at *The News* when Graham was a racing writer. Third place went to the *Riverland Weekly* and Graham Charlton.

The Best Community Profile winner was, 'Sudanese family's daring African escape' by Brad Perry of the *Riverland Weekly*. Second place went to Nick Dillon of *The Murray Pioneer* and third went to Briohny Robinson of *The South Eastern Times*. Best Front Page went to *The Pennant* of Penola, *Yorke Peninsula Country Times* and the *Barossa Herald*, in that order.

RENMARK PARINGA LEVEE BANKS

Mr WHETSTONE (Chaffey) (15:27): I rise to speak on the levee banks that surround Renmark. After asking my question today, I am still none the wiser. We have asked the question of the minister: will he support the Renmark council in the maintenance and rebuilding of the levee banks? He came back with, 'It's not my responsibility,' as when I met with him in July of last year. So, he is now putting the onus back on the council. If we do have unforseen circumstances and the

town is inundated with water, whose responsibility is it? The hospital, the schools, all of the government institutions in Renmark, who is responsible for those buildings?

The condition of the levee banks is dire: the maintenance, the rabbit holes, the vehicle tracks over them, the flat tops on the levee banks. When it rains, the water sits on top of the levee banks and they continue to wash away, it washes gutters in them, and before you know it, after a rain event, there is a lot more of the levee bank that has been washed away.

What I would like to say is that due to the lack of action by this state Labor government over the past eight months in negotiating to try to get the minister to see sense, today a motion is being presented to the federal Senate to call on the state government to act on the remediation of the levee banks that protect Renmark. The federal government is listening. The Coalition, through Senator Simon Birmingham, and Independent Nick Xenophon, is listening to the people of Renmark and the concerns about the dangers presented with the floodwaters coming into the state and the uncertainty of people, businesses and institutions about people's homes and the livelihoods in Renmark that are now being threatened by potential rain.

To clarify that, the water that is coming down the river at the moment is potentially not going to breach the levee banks, but the system is full. The storages are full; the wetlands are full; the basin is wet and it is running. Any rain, any water that comes in is run-off. There is nothing soaking into the ground.

Again, we look at the weather systems in the north of the country and the unstable weather on the eastern seaboard of the country, and it is a potential threat not only to Renmark but to all the low-lying areas on the river in South Australia. Yet we get the minister putting this onus back on the council, not prepared to stand up and make a decision on putting up the $860,000 to remediate the walls.

That water is due here in about six weeks. To remediate the levee banks is going to take between six and eight weeks, so I really do think that we have a volatile cocktail of an issue here and yet the government is not prepared to make a call on what it is going to do to support the community of Renmark, the council and all the investment. There is $41 million of state government investment in Renmark and yet the government is not prepared to put up the $800,000 to shore up those institutions.

As I said, the hospital would be the first to be taken out. We then have the town, the businesses and the infrastructure. A large town of 10,000 people is being put at risk through the lack of decision-making by this minister, by this government. It really does concern me that today I get a lame answer from the minister that it is the council's responsibility, an agreement that was drawn up in 1959. I think the agreement was actually drawn up in 1957, but I stand to be corrected.

This is a government that is not prepared to invest in this state. We are looking at money to bail out other institutions, money that is wasted. We have Cartridge-gate; we have Zoo-gate. We have all these scandals going on at the moment and yet we cannot prop up a town of 10,000 people to remediate its levee banks. I think it is absolutely outrageous for the minister to walk away from it and say that it is simply not his problem. To date, he has almost indicated that he is not prepared to lift a finger because it is the council's responsibility.

I say to the minister that he needs to come out and show some common sense in getting the funding up from Treasury and having those levee banks repaired. The federal Coalition, the federal Independents have seen sense; the state Liberal Party has seen sense; now we need the South Australian Labor Party to see sense.

GAWLER LIONS CLUB YOUTH OF THE YEAR

Mr PICCOLO (Light) (15:32): Today I would like to bring to the house's attention a couple of events in my electorate which showcase not only our young people but also the women in our community. The first event I would like to talk about is the Gawler Lions Youth of the Year award which was held recently. The award was won by two Trinity College students and they shared an award whereby they can become a winner for the whole state. Jessica Rowley won the John Hillier Memorial Youth of the Year award while Georgia Tyler took out the club's Public Speaker award.

It is incredibly inspiring to see these young people like Jessica and Georgia do great things in their community and to see them rewarded. Interestingly, these young people do not complain about the problems they see: they take the initiative and go out and solve those problems. They are an absolute credit to their community. Fellow Trinity student Declan Stimson and Gawler High School students Jarrah Mik and Aden Heinis were also highly commended.

Jessica delivered an insightful speech about the power of music to change people's lives and influence society. Georgia spoke passionately about how we need to confront mental health more honestly by creating an environment where people can talk about it more freely. Jarrah spoke about how he came to develop a love for mathematics as he sought answers to how ordinary things in life work. Gawler High School student leader, Aden, provided his view about how leadership can be learnt and how success comes from hard work, while Declan put a strong case as to why Australia should become a republic.

The speeches were extremely impressive and demonstrated a great deal of research, thought and insight into their topics. The students displayed a great maturity in the views they expressed way beyond their age. The judges (Bruce Williamson, Helen Hennessy and Peter Symes) were unanimous in their praise of the speeches. I would like to thank the members of the Gawler Lions Club for hosting the event. The Lions Youth of the Year Quest aims to select one outstanding individual to be an Australian ambassador, with the opportunity to travel overseas under the auspices of Lions Club International.

Another event I attended and would like to mention briefly today is the recent Gawler International Women's Day event. This year, the guest speaker at the event was cardiologist Margaret Arstall. She is the University of Adelaide and Harvard-educated Director of Cardiology at the Lyell McEwin Hospital and is an expert in all things heart related. The Lyell McEwin Hospital is particularly lucky to have a person of her calibre. It is interesting that Dr Arstall, apart from now being the Director of Cardiology at the hospital, was also born there many years ago when her family first came to live at Elizabeth.

Dr Arstall is an exceptional role model for young women who, through her work and personal values, inspires young women to strive for greatness in their life. The International Women's Day event is a celebration organised by a group of women from the Gawler Country Women's Association, headed by Linda Bertram. The group draws its membership from a broad range of women's organisations in the community.

The day was formally opened by the former Youth Parliament governor, Samantha Mitchell, who I think at one stage used to work for the member for Schubert. One of the highlights of the day was a debate undertaken by young women from the local secondary schools and colleges. The two teams, comprising students from Gawler High, Trinity College and Xavier College, debated whether Facebook has a negative impact on young girls' lives.

I would like to acknowledge the students, who did an outstanding job in the debate. The students were Bianca Lane-Sullivan, Rosalie Hoff, April Sanderson, Nicole Bradley, Amanda Nuhoma, Danni-Lee Josey Prior and Kiara Appleby. The debate was organised by Judy Gillett-Ferguson and Naomi Arnold-Reschke. I congratulate the Gawler Country Women's Association for holding the event.

WOMEN'S AND CHILDREN'S HOSPITAL

Ms SANDERSON (Adelaide) (15:37): Car parking at the Women's and Children's Hospital for staff and patients is impossibly difficult. There are the lucky few who are able to afford the high car parking fees and who arrive early enough to get a park, but many people are forced to park on the street and often far away.

In May 2010, I attended a meeting at the Women's and Children's Hospital for a tour of the renal unit. When entering the car park at 9.15am, I noticed that I had to travel almost to the top as the car park was almost full. When I went back to the car park at approximately 10.30, the car park was signed as full. I have had inquiries to my office from parents of sick children who have parked on the street, possibly due to the car park being full, who then received a fine as they could not leave their sick child in order to move their car in the allocated time. I am sure that on the radio this week many of us would also have heard of the family who were fined whilst they lost their baby. Something must change—and it needs to happen soon.

The cost of car parking has further been exacerbated by the recent doubling of car parking fines, as instigated by the Labor state government and implemented by the Adelaide City Council. What we are not thinking about here is the difficulty placed on the parents of sick children who have to park far from the hospital and often have to carry a sick child to the emergency room. I have heard from patients that the very expensive parking is almost full by 10am and that parks in the area are for only up to two hours. This causes parents to have to leave during a consult, which is not always possible, for example, if only one parent is with the child.

In addition, admissions are done at 11am, which is after the main car park is often full. Patients who have been under sedation or anaesthesia are also not allowed to use public transport due to the risk of their needing urgent medical attention; thus, parents are forced to drive. The hospital is also currently being expanded and will provide more services, so parking will only get worse.

I have heard from several staff members who work at the Women's and Children's Hospital who have no choice but to park as far away as Barton Terrace to get long-term parking. Staff work shifts and thus, unless you start early in the morning, the car park is usually full. Staff have indicated that they are walking quite long distances to their cars late at night, which is very dangerous, particularly as there have been several incidents of robbery and assault occurring in the surrounding Parklands.

Staff are turning up late due to the inability to get a park, and after 10am it is quite common for staff to call whilst waiting in the queue to get a car park. I have even heard of one staff member having to wait 45 minutes to get a park in the paid car park. Staff have been required to make up time if they are late or lose pay if they are casual. Lack of staff due to lateness can also delay treatment for patients, and staff are now leaving home up to 30 minutes earlier to spend time looking for a car park. Many park in the two-hour parks and risk the fine (which has doubled recently), and staff parking has around a two-year waiting list.

In September 2010 I met with the CEO of the Women's and Children's Hospital and, among other things, discussed the potential to extend the existing car park to accommodate both staff and patient needs. Although the Women's and Children's Hospital owns the car park, the concern was that the Labor state government intended to take over the car parking asset. Given the anticipated parking issues with the expansion of Adelaide Oval and the recent $30 million in federal money for the Adelaide Oval, I think it timely to call on the state government to expand the Women's and Children's Hospital car park, either using federal or private investment money.

Unlike the car parks planned at Adelaide Oval, this one will be used night and day all year round, not just when football and cricket is being played at Adelaide Oval. The Women's and Children's Hospital could negotiate with the SMA or private enterprise for the money to expand the existing car park. I have already had several offers from private investors wanting to put money towards this project as it is common knowledge that car parks are a good investment.

I have also inquired with the Adelaide City Council regarding the development plan for the area, spoken to engineers to get opinions on whether the structure could be built on and have generally canvassed the idea. The general consensus is that this could be done. This would help patients, staff, cathedral parishioners and sporting fans and take the pressure off the suburban streets of North Adelaide leaving parking available for residents and people using local businesses.

Preliminary investigations show that the cost is an average $750 per square metre to build a multistorey car park in Adelaide. This works out to around $15,000 per car park. Ultimately this is a simple matter of common sense where we are able to fulfil the needs of many and, most importantly, the needs of South Australian families with sick children. Now all we need is a Labor government prepared to listen and to make it happen.

MR KUNMANARA LANGKA PETER

Ms BEDFORD (Florey) (15:42): Communities across central Australia last week mourned a much-loved elder—or ngangkari, a traditional healer—who died in a car accident 160 kilometres south of Alice Springs the week before. In recognition of his life's work and contribution to the advancement of Aboriginal health across South Australia and further afield, NPY Women's Council directors requested Langka Peter be honoured with a state funeral. Ministers Caica and Hunter attended, as did John Lochowiak from the Otherway Centre who spoke to me today and recalled Mr Peter as being very kind and spiritual and as having travelled all over Australia healing people. He was looked on as one of his grandfathers.

Flags flew at half-mast all over the state. Mr Peter is survived by his son, daughter-in-law, grandchildren and a large extended family in the APY lands and cross-border areas. Mr Peter was born around 1940 in the bush, near Shirley Well, Kaltjitji or Fregon community. He spent most of his childhood there with his family. He was given ngangkari powers from his grandfather, Peter, who worked as a stockman as well as a ngangkari. He learnt the skills of a ngangkari by studying the work of his three grandfathers, father and other family members who were ngangkari. He learned by watching as they healed people.

Mr Peter was held in the highest regard by Aboriginal people for his unparalleled healing abilities, and I am indebted to the NPY Women's Council for the following information. He was responsible for a major shift in the broader understanding and acceptance of Aboriginal traditional healing through his public speaking and educational work. He was widely respected in the medical fraternity, both nationally and internationally, and believed that the best health outcomes for Aboriginal people would be achieved by collaboration between mainstream medicine and traditional healers.

In 1999 Mr Peter brought his skills as a ngangkari to the NPY Women's Council, and, with other ngangkari, travelled widely around the country healing people and promoting the value of Aboriginal culture and healing practices. His wisdom and deep understanding of human affairs at a spiritual level gave him universal appeal across cultural and national boundaries, and he was revered for his generosity and compassion for those in need. A true gentleman, Mr Peter had an extraordinary ability to make people happy with his warmth, humour and charisma.

Professor Marcia Langton, Patron of the NPY Women's Council, said that his passing will be felt deeply across the nation. As a ngangkari, teacher and leader, he has helped to bridge the cultural divide by helping to raise the understanding of Aboriginal ways of healing in the broader community.

Among many accolades, he was awarded the 2011 International Sigmund Freud Prize from the City of Vienna, the 2009 Mark Sheldon Prize from the Royal Australian and New Zealand College of Psychiatry (RANZCP), and the 2009 Dr Margaret Tobin Award for excellence in the provision of mental health services to those most in need. As he described himself to a packed conference in 2010:

> Today we work as ngangkari over a really extensive area of Central Australia. We do it together because we care; we want to look after people; that's what we were taught. For us, we are continuing a really long tradition of healing within our world, the Pitjantjatjara world. The skills, the way that I do my work, I was taught by my father and grandfather. I grew up in a family that was really strong and clear about the proper way to do things, and that is the way that I work today as a ngangkari.
>
> Today it's really difficult for a lot of children—they find themselves in a really difficult situation. It's not as clear as it was when I was growing up. In these times there are clinics working within the communities and we work really closely with the clinic staff. We respect what they are trying to do and they respect what we are trying to do. We know there are a lot of problems and we work really closely together.

Many of us will not know of Mr Peter ngangkaris or the value of their work. Within their communities, they are a link to the ancient ways of Indigenous culture. Mr Peter and his contribution can be likened to that of people of the stature of the Howard Floreys and Nelson Mandelas of our culture. He was a wise and gentle man who forged a link between his people—the First Australians—and all who have followed since.

Mr Peter was nationally and internationally recognised as a bridge to access health outcomes from contemporary practices and traditional ways. Ancient healing faces many challenges from a modern white society, which has contributed so terribly to the awful statistics that testify to the health status of Aboriginal people throughout Australia today.

While the 'Closing the gap' program has successes, there is much work to be done. The life expectancy and quality of life for Aboriginal people is far behind other Australians, and remains a national shame. Aboriginal people lived with and on the land, and in harmony and health with the land, until the white settlement. Two hundred and twenty-five years later, Aboriginal people face enormous hurdles as they struggle to balance the progress that has been thrust upon them. As they strive to live in the two worlds, we should strive to learn from Mr Peter, his legacy and the wisdom of Aboriginal culture and healing. We may surprise ourselves by what we discover.

With his sparkling eyes and funny, playful ways, Mr Peter was a magnetic presence, loved by men, women and children of all cultures. He was an especially important man for Anangu, with his vast knowledge of lore and culture, and for his role as a master of mediation and reconciliation—kalypalpai (bringing people together), his loving spirit—kurunpa mukulya—his kindness, compassion and generosity spread out beyond his own family to cover everyone he met.

Time expired.

MENTAL HEALTH (INPATIENT) AMENDMENT BILL

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:48): Obtained leave and introduced a bill for an act to amend the Mental Health Act 2009. Read a first time.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:48): 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 *Mental Health (Inpatient) Amendment Bill 2012* makes a subtle but important amendment to the *Mental Health Act 2009* through a change in terminology from detention and treatment order to inpatient treatment order to more accurately reflect the way in which contemporary involuntary mental health treatment is delivered and to remove the negative connotation of the term 'detention' which is often associated with criminality and used in a punitive sense.

Some people with mental illness are our most vulnerable community members and are in need of proper care and treatment—not stigma, labels and judgement by others who may never have experienced what these people can experience on a day-to-day basis.

The introduction of the amendment Bill coincides with a mental health destigmatisation campaign, launched by SA Health in February and running in March and again in May 2012.

The title for detention and treatment orders in the current *Mental Health Act 2009* sends too strong a message about the nature of the orders and leads readers to have a picture of all mental health patients subject to detention and treatment orders being locked up and physically prevented from leaving a treatment centre. This is not an accurate portrayal of our progressive mental health system.

The current *Mental Health Act 2009* provides for two categories of orders, a community treatment order and a detention and treatment order.

A community treatment order requires mandatory treatment of a person living in the community. A detention and treatment order requires mandatory treatment of a person admitted to a treatment centre as an involuntary inpatient.

A common public perception is that those subject to detention and treatment orders are all managed in secure environments, when in reality, contemporary mental health care provides for an involuntary inpatient to be under supervision in non-secure environments, in accordance with the objects and guiding principles of the Act. These principles provide that people with mental illness retain their human rights and dignity as is consistent with their protection, the protection of the public and the proper delivery of the services, and requires patients to be treated in the least restrictive manner possible.

This common perception of persons subject to detention and treatment orders being 'locked up' contributes to negative stigmatisation at a time in their lives when compassion and support is required.

The Bill alters the title of a detention and treatment order in order to better describe that the order is for a person to receive treatment as an involuntary inpatient.

The change in terminology does not in any way change the functions of the orders or the limitations on their duration. It is merely a cosmetic amendment to remove potentially misleading terminology and substitute more accurate terminology. Neither does it change the ability to revoke the orders at any stage to ensure people are not treated involuntarily any longer than is clinically necessary.

Patients who cannot be adequately treated in the community, either voluntarily or under a community treatment order, are best treated subject to an order to receive treatment in an acute mental health inpatient unit. The reality is that not all persons subject to such orders are kept in secured areas. There are only a small number of patients who are clinically assessed as bearing a significant risk of harm necessitating being treated within a secure environment.

There is an ability to forcibly return patients to the inpatient setting if the patient leaves without leave of absence. The parameters under which the powers for returning absconding patients can be used are clarified in this Bill to ensure that people experiencing mental illness who are vulnerable to poor judgment are kept safe and protected from harm. After all, the way in which we look after our vulnerable people, is a measure of a civilised society.

The requirement to obtain a leave of absence and to comply with any conditions of a leave of absence is made express, as is the fact that confinement may be required along with other powers to ensure that necessary treatment may be provided and to maintain order and security at treatment centres. The focus of these provisions is on the ability to provide necessary treatment.

Although it has only been about two years since the *Mental Health Act 2009* came into operation, it has become increasingly evident that not making this change to the terminology at that stage was an oversight, and

consequently continued a way of thinking which does not accurately reflect practice. It is time to now move on from outdated and inaccurate views about the treatment of persons suffering mental illness.

A targeted consultation process with consumers, carers, clinicians and other key stakeholders, which sought feedback, including the suggestion to replace the word 'detention' in the Act was undertaken during the drafting stage of the amendment Bill.

There is no intention to open the Act up for any further amendment at this stage, given the requirement that it be reviewed within four years from the date of its commencement.

It is important with any legislation that it is expressed in clear terms and not in a way that is misleading. This Bill seeks to more accurately describe the nature of treatment orders and reflects contemporary attitudes and approaches to acceptance and treatment of mental illness. Importantly also, it ensures that terminology used in the Mental Health legislation does not contribute to negative stigmatisation and consequent marginalisation of people suffering mental illness, counter to principles of that very legislation.

I commend the Bill to honourable Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal. The Act is to commence on proclamation so that forms can be adjusted in readiness for implementation.

Part 2—Amendment of *Mental Health Act 2009*

4—Amendment of section 3—Interpretation

A detention and treatment order is to become an inpatient treatment order, that is, an order for the treatment of a person who has a mental illness as an inpatient in a treatment centre.

The expressions involuntary inpatient and voluntary inpatient are introduced to distinguish between inpatients who are subject to inpatient treatment orders and those who are not.

This clause amends the interpretation section accordingly.

5—Substitution of section 34

Current section 34, which provides treatment centre staff with necessary powers, is expanded into 2 new sections. Instead of the Act providing expressly for an order for detention, new section 34 provides that an involuntary inpatient in a treatment centre is not permitted to leave the centre or the care and control of treatment centre staff without a leave of absence and new section 34A makes explicit that measures may be taken for the confinement of an involuntary inpatient in a treatment centre, as well as other measures necessary for carrying out the order and maintaining order and security at the centre. Under existing provisions of the Act a patient at large, that is, a patient who has left the centre or such care and control without such leave or who has contravened conditions of leave, may be apprehended and brought back to the treatment centre. The clause recognises that exercise of the powers of confinement etc must be guided, in particular, by the principles set out in section 7 of the Act.

6—Amendment of section 42—ECT

These amendments are not intended to make any substantive change to the law, they simply explain the requirements for consent to ECT using a different approach.

7—Amendment of section 101—Errors in orders etc

This amendment is designed to ensure that a person confirming or varying an order etc may correct minor errors.

Schedule 1—Further amendments of *Mental Health Act 2009*

The change in terminology causes extensive minor amendments of the Act and these are set out in this Schedule.

Schedule 2—Transitional provisions

This Schedule converts current orders to the new names and provides that if, after implementation, an order of the old name is inadvertently made it will be regarded as an order of the new name.

Debate adjourned on motion of Ms Chapman.

RAIL SAFETY NATIONAL LAW (SOUTH AUSTRALIA) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:49): On behalf of the Minister for Transport and Infrastructure, obtained leave and introduced a bill for an act to make provision

for a national system of rail safety; to repeal the Rail Safety Act 2007; to make related amendments to the Rail Commissioners Act 2009, the Railways (Operations and Access) Act 1997 and the Terrorism (Surface Transport) Security Act 2011; and for other purposes. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (15:50): 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.

I am pleased to introduce the *Rail Safety National Law (South Australia) Bill 2012*.

South Australia has the privilege to lead the way in this national reform process that will transform the way the rail industry is regulated in Australia. Australia has had a long history with railways being developed on a State and Territory basis with no contemplation of what occurs over the border.

By Federation in 1901, all States except Western Australia were linked by rail and more than 20,000 km of track had been laid. Sadly, those who envisaged a nation had not contemplated a national rail network. Three different gauges had been used. In 1917, a person wanting to travel from Perth to Brisbane on an east-west crossing of the continent had to change trains six times. It was not until June 1995 that trains could travel between Brisbane and Perth, via Sydney, Melbourne and Adelaide on a standard gauge track.

Rail regulation has had a similar history—with every State and Territory regulating its railways differently. Despite attempts to adopt a common approach inconsistencies between rail safety legislation exist. Over the last decade, there has been a significant attempt to establish consistency and uniformity across rail regulation, including a move in 2006 to create model rail safety law that each State and Territory was to adopt to ensure a consistent co-regulatory approach to rail regulation across Australia. Unfortunately, not all States faithfully delivered this law. South Australia's legislation was among the most consistent with the model law.

It has been the Council of Australian Governments' vision to improve this situation. Similar reforms are also currently underway for heavy vehicles and in commercial marine safety.

The introduction of this Bill will lead the way to nationally uniform regulation of rail transport operators. The aim for rail is to have one single national rail safety regulator who will provide the rail industry with a consistent and reliable co-regulatory approach which will cut red tape and enable those operators who work in multiple jurisdictions to have one certificate of accreditation, and only have to respond to one regulator rather than up to seven different regulators.

It is truly a reflection of the positive light within which South Australia is held by industry that it has been chosen as the host jurisdiction and home for the Office of the National Rail Safety Regulator, which will be created with the passage of this Bill. The National Rail Regulator Project Office has consulted extensively with all relevant stakeholders in all jurisdictions to ensure this Bill will be a workable national approach to rail safety regulation. This is no small task.

Like other recent national reforms such as the National Health Practitioners and the National Occupational Licensing Schemes, this Law is an applied law scheme. This approach is used where referral of power to the Commonwealth is not a desirable option. It requires a host jurisdiction to pass the national Law as a law of that State (generally included as a schedule to the Bill) and then for the other States and Territories to pass legislation applying the schedule in the host jurisdiction's law as their own law.

The Rail Safety National Law clearly expresses the intention, that despite many jurisdictions passing the law, only one single national entity is created. The Law provides for the establishment of the Office of the National Rail Safety Regulator, which comprises of the National Rail Safety Regulator and 2 non-executive members, all appointed by the South Australian Minister upon the unanimous recommendation of all the transport ministers and can include the Commonwealth Minister (the 'responsible ministers'). The Office will be a single body corporate that operates, and can engage staff, on a national basis.

The Law is similar to the existing South Australian *Rail Safety Act 2007*, which it repeals. The Law sets out the functions and powers of the National Rail Safety Regulator, and includes objectives of providing for the effective management of safety risks associated with railway operations and to promote public confidence in the safety of transport of persons or freight by rail. It covers accreditation; registration of rail infrastructure managers of private sidings; safety management; provision of information about rail safety; investigation and reporting by rail transport operators; drug and alcohol testing by the Regulator and enforcement officers; train safety recordings; auditing of railway operations by the Regulator; compliance and enforcement measures; exemptions; review of decisions; and general liability and evidentiary provisions.

There will be a common approach to the prescription of drug and alcohol requirements and fatigue management provisions. The majority of the Bill (apart from the Schedule which contains the Law) deals with testing procedures for drugs and alcohol because jurisdictions have decided to apply their own testing procedures. The procedures in the Bill are those currently used under the *Rail Safety Act 2007*, which in turn mirror those used for other modes of transport—that is, under the *Road Traffic Act 1961* and the *Harbors and Navigation Act 1993*.

The application provisions of the Bill provide that a regulation made under the legislation may be disallowed if a majority of jurisdictions vote against it. This approach has been recommended by the Parliamentary Counsel's

Committee and is supported by industry as providing the greatest certainty that regulations will remain the same in all jurisdictions. If a regulation were to be disallowed in one jurisdiction there would be inconsistent rules for industry and the National Regulator would have to administer several slightly differing administrative schemes. This would undermine the efficiencies and economies the reform is aimed to deliver.

The Council of Australian Governments anticipates that the National Regulator will commence operations by 1 January 2013. I hope the Bill will receive the support of all Members so that it may pass in a timely manner to give as much time to other State and Territory parliaments to pass their application laws by that time.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides that the short title of this measure is the *Rail Safety National Law (South Australia) Act 2012*. South Australia is the host jurisdiction for this national scheme for rail safety and so is the first of the participating jurisdictions to introduce the legislation for consideration. The provisions of this measure, other than the provisions set out in the schedule to this measure, may, from time to time, in this explanation be referred to as the *application provisions*.

2—Commencement

This clause provides that the measure will come into operation on a day to be fixed by proclamation and that section 7(5) of the *Acts Interpretation Act 1915* does not apply to this measure.

3—Interpretation

This clause contains definitions for the purposes of this measure. It also provides that a term used in the local application provisions of this measure (that is, the provisions other than the *Rail Safety National Law* (the *RSNL*) set out in the schedule to this measure) and also in the RSNL have the same meanings in those provisions as they have in the RSNL (to the extent that the context or subject matter does not otherwise indicate or require).

Part 2—Application of Rail Safety National Law

4—Application of Rail Safety National Law

This clause provides that the RSNL, as amended from time to time, and as set out in the schedule to this measure—

- applies as a law of this jurisdiction; and
- as so applying may be referred to as the *Rail Safety National Law (South Australia)*; and
- as so applying is part of this measure

5—Interpretation of certain expressions

This clause defines certain terms used in the RSNL in order to give them a particular meaning in this jurisdiction. Among the terms defined for South Australia's purposes are the following: court, emergency services, Gazette, magistrate, medical practitioner, Minister and police officer.

This clause further provides that, for the purposes of this measure and the *Rail Safety National Law (South Australia)* and any other Act or law—

- the Office of the National Rail Safety Regulator—
  - is not a State entity (and therefore not a South Australian entity); and
  - is not an agency or instrumentality of the South Australian Crown; and
- an employee of the Office of the National Rail Safety Regulator is not a public sector employee employed by a public sector agency.

However, the Office of the National Rail Safety Regulator may still be taken to act on behalf of the Crown in right of South Australia and each other participating jurisdiction (see clause 12(3) of the RSNL).

6—No double jeopardy

This clause provides that if an act or omission is an offence against the *Rail Safety National Law (South Australia)* and is also an offence against a law of another participating jurisdiction and the offender has been punished for the offence under the law of the other jurisdiction, the offender is not liable to be punished for the offence against the *Rail Safety National Law (South Australia)*.

7—Exclusion of legislation of this jurisdiction

This clause provides that the *Acts Interpretation Act 1915* does not apply to the *Rail Safety National Law (South Australia)* or to instruments made under that Law.

Subject to subclause (3), the following Acts of this jurisdiction do not apply to this measure and the *Rail Safety National Law (South Australia)* or to instruments made under that Law (except as applied under the Law):

- the Freedom of Information Act 1991;
- the Ombudsman Act 1972;
- the Public Finance and Audit Act 1987;
- the Public Sector Act 2009;
- the Public Sector (Honesty and Accountability) Act 1995;
- the State Procurement Act 2004;
- the State Records Act 1997.

The Acts referred to in the previous subclause apply to a State entity or an employee of a State entity exercising a function under the *Rail Safety National Law (South Australia)*.

Part 3—National regulations

8—National regulations

Under Part 10 Division 9 of the RSNL, the Governor of South Australia, acting with the advice and consent of the Executive Council of South Australia, is nominated as the designated authority to make the national regulations, on the unanimous recommendation of the responsible Ministers for each of the participating jurisdictions.

This clause provides that the *Subordinate Legislation Act 1978* (other than sections 10, 10A and 11) does not apply to the national regulations.

However, if a regulation made by the Governor for the purposes of the RSNL is disallowed in this jurisdiction, the regulation does not cease to have effect in this jurisdiction unless the regulation is disallowed in a majority of the participating jurisdictions (and, in such a case, the regulation will cease to have effect on the date of its disallowance in the last of the jurisdictions forming the majority).

Part 4—Provisions relating to drug and alcohol testing

This Part makes provision for the carrying out of drug and alcohol testing by the National Rail Safety Regulator under the RSNL in South Australia. While the head of power enabling the Regulator to test rail safety workers for the presence of a drug or alcohol is set out in Part 3 Division 9 of the RSNL, the details as to the procedures to be followed are to be included in the application provisions of each of the participating jurisdictions so to allow for local variation. In this State, the scheme, as provided under this Part, is to remain consistent with the scheme that has been operating here for some time (see Schedule 2 of the *Rail Safety Act 2007*).

Part 5—Repeal and transitional provisions and related amendments

This Part makes provision for the repeal of the *Rail Safety Act 2007*, for transitional arrangements and for related amendments to a number of Acts.

Schedule 1—Rail Safety National Law

Part 1—Preliminary

1—Short title

Provides that this Law may be referred to as the Rail Safety National Law (the RSNL).

2—Commencement

The RSNL will commence as provided by the application Act.

3—Purpose, objects and guiding principles of Law

Sets out the purpose, objects and guiding principles of the RSNL.

4—Interpretation

Sets out the definitions used in the RSNL.

5—Interpretation generally

Schedule 2 of the RSNL sets out the interpretation provisions that apply to the RSNL.

6—Declaration of substance to be drug

Provides for the declaration of substances as drugs for the purposes of the RSNL.

7—Railways to which this Law does not apply

Sets out railways that are not covered by the RSNL.

8—Meaning of rail safety work

Sets out the meaning of rail safety work.

9—Single national entity

Provides that the intention of Parliament is for the RSNL applied by this jurisdiction, together with other jurisdictions, to create 1 single national entity.

10—Extraterritorial operation of Law

Provides for the extraterritorial operation of the RSNL to the extent allowable.

11—Crown to be bound

Provides that the RSNL binds the Crown.

Part 2—Office of the National Rail Safety Regulator

Division 1—Establishment, functions, objectives, etc

12—Establishment

Establishes the Office of the National Rail Safety Regulator (ONRSR) as a body corporate. ONRSR would represent the Crown of each participating jurisdiction, but would not thereby become a Crown agency or instrumentality as such.

13—Functions and objectives

Sets out the functions and objectives of the ONRSR.

14—Independence of ONRSR

Provides that except as otherwise provided, the ONRSR is not subject to Ministerial direction in the exercise of its functions or powers.

15—Powers

Sets out the powers of the ONRSR.

Division 2—Office of the National Rail Safety Regulator

Subdivision 1—Constitution of ONRSR

16—Constitution of ONRSR

Sets out the membership of the ONRSR.

Subdivision 2—National Rail Safety Regulator

17—Appointment of Regulator

Provides for the appointment of the National Rail Safety Regulator (the Regulator).

18—Acting National Rail Safety Regulator

Provides for the appointment of an acting National Rail Safety Regulator.

19—Functions of Regulator

Sets out the functions of the Regulator

20—Power of Regulator to obtain information

Gives the Regulator the power to obtain information that will assist in monitoring or enforcing compliance with the RSNL.

Subdivision 3—Non-executive members

21—Appointment of non-executive members

Provides for the appointment of non-executive members of the ONRSR.

Subdivision 4—Miscellaneous provisions relating to membership

22—Vacancy in or removal from office

Sets out when the office of a member of the ONRSR becomes vacant or may be removed.

23—Member to give responsible Ministers notice of certain events

Sets out that a member of the ONRSR must notify the Minister of the member's bankruptcy or conviction of an offence.

24—Extension of term of office during vacancy in membership

Provides that a member's term of office may be extended until a vacancy is filled.

25—Members to act in public interest

Provides that members of the ONRSR must act in the public interest.

26—Disclosure of conflict of interest

Provides that members of ONRSR must give notice of any conflict of interest.

Division 3—Procedures

27—Times and places of meetings

Provides that meetings are to be held in order to conduct the business of the ONRSR.

28—Conduct of meetings

Sets out the requirements for the conduct of ONRSR meetings.

29—Defects in appointment of members

Provides that ONRSR business is not affected by irregularity in the appointment of a member.

30—Decisions without meetings

Provides for decisions of ONRSR without a meeting.

31—Common seal and execution of documents

Sets out provisions for the use of the common seal of the ONRSR.

Division 4—Finance

32—Establishment of Fund

Establishes the National Rail Safety Regulator Fund (the Fund).

33—Payments into Fund

Provides for payments into the Fund.

34—Payments out of Fund

Provides for payments out of the Fund.

35—Investment of money in Fund

Allows for investment of funds and requires records to be kept.

36—Financial management duties of ONRSR

Sets out the duties of the ONRSR in relation to its financial management.

Division 5—Staff

37—Chief executive

Provides that the Regulator is the chief executive of the ONRSR.

38—Staff

Provides for the employment of staff by the ONRSR.

39—Secondments to ONRSR

Provides for the secondment of staff to the ONRSR from government agencies.

40—Consultants and contractors

Provides that the ONRSR may engage contractors and consultants.

Division 6—Miscellaneous

41—Regulator may be directed to investigate rail safety matter

Provides that the Minister may direct the Regulator to investigate or provide information or advice about a rail safety matter.

42—National Rail Safety Register

Provides that the Regulator must establish and maintain the National Rail Safety Register and sets out what is to be included in the Register.

43—Annual report

Requires the Regulator to provide an annual report to the responsible Ministers and sets out the requirements for the report.

44—Other reporting requirements

Provides that the national regulations may stipulate other reporting requirements.

45—Delegation

Provides the ONRSR with the power to delegate its functions or powers.

Part 3—Regulation of rail safety

Division 1—Interpretation

46—Management of risks

Provides that safety duties imposed by the RSNL are to eliminate or minimise risks to safety so far as reasonably practicable.

47—Meaning of reasonably practicable

Sets out the meaning of 'reasonably practicable' in relation to duties of safety.

Division 2—Occupational health and safety and railway operations

48—Relationship between this Law and OHS legislation

Sets out the relationship between this Law and occupational health and safety legislation.

49—No double jeopardy

Provides that there is no double jeopardy in relation to offences under the RSNL or occupational health and safety legislation.

Division 3—Rail safety duties

Subdivision 1—Principles

50—Principles of shared responsibility, accountability, integrated risk management, etc

Provides that rail safety is the responsibility of rail transport operators, rail safety workers and others who work on, with or supply rolling stock or rail infrastructure.

51—Principles applying to rail safety duties

Sets out the principles that apply to duties under the RSNL.

Subdivision 2—Duties

52—Duties of rail transport operators

Sets out the rail safety duties of rail transport operators.

53—Duties of designers, manufacturers, suppliers etc

Sets out the rail safety duties of designers, manufacturers and suppliers and others involved in things used as or in connection with rail infrastructure or rolling stock.

54—Duties of persons loading or unloading freight

Sets out the rail safety duties of persons loading or unloading freight from rolling stock.

55—Duty of officers to exercise due diligence

Provides that officers of a person who has a duty or obligation under the RSNL must exercise due diligence to ensure the person complies with that duty or obligation and sets out the meaning of 'due diligence'.

56—Duties of rail safety workers

Sets out the duties of rail safety workers carrying out rail safety work.

Subdivision 3—Offences and penalties

57—Meaning of *safety duty*

Sets out the meaning of safety duty for the purposes of the subdivision.

58—Failure to comply with safety duty—reckless conduct—Category 1

Sets out what is a 'category 1' offence in relation to a breach of a safety duty.

59—Failure to comply with safety duty—Category 2

Sets out what is a 'category 2' offence in relation to a breach of a safety duty.

60—Failure to comply with safety duty—Category 3

Sets out what is a 'category 3' offence in relation to a breach of a safety duty.

Division 4—Accreditation

Subdivision 1—Purpose and requirement for accreditation

61—Purpose of accreditation

Sets out the purpose for accreditation.

62—Accreditation required for railway operations

Sets out the accreditation requirements for a person carrying out railway operations.

63—Purposes for which accreditation may be granted

Sets out the purposes for which a rail transport operator may be granted accreditation.

Subdivision 2—Procedures for granting accreditation

64—Application for accreditation

Sets out the application process and requirements for accreditation.

65—What applicant must demonstrate

Sets out what an applicant for accreditation must show.

66—Regulator may direct applicants to coordinate applications

Provides that applicants may have to coordinate the preparation of applications for accreditation for rail safety reasons.

67—Determination of application

Sets out the process for granting accreditation and for imposing restrictions and conditions on accreditation.

Subdivision 3—Variation of accreditation

68—Application for variation of accreditation

Provides for an accredited person to apply for the variation of the accreditation.

69—Determination of application for variation

Provides for the determination of an application for variation of accreditation.

70—Prescribed conditions and restrictions

Provides that a varied accreditation is subject to any conditions and restrictions prescribed by the national regulations.

71—Variation of conditions and restrictions

Provides that an accredited person may apply to the Regulator to vary or revoke any conditions or restrictions on the accreditation.

72—Regulator may make changes to conditions or restrictions

Gives the Regulator the power to vary or revoke a condition of accreditation at any time and sets out the process for so doing.

Subdivision 4—Revocation, suspension or surrender of accreditation

73—Revocation or suspension of accreditation

Provides that the Regulator may revoke or suspend a person's accreditation in particular circumstances.

74—Immediate suspension of accreditation

In the case of an immediate and serous risk to safety the Regulator may suspend an accreditation immediately.

75—Surrender of accreditation

Sets out the manner in which a person may surrender his or her accreditation.

Subdivision 5—Miscellaneous

76—Annual fees

Provides for the payment of accreditation fees.

77—Waiver of fees

Gives the Regulator the power to waive or refund fees.

78—Penalty for breach of condition or restriction

Provides that it is an offence to breach a condition or restriction of accreditation that applies under Part 3.

79—Accreditation cannot be transferred or assigned

Provides that it is not possible to transfer or assign an accreditation.

80—Sale or transfer of railway operations by accredited person

Provides for the waiver by the Regulator of compliance with certain requirements of Part 3 in relation to the application for accreditation by a person proposing to purchase railway operations of an accredited person.

81—Keeping and making available records for public inspection

Requires that current notices of accreditation or exemptions or other prescribed documents must be available for inspection.

Division 5—Registration of rail infrastructure managers of private sidings

Subdivision 1—Exemptions relating to certain private sidings

82—Exemption from accreditation in respect of certain private sidings

Provides for the exemption from accreditation for railway operations carried out by a rail infrastructure manager in a private siding.

83—Requirement for managers of certain private sidings to be registered

Provides that a rail infrastructure manager of a private siding that is connected with, or has access to, the railway of an accredited person or another private siding, must be registered in relation to that private siding.

Subdivision 2—Procedures for granting registration

84—Application for registration

Sets out the application process for the registration of a rail infrastructure manager in relation to a private siding.

85—What applicant must demonstrate

Sets out what the Regulator must be satisfied of before granting registration to an applicant.

86—Determination of application

Sets out the process for the determination of an application for registration and the imposition of conditions and restrictions

Subdivision 3—Variation of registration

87—Application for variation of registration

Provides that a registered person may apply to the Regulator for the variation of registration at any time, and sets out the process required.

88—Determination of application for variation

Sets out the process for determining an application for the variation of registration.

89—Prescribed conditions and restrictions

Provides that registration as varied is subject to any conditions or restrictions prescribed by the national regulations.

90—Variation of conditions and restrictions

Provides for the application by a registered person for the variation or revocation of conditions or restrictions of registration.

91—Regulator may make changes to conditions or restrictions

Provides that the Regulator may vary, revoke or impose new conditions or restrictions on the registration of a registered person.

Subdivision 4—Revocation, suspension or surrender of registration

92—Revocation or suspension of registration

Provides that the Regulator may suspend or revoke registration of a registered person in certain circumstances.

93—Immediate suspension of registration

Provides that registration may be suspended immediately by the Regulator if there is an immediate and serous risk to safety.

94—Surrender of registration

Provides that a person may surrender his or her registration and sets out the process required.

Subdivision 5—Miscellaneous

95—Annual fees

Provides for fees prescribed by the national regulations to be paid by a registered person.

96—Waiver of fees

Provides that the Regulator may waive or refund fees.

97—Registration cannot be transferred or assigned

Provides that it is not possible to transfer or assign registration.

98—Offences relating to registration

Sets out the offences in relation to registration including breach of a condition or restriction of registration.

Division 6—Safety management

Subdivision 1—Safety management systems

99—Safety management system

Requires a rail transport operator to have a safety management system in relation to the railway operations for which he or she is required to be accredited. Sets out the requirements for that safety management system.

100—Conduct of assessments for identified risks

Sets out the manner in which a rail transport operator must make an assessment of risks for the purposes of the safety management system.

101—Compliance with safety management system

It is an offence for a rail transport operator to fail to comply with the operator's safety management system.

102—Review of safety management system

A rail transport operator must review the safety management system in accordance with the national regulations.

103—Safety performance reports

Requires a rail transport operator to give the Regulator a safety performance report in relation to the operator's railway operations.

104—Regulator may direct amendment of safety management system

Provides that the Regulator may direct a person to amend the person's safety management system.

Subdivision 2—Interface agreements

105—Requirements for and scope of interface agreements

Sets out the requirements for an interface agreement between 2 or more rail transport operators or a rail transport operator and 1 or more road managers to manage risks to safety.

106—Interface coordination—rail transport operators

Requires a rail transport operator to identify and assess risks to safety arising from the operator's railway operations due to the operations of any other rail transport operator. Provides for entering into an interface agreement in order to manage those risks.

107—Interface coordination—rail infrastructure and public roads

Requires a rail infrastructure manger to identify and assess risks to safety arising from railway operations carried out on the manager's rail infrastructure in relation to a public road or any rail or road crossing that is part of a public road. Provides for entering into an interface agreement with a road manager in order to manage those risks.

108—Interface coordination—rail infrastructure and private roads

Requires a rail infrastructure manger to identify and assess risks to safety arising from railway operations carried out on the manager's rail infrastructure due to the existence of any rail or road crossing that is part of the road infrastructure of a private road. Provides for entering into an interface agreement with the road manager in order to manage those risks.

109—Identification and assessment of risks

Provides for the manner of identification and assessment of risks by rail transport operators, rail infrastructure managers or road managers.

110—Regulator may give directions

Provides for the Regulator to give directions in certain circumstances in relation to the entering into of an interface agreement by various parties. The Regulator may, in the absence of an interface agreement, determine the arrangements that are to apply in relation to the management of identified risks to safety.

111—Register of interface agreements

Provides that a rail transport operator or road manager must keep a register of any interface agreements to which it is a party, or any arrangements determined by the Regulator to apply under clause 110.

Subdivision 3—Other safety plans and programs

112—Security management plan

Requires a rail transport operator to have a security management plan in relation to the operator's railway operations and sets out the requirements for that plan.

113—Emergency management plan

Requires a rail transport operator to have an emergency management plan in relation to the operator's railway operations and sets out the requirements for that plan.

114—Health and fitness management program

Requires a rail transport operator to prepare and implement a health and fitness program for rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

115—Drug and alcohol management program

Requires a rail transport operator to prepare and implement a drug and alcohol management program for rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

116—Fatigue risk management program

Requires a rail transport operator to prepare and implement a program for the management of fatigue of rail safety workers who carry out rail safety work in relation to the operator's railway operations. The program to comply with requirements prescribed by the national regulations.

Subdivision 4—Provisions relating to rail safety workers

117—Assessment of competence

Requires a rail transport operator to ensure that a rail safety worker carrying rail safety work is competent to do so. Sets out the process for assessing that competence.

118—Identification of rail safety workers

Requires a rail safety worker to carry identification that allows for the checking of training or competence by a rail safety officer.

Subdivision 5—Other persons to comply with safety management system

119—Other persons to comply with safety management system

Requires persons other than employees carrying out railway operations in relation to rail infrastructure or rolling stock of a rail transport operator, to comply with the operator's safety management system.

Division 7—Information about rail safety etc

120—Power of Regulator to obtain information from rail transport operators

Gives the Regulator the power to obtain certain information from rail transport operators.

Division 8—Investigating and reporting by rail transport operators

121—Notification of certain occurrences

Requires a rail transport operator to provide information about a notifiable occurrence that happens on or in relation to the operator's railway premises or operations.

122—Investigation of notifiable occurrences

Regulator may require an operator to investigate a notifiable occurrence or other occurrences that have endangered safety.

Division 9—Drug and alcohol testing by Regulator

123—Testing for presence of drugs or alcohol

Provides that a rail safety worker may be tested for the presence of drugs and alcohol in accordance with the RSNL and the application Act.

124—Appointment of authorised persons

Provides that the Regulator may appoint authorised persons in relation to drug and alcohol testing.

125—Identity cards

Requires authorised persons to have identity cards.

126—Authorised person may require preliminary breath test or breath analysis

Provides for an authorised person to require a rail safety worker to submit to breath testing.

127—Authorised person may require drug screening test, oral fluid analysis and blood test

Provides for an authorised person to require a rail safety worker to submit to a drug screening test, oral fluid analysis or blood test.

128—Offence relating to prescribed concentration of alcohol or prescribed drug

Sets out the offences for a rail safety worker in relation to undertaking rail safety work while there is the prescribed concentration of alcohol present in his or her blood, or a prescribed drug present in his or her oral fluid or blood or is under the influence of drugs or alcohol.

129—Oral fluid or blood sample or results of analysis etc not to be used for other purposes

Restricts the use of samples of oral fluid or blood or other forensic material collected for drug and alcohol testing for the purposes of the RSNL.

Division 10—Train safety recordings

130—Interpretation

Defines the meaning of '*train safety recording*'.

131—Disclosure of train safety recordings

Provides for restrictions on the disclosure of rail safety recordings .

132—Admissibility of evidence of train safety recordings in civil proceedings

Restricts the use of train safety recordings in civil proceedings.

Division 11—Audit of railway operations by Regulator

133—Audit of railway operations by Regulator

Provides for the audit of the railway operations of a rail transport operator by the Regulator.

Part 4—Securing compliance

Division 1—Guiding principle

134—Guiding principle

Sets out the guiding principles in relation to the enforcement of the RSNL.

Division 2—Rail safety officers

135—Appointment

Provides for the appointment of rail safety officers by the Regulator.

136—Identity cards

Requires rail safety officers to have identity cards.

137—Accountability of rail safety officers

Sets out requirements for the accountability of rail safety officers.

138—Suspension and ending of appointment of rail safety officers

Provides that the Regulator may suspend or terminate the appointment of a rail safety officer.

Division 3—Regulator has functions and powers of rail safety officers

139—Regulator has functions and powers of rail safety officers

Provides that the Regulator has the functions and powers of a rail safety officer under the RSNL, and a reference to a rail safety officer includes a reference to the Regulator.

Division 4—Functions and powers of rail safety officers

140—Functions and powers

Sets out the functions and powers of rail safety officers.

141—Conditions on rail safety officers' powers

The powers of a rail safety officer are subject to any conditions set out in his or her instrument of appointment.

142—Rail safety officers subject to Regulator's directions

Provides that the Regulator may give directions to a rail safety officer in the exercise of his or her powers.

Division 5—Powers relating to entry

Subdivision 1—General powers of entry

143—Powers of entry

Sets out a rail safety officer's powers of entry.

144—Notification of entry

Provides that notification of entry by a rail safety officer may not be required.

145—General powers on entry

Sets out the general powers of a rail safety officer on entry to a place.

146—Persons assisting rail safety officers

Persons assisting a rail safety officer may accompany the officer on entering a place.

147—Use of electronic equipment

Provides that equipment present at a place of entry may be used by a rail safety officer in order to access information found.

148—Use of equipment to examine or process things

Provides that a rail safety officer may bring equipment to a place in order to examine or process things found at the place entered in order to determine if they may be seized.

149—Securing a site

Sets out the powers of an authorised officer (rail safety officer or police officer) to secure a site to protect evidence.

Subdivision 2—Search warrants

150—Search warrants

Sets out procedures and requirements for search warrants.

151—Announcement before entry on warrant

Provides that an announcement is required before entering a place on a warrant.

152—Copy of warrant to be given to person with control or management of place

Requires a copy of a warrant to be given to the person in charge of a place.

Subdivision 3—Limitation on entry powers

153—Places used for residential purposes

Sets out limitations on the power of entry in relation to residential premises.

Subdivision 4—Specific powers on entry

154—Power to require production of documents and answers to questions

Provides that a rail safety officer may require a person to produce documents or answer questions on entry to a place.

155—Abrogation of privilege against self-incrimination

Provides that a person cannot refuse to answer a question or give information on the grounds of self-incrimination. However, such answers or information cannot be used against them in civil or criminal proceedings other than those for providing false or misleading information.

156—Warning to be given

Provides that a rail safety officer must give a person certain warnings before requiring a person to answer a question or provide information.

157—Power to copy and retain documents

Gives a rail safety officer the power to copy and retain documents.

Subdivision 5—Powers to support seizure

158—Power to seize evidence etc

Gives a rail safety officer the power to seize anything that he or she reasonably believes may be evidence of an offence against the RSNL.

159—Directions relating to seizure

Provides that, in order to seize something, a rail safety officer may give certain directions to a person who has control of it.

160—Rail safety officer may direct a thing's return

Provides that a rail safety officer may also give directions in relation to the return of something.

161—Receipt for seized things

Provides that a receipt is to be provided for anything seized.

162—Forfeiture of seized things

Provides for the forfeiture of things seized in certain circumstances.

163—Return of seized things

Provides that a person may apply to the Regulator for the return of a thing that has been seized.

164—Access to seized thing

Provides that a person may be given access by a rail safety officer to something that has been seized.

Division 6—Damage and compensation

165—Damage etc to be minimised

Provides that in the exercise of a power under the RSNL, a rail safety officer must take reasonable steps to cause as little damage, detriment and inconvenience as is practicable.

166—Rail safety officer to give notice of damage

Provides for a rail safety officer to give notice of any damage to a thing in exercising a power under the RSNL.

167—Compensation

Provides that a person may apply for compensation from the Regulator for any loss or expense incurred due to the exercise of a power under Part 4 Division 5 of the RSNL.

Division 7—Other matters

168—Power to require name and address

Provides that a rail safety officer may require a person to give his or her name and address in certain circumstances.

169—Rail safety officer may take affidavits

Gives rail safety officers the authority to take an affidavit.

170—Attendance of rail safety officer at inquiries

Provides that a rail safety officer may participate in an inquiry in relation to an incident involving rail safety.

171—Directions may be given under more than 1 provision

Provides for a rail safety officer to be able to give one or more directions in relation to an exercise of power.

Division 8—Offences in relation to rail safety officers

172—Offence to hinder or obstruct rail safety officer

Provides that it is an offence to hinder or obstruct a rail safety officer in the performance of his or her duties.

173—Offence to impersonate rail safety officer

Provides that a person must not impersonate a rail safety officer.

174—Offence to assault, threaten or intimidate rail safety officer

Provides that it is an offence to assault, threaten or intimidate a rail safety officer.

Part 5—Enforcement measures

Division 1—Improvement notices

175—Issue of improvement notices

Provides for the issue of improvement notices by a rail safety officer in certain circumstances.

176—Contents of improvement notices

Sets out the required contents of an improvement notice.

177—Compliance with improvement notice

Requires a person issued with an improvement notice to comply with it.

178—Extension of time for compliance with improvement notices

Allows for an extension of time in order to comply with an improvement notice.

Division 2—Prohibition notices

179—Issue of prohibition notice

Provides for the issue of a prohibition notice by a rail safety officer in certain circumstances which involve an immediate risk to safety.

180—Contents of prohibition notice

Sets out the required contents of the prohibition notice.

181—Compliance with prohibition notice

Requires a person to comply with a prohibition notice or direction under this Division.

Division 3—Non-disturbance notices

182—Issue of non-disturbance notice

Provides that a rail safety officer may issue a non-disturbance notice to a person with the control or management of a railway premises in order to facilitate the exercise of his or her powers under the RSNL.

183—Contents of non-disturbance notice

Sets out the required contents of a non-disturbance notice.

184—Compliance with non-disturbance notice

Provides that a person must comply with a non-disturbance notice unless they have a reasonable excuse.

185—Issue of subsequent notices

Provides that further notices may be issued if a rail safety officer considers it necessary.

Division 4—General requirements applying to notices

186—Application of Division

Provides that this Division applies to an improvement notice, prohibition notice or non-disturbance notice.

187—Notice to be in writing

Provides that a notice must be in writing and if given orally must be reduced to writing as soon as practicable.

188—Directions in notices

Provides that directions contained in a notice may refer to an approved code of practice or offer a person a choice of ways in which to remedy a contravention.

189—Recommendations in notice

Provides that an improvement notice or a prohibition notice may include recommendations.

190—Variation or cancellation of notice by rail safety officer

Provides that a rail safety officer may make minor changes to a notice.

191—Formal irregularities or defects in notice

Provides that irregularities in a notice will not invalidate the notice.

192—Serving notices

Sets out provisions for the service of notices.

Division 5—Remedial action

193—When Regulator may carry out action

Provides that the Regulator may take remedial action to make a situation or premises safe where a person fails to take reasonable steps to comply with a prohibition notice.

194—Power of Regulator to take other remedial action

Provides that the Regulator may take remedial action where the person with the control or management of premises cannot be found and thus no prohibition order could be issued.

195—Costs of remedial or other action

Provides that reasonable costs of remedial action may be recovered by the Regulator.

Division 6—Injunctions

196—Application of Division

Provides that this Division applies to an improvement notice, a prohibition notice or a non-disturbance notice.

197—Injunctions for non-compliance with notices

Provides that the Regulator may apply to the court for an injunction in relation to a notice.

Division 7—Miscellaneous

198—Response to certain reports

Provides that in response to certain reports, the Regulator may give directions in a notice to a rail transport operator to install safety or protective systems, devices, equipment or appliances in relation to rail infrastructure or rolling stock, as specified in the notice. Sets out the requirements for such a direction.

199—Power to require works to stop

Sets out provisions to ensure the safety or operational integrity of a railway in relation to works being carried out near a railway.

200—Temporary closing of railway crossings, bridges etc

Provides that an authorised officer may close temporarily a railway crossing, bridge, subway or other structure for crossing over or under a railway, if there is an immediate threat to safety.

201—Use of force

Provides that in exercising a power to enter railway premises or do anything in or on railway premises, a rail safety officer must not use more force than is reasonably necessary.

202—Power to use force against persons to be exercised only by police officers

Provides that force against a person must not be used by a person who is not a police officer.

Part 6—Exemptions

Division 1—Ministerial exemptions

203—Ministerial exemptions

Provides for exemptions from the RSNL granted by the Minister, after consultation with the Regulator.

Division 2—Exemptions granted by Regulator

Subdivision 1—Interpretation

204—Interpretation

Provides that this Division applies to specified provisions of the RSNL.

Subdivision 2—Procedures for conferring exemptions

205—Application for exemption

Provides for a rail transport operator to apply to the Regulator for an exemption from a particular provision of the RSNL .

206—What applicant must demonstrate

Sets out what an applicant for an exemption must demonstrate before an exemption may be granted by the Regulator.

207—Determination of application

Sets out the provisions for the determination of an application for an exemption by the Regulator.

Subdivision 3—Variation of an exemption

208—Application for variation of an exemption

Provides that a rail transport operator may apply to the Regulator for a variation of an exemption.

209—Determination of application for variation

Provides for the determination of an application for the variation of an exemption by the Regulator.

210—Prescribed conditions and restrictions

Provides that an exemption granted by the Regulator that is varied is subject to any conditions or restrictions prescribed by the national regulations.

211—Variation of conditions and restrictions

Provides that a rail transport operator who has been granted an exemption may apply to the Regulator for the variation of a condition or restriction imposed on the exemption.

212—Regulator may make changes to conditions or restrictions

Provides that the Regulator may at any time vary or revoke a condition or restriction imposed on an exemption, or impose a new condition or restriction.

Subdivision 4—Revocation or suspension of an exemption

213—Revocation or suspension of an exemption

Gives the Regulator the power to suspend or revoke an exemption in certain circumstances.

Subdivision 5—Penalty for breach of condition or restriction

214—Penalty for breach of condition or restriction

It is an offence for a rail transport operator to contravene a condition or restriction of an exemption granted by the Regulator.

Part 7—Review of decisions

215—Reviewable decisions

Sets out the decisions made under the RSNL that are reviewable (a reviewable decision) and who is eligible to apply for a review.

216—Review by Regulator

Sets out the process that applies in respect of a reviewable decision made by the Regulator.

217—Appeals

Provides for an appeal to the court in respect of certain decisions.

Part 8—General liability and evidentiary provisions

Division 1—Legal proceedings

Subdivision 1—General matters

218—Period within which proceedings for offences may be commenced

Sets out the period in which proceedings for an offence may be commenced.

219—Multiple contraventions of rail safety duty provision

Provides that 2 or more contraventions of a rail safety duty arising out of the same factual circumstances may be charged as a single offence or as separate offences.

220—Authority to take proceedings

Provides that certain legal proceedings will first require the approval of the Minister or the Regulator.

Subdivision 2—Imputing conduct to bodies corporate

221—Imputing conduct to bodies corporate

Provides for certain conduct to be imputed to bodies corporate.

Subdivision 3—Records and evidence

222—Records and evidence from records

Provides that the Regulator may sign a certificate that certifies as to matters required to be recorded in the National Safety Register for the purposes of legal proceedings.

223—Certificate evidence

Provides for the Regulator, a rail safety officer or a police officer to provide a certificate as to any matter that appears in certain records, that is admissible as evidence in court proceedings.

224—Proof of appointments and signatures unnecessary

Provides that it is not necessary to prove appointments or signatures.

Division 2—Discrimination against employees

225—Dismissal or other victimisation of employee

Provides that it is an offence for an employer to victimise an employee who has assisted or made a complaint in relation to a breach or alleged breach of an Australian rail safety law.

Division 3—Offences

226—Offence to give false or misleading information

Provides that it is an offence to give false or misleading information or documents.

227—Not to interfere with train, tram etc

Provides that it is an offence to interfere with rolling stock, rail infrastructure or equipment of a rail transport operator.

228—Applying brake or emergency device

Provides that it is an offence to apply a brake or emergency device on a train or tram or on railway premises without a reasonable excuse.

229—Stopping a train or tram

Provides that it is an offence to stop a tram or train without reasonable excuse.

Division 4—Court-based sanctions

230—Commercial benefits order

Provides for a court to make a commercial benefits order on the application of the prosecutor or the Regulator if a person is found guilty of an offence.

231—Supervisory intervention order

Provides for a court to make a supervisory intervention order on the application of the prosecutor or the Regulator if a person is found guilty of an offence and the court considers the person to be a systematic and persistent offender against the rail safety laws.

232—Exclusion orders

Provides for a court to make an exclusion order on the application of the prosecutor or the Regulator if a person is found guilty of an offence and the court considers the person to be a systematic and persistent offender against the rail safety laws.

Part 9—Infringement notices

233—Meaning of infringement penalty provision

Sets out the meaning of an '*infringement penalty provision*'.

234—Power to serve notice

Provides the Regulator with the power to serve an infringement notice on a person who has breached an infringement penalty provision.

235—Form of notice

Sets out the requirements for an infringement notice.

236—Regulator cannot institute proceedings while infringement notice on foot

Provides that the Regulator must not institute proceedings in relation to a breach for which an infringement notice has been served and is current.

237—Late payment of penalty

Provides for payment of an infringement penalty after the time for payment has expired.

238—Withdrawal of notice

Provides that the Regulator may withdraw an infringement notice at any time.

239—Refund of infringement penalty

Provides that if an infringement notice is withdrawn by the Regulator, any infringement penalty paid must be refunded.

240—Payment expiates breach of infringement penalty provision

Provides that if an infringement penalty is paid and a notice has not been withdrawn, then no proceedings can be taken in respect of the alleged breach.

241—Payment not to have certain consequences

Provides that payment of an infringement penalty is not to be taken to be an admission of liability for the purpose of any proceedings instituted in respect of the breach.

242—Conduct in breach of more than 1 infringement penalty provision

Provides that if a person's conduct constitutes a breach of 2 or more infringement penalty provisions, an infringement notice may be served in relation to the breach of any 1 or more of those provisions. However, a person is liable to pay no more than one infringement penalty in respect of the same conduct.

Part 10—General

Division 1—Delegation by Minister

243—Delegation by Minister

Provides that the Minister may delegate a function or power of the Minister under the RSNL.

Division 2—Confidentiality of information

244—Confidentiality of information

Provides for the protection of confidential information.

Division 3—Law does not affect legal professional privilege

245—Law does not affect legal professional privilege

Provides that information or documents that are subject to legal professional privilege are protected.

Division 4—Civil liability

246—Civil liability not affected by Part 3 Division 3 or Division 6

Provides that nothing in Part 3 Division 3 (*Rail safety duties*) or Division 6 (*Safety management*) affects civil proceedings.

247—Protection from personal liability for persons exercising functions

Provides that certain persons exercising a function under the RSNL are protected from personal liability for things done or omitted in good faith. Any liability attaches instead to the ONRSR.

248—Immunity for reporting unfit rail safety worker

Provides certain health professionals with immunity for providing information that discloses a rail safety worker as unfit to carry out rail safety work.

Division 5—Codes of practice

249—Approved codes of practice

Provides that responsible Ministers may approve a code of practice for the purposes of the RSNL.

250—Use of codes of practice in proceedings

Provides that an approved code of practice may be used in proceedings for an offence against the RSNL as evidence of whether or not a duty or obligation has been complied with.

Division 6—Enforceable voluntary undertakings

251—Enforceable voluntary undertaking

Provides that the Regulator may accept a written rail safety undertaking in relation to a contravention or alleged contravention of the RSNL (other than for a Category 1 offence).

252—Notice of decisions and reasons for decision

Provides that the Regulator must give notice and reasons of the Regulator's decision to accept or reject an undertaking and must publish a notice of the decision to accept a rail safety undertaking and the reasons for doing so.

253—When a rail safety undertaking is enforceable

Provides that a rail safety undertaking accepted by the Regulator is enforceable.

254—Compliance with rail safety undertaking

Provides that it is an offence for a person to fail to comply with a rail safety undertaking made by that person.

255—Contravention of rail safety undertaking

Provides that the Regulator may apply to the court for enforcement of an rail safety undertaking.

256—Withdrawal or variation of rail safety undertaking

Provides that a person who has made a rail safety undertaking may, with the written agreement of the Regulator, withdraw or vary the undertaking.

257—Proceedings for alleged contravention

Provides that no proceedings for a contravention or alleged contravention of the RSNL may be brought against a person if there is a rail safety undertaking in effect in relation to that contravention. A rail safety undertaking may be accepted by the Regulator in relation to proceedings that have not been finalised, in which case the proceedings are to be discontinued.

Division 7—Other matters

258—Service of documents

Sets out the procedures for service.

259—Recovery of certain costs

Provides for the recovery by the Regulator from a rail transport operator of the reasonable costs of inspection of railway infrastructure, rolling stock or railway premises (other than an inspection under Part 3 Division 11).

260—Recovery of amounts due

Provides that fees, charges and other amounts payable under the RSNL may be recovered a debt due to the Regulator.

261—Compliance with conditions of accreditation or registration

Provides that a person who complies with a condition or restriction of accreditation or registration, will be taken to have complied with the RSNL.

262—Contracting out prohibited

Prohibits the ability for a contract or agreement to exclude, limit or modify the operation of the RSNL or any duty under the RSNL.

Division 8—Application of certain South Australian Acts to this Law

263—Application of certain South Australian Acts to this Law

Sets out the application of certain South Australian Acts to the RSNL and provides that the national regulations may modify these Acts for the purposes of the RSNL.

Division 9—National regulations

264—National regulations

Sets out provisions in relation to the making of the national regulations.

265—Publication of national regulations

Provides that the national regulations are to be published on the NSW legislation website.

Schedule 1—National regulations

This Schedule sets out the matters in relation to which the national regulations may be made.

Schedule 2—Miscellaneous provisions relating to interpretation

This Schedule sets out provisions governing the interpretation of the RSNL. These provisions are necessary due to the disapplication of the *Acts Interpretation Act 1915*.

Debate adjourned on motion of Ms Chapman.

WATER INDUSTRY BILL

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

No. 1. Clause 4, page 9, after line 25—Insert:

River Murray has the same meaning as in the *River Murray Act 2003*;

No. 2. Clause 18, page 18, after line 18—Insert:

(6) In connection with the operation of this section—

(a) the Minister must establish a set of community service obligations that require SA Water to continue to provide services within those areas of the State in which services are provided immediately before the commencement of subsection (2) unless the Minister grants an approval for the discontinuance of any such service; and

(b) if the Minister grants an approval under paragraph (a), the Minister must immediately prepare a report in relation to the matter and cause copies of the report to be laid before both Houses of Parliament within 6 sitting days after the approval is given.

No. 3. Clause 24, page 20, after line 26—Insert:

(3a) The Treasurer must, within 14 days after the receipt of a report under subsection (3), cause a copy of the report to be published on the Department of Treasury and Finance's website.

No. 4. Clause 25, page 22, after line 20—Insert:

(1a) The Commission must, in acting under subsection (1), have regard to the scale and nature of the operations of the water industry entity (with the scale and nature being determined by the Commission after consultation with the entity or a person or body nominated by the entity).

No. 5. Clause 25, page 22, line 25—Delete ', if the Minister so requires,'

No. 6. Clause 26, page 23, after line 15—Insert:

(4) The Minister must use his or her best endeavours to introduce into Parliament within 9 months after the commencement of this section a Bill for an Act to provide for a third party access regime to water infrastructure and sewerage infrastructure services

operated by entities licensed under this Part (after taking into account the contents of the report prepared under subsection (1) and any other relevant factor).

No. 7. New Division, page 27, after line 3—Insert:

Division 4A—Customer hardship policies

36A—Customer hardship policies

(1) The Minister must develop and publish a customer hardship policy in respect of the residential customers of water industry entities that sets out—

(a) processes to identify residential customers experiencing payment difficulties due to hardship, including identification by a water industry entity and self identification by a residential customer; and

(b) an outline of a range of processes or programs that a water industry entity should use or apply to assist customers identified under paragraph (a).

(2) The Minister may vary a policy under subsection (1) from time to time.

(3) A water industry entity must—

(a) adopt a customer hardship policy published by the Minister under this section; or

(b) with the approval of the Commission, adopt such a policy with modifications.

(4) It will be a condition of a water industry entity's licence that it complies with the customer hardship policy applying in relation to the entity under subsection (3).

(5) In this section—

residential customer means a customer or consumer who is supplied with retail services for use at residential premises.

No. 8. Clause 80, page 59, line 21—Delete 'Subject to subsection (2), a' and substitute:

A natural

No. 9. Clause 80, page 59, lines 24 to 42—Delete subclause (2)

No. 10. New clause, page 65, after line 1—Insert:

85A—Consumer advocacy and research fund

(1) The *Consumer Advocacy and Research Fund* is established.

(2) The Fund must be kept as directed by the Treasurer.

(3) The Fund consists of—

(a) the amount of $250,000 (indexed) paid into the fund on an annual basis (at a time determined by the Treasurer) from the total amount of annual licence fees payable under section 24 attributable to designated prescribed costs in any particular financial year; and

(b) any money provided by Parliament for the purposes of the Fund; and

(c) any income arising from investment of the Fund under subsection (4); and

(d) any additional money that is paid into the Fund under a determination of the Treasurer; and

(e) any other money that is required or authorised by another law to be paid into the Fund.

(4) The Fund may be invested as approved by the Treasurer.

(5) The Minister may apply the Fund—

(a) to support research or advocacy that promotes the interests of consumers with a disability, low-income consumers, or consumers who are located within a regional area of the State; or

(b) to support projects that advance the interests of consumers from an advocacy perspective; or

(c) in making any other payment required by another law to be made from the Fund; or

(d) in payment of the expenses of administering the Fund.

(6) The administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act must, on or before 30 September in each year, present a report to that Minister on the operation of the Fund during the previous financial year.

(7) A report under subsection (6) may be incorporated into the annual report of the relevant administrative unit.

(8) The Minister must cause a copy of the report to be laid before both Houses of Parliament within 12 sitting days after the report is received by that Minister.

(9) The amount of $250,000 (indexed) referred to in subsection (3)(a) is to be adjusted on 1 July of each year (commencing on 1 July 2013) by multiplying that amount by a proportion obtained by dividing the Consumer Price Index for the immediately preceding March quarter by the Consumer Price Index for the March quarter, 2011.

(10) In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide) published by the Australian Bureau of Statistics.

No. 11. Clause 91, page 69, after line 22—Insert:

(11a) This section does not apply in relation to land—

(a) if the land is not supplied with water by a retail service provider; or

(b) if water supplied to the land by a retail service provider is supplied as part of a water supply system that is not in any way connected to a water resource that is sourced (directly or indirectly and wholly or in part) from the River Murray.

No. 12. New clause, page 71, after line 23—Insert:

96A—Scheme to install separate meters on all properties

(1) The Commission must prepare and publish a report on the implementation of a scheme that is designed to ensure, so far as is reasonably practicable, that all land—

(a) that is owned by the South Australian Housing Trust or another agency or instrumentality of the Crown; and

(b) that is used for residential purposes; and

(c) that is subject to a separate occupation; and

(d) that is supplied with water by a water industry entity as part of a reticulated water system,

will have a meter that records the amount of water supplied to that piece of land.

(2) The scheme must address—

(a) the fitting of meters to premises existing at the time of the publication of the report (insofar as meters are not fitted); and

(b) the fitting of meters to premises constructed after the publication of the report.

(3) The report must be published by 30 June 2013.

(4) In connection with subsection (2), the scheme must set out a program under which all existing premises supplied with water by SA Water as part of a reticulated water system (and falling within the ambit of subsection (1)) will be fitted with a meter as envisaged by subsection (2) by 31 December 2016.

(5) This section does not apply to premises where it is not reasonably practicable to fit a separate meter.

(6) Without limiting the extent to which the Commission may consult for the purposes of this section, the Commission must specifically consult with SA Water about the program that must be established under subsection (4).

No. 13. New clause, page 77, after line 5—Insert:

110A—Protection of tenants and lessees of residential premises

(1) This section applies in relation to a tenant or lessee occupying residential premises.

(2) A water industry entity must not, in relation to a tenant or lessee who is a consumer—

(a) take action to recover from the tenant or lessee any amount for which the landlord or lessor is legally liable; or

(b) take action to recover from a tenant or lessee any amount on account of any default on the part of the landlord or the lessor; or

(c) take other action against the tenant or lessee on account of any default on the part of the landlord or lessor unless such action is reasonably justified in the circumstances and is in accordance with any relevant provision prescribed by the regulations or contained in a code or set of rules published by the Commission for the purposes of this section.

No. 14. New clause, page 78, after line 17—Insert:

112—Review of Act

(1) The Minister must cause a review of the operation of this Act to be conducted as soon as practicable after the expiry of 5 years from its commencement.

(2) The results of the review must be embodied in a written report.

(3) The Minister must, within 6 sitting days after receiving the report under subsection (2), cause a copy of the report to be laid before both Houses of Parliament.

No. 15. Schedule 2, clause 2, page 79, after line 12—Insert:

(2) Section 33(1)(d)(vii)—delete 'the South Australian Water Corporation' and substitute:

a water industry entity under the *Water Industry Act 2012* identified under the regulations

No. 16. Schedule 2, page 80, after line 11—Insert:

4A—Amendment of section 222—Permits for business purposes

Section 222—after subsection (5) insert:

(6) This section does not apply to any water/sewerage infrastructure established or used (or to be established or used) by or on behalf of a water industry entity under the *Water Industry Act 2011*.

(7) In this section—

water/sewerage infrastructure has the same meaning as in the *Water Industry Act 2011*.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

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

No. 1. Clause 4, page 4, lines 2 to 18 [clause 4, inserted section 51(1) and (2)]—Delete subsections (1) and (2) and substitute:

(1) The Minister may, by notice in the Gazette, declare that smoking is banned in the public area or areas, and during the period (being a period not exceeding 3 days), specified in the notice.

(2) A notice under subsection (1)—

(a) may be of general application or vary in its application in respect of each public area to which it applies; and

(b) may exempt specified areas, specified circumstances or specified times from the operation of the subsection (4); and

(c) may be conditional or unconditional.

No. 2. Clause 4, page 4, after line 32—Insert:

52—Smoking banned in certain public areas—longer term bans

(1) The Governor may, by regulation, declare that smoking is banned in the public areas specified in the regulations for the purposes of this section.

(2) A person who smokes in a public area declared by the regulations to be a public area in which smoking is banned is guilty of an offence.

Maximum penalty: $200.

Expiation fee: $75.

(3) The regulations under subsection (1)—

(a) may be of general application or vary in their application according to prescribed factors; and

(b) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or other specified person or body; and

(c) may exempt specified areas, specified circumstances or specified times from the operation of subsection (2); and

(d) may be conditional or unconditional.

(4) If smoking is banned in a public area pursuant to this section, signs setting out the effect of this section and the regulation must be erected in such numbers and in positions of such prominence that the signs are likely to be seen by persons within the public area (however, validity of a prosecution is not affected by non-compliance or insufficient compliance with this subsection).

Consideration in committee.

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

That the Legislative Council's amendments be agreed to.

I indicate that the government accepts the two amendments that were moved in the other place, and I will speak briefly to both of them at the one time. These amendments relate to each other, and were moved by the government in the other place following detailed discussions with members of the opposition, who took a slightly different view of how we should manage the capacity of local authorities to be able to declare areas smoke-free. Originally the government intended it to be by gazette; the opposition requested that it be by regulation. We were happy to accept that, with the compromise that for short term periods—up to three days, I think, from memory—it could be done by gazette. This was a good example of the two parties working with each other to reach a resolution that satisfied all of us and allowed us to advance that, so I thank the opposition for its cooperation and I thank all the officers, once again.

This is very important legislation, quite groundbreaking legislation. It will ban smoking in a range of places, particularly public transport shelters. It will also ban smoking in the vicinity of playgrounds, and particularly and importantly—and I think uniquely—it allows local councils and other incorporated bodies or other authorities to seek to ban smoking in areas under their control. So, for example, any of the councils around Adelaide. The City Council, because of the particular by-laws, is allowed to ban smoking in Rundle Mall, but that would be the extent of where it is currently able to exercise that power. This legislation will allow them to do it in a variety of places under their control and, equally, it will allow other authorities to do so, as well. I think, over time, we will see very interesting applications of this power.

It is incredibly important that we do everything we can as a community to reduce the impact of smoking on the health of our community. We know that one in two people who smoke die of smoking-related illnesses and we know that the majority of people who take up smoking do so when they are children; that is, under the age of 18. The whole purpose of the legislation is to put downward pressure on that group taking up smoking, so everything we can do to deglamorise smoking and to reduce the number of times that children see smoking occurring in normal environments has that positive effect.

The smoking industry targets young people. The whole of their advertising, the whole of their promotions, the whole of their approach to tobacco is to encourage the taking up of smoking by kids, and we have to do everything we can to counter that.

I am very pleased to say that the most recent statistics from the local community show that the rate of smoking amongst people between the ages of 15 and 29 has dramatically declined. I think about 13½ per cent of people in that age group now smoke on a daily basis, which is an outstanding result. The number of people in that age group who smoke at all is about 17½ per cent. A few years ago, I think six years ago, it was closer to 30 per cent, so we have seen real declines as a result of the continual pressure.

It is similar to the kind of legislative pressure that governments of both persuasions have taken in relation to driver education and rules about road use. We have seen a reduction, as you

would know as a former transport minister, sir, in the number of people dying on our roads because of the changes that we have put in place and the campaigning that we have put in place around driver safety. We need to run similar campaigns in relation to tobacco, and we are beginning to see very good results. With those words, I commend the legislation to the house and once again thank all members who supported it.

Mr HAMILTON-SMITH: I extend and emphasise my support for the legislation. The opposition was happy to consider it from the minister. We were happy to consider the amendments that were ultimately agreed to between the government and the opposition.

We note that some amendments that were proposed by the opposition but not accepted by the government in the first instance reappeared under the auspices of the minister acting in the upper house and largely mirrored, we feel, those suggestions from the opposition. We are thankful that the government took them up. It would have been nice if they had accepted the opposition's amendments, I think, put forward by my honourable friend the member for Morphett, who was then the shadow minister; but, nevertheless, they are up and agreed to.

The opposition has supported this legislation and I think we now have to look to it in the hope that it will not be too officiously implemented. I think that is a danger with these sorts of bills. It is the regulations that then come under the act that must be monitored because, although we have supported the measure, we have a concern about what might be perceived as nanny-state legislation that dictates to people whether they can drink, whether they can gamble, whether they can smoke, whether they can engage in certain social behaviours. We are very, very cautious about any steps by the parliament to get into people's lifestyle and start to tell them what we think they should be doing in regard to lifestyle choices.

Smoking is not illegal. It is a legal activity, although I and the opposition completely agree with the minister that it is a tremendous impost on our health system and it is a very dangerous undertaking for anyone. That is coming from someone who smoked until he was about 22 and then gave it up cold turkey because I realised the damage it was doing to me. I would encourage everyone not to smoke.

So, we will be watching how the government implements this legislation through regulation and, as I said, I hope it is not over-officiously implemented. We understand the intention and, provided that the act is exercised by the government in the way in which it is intended, it should have no unforseen consequences. With that, I echo the opposition's support for the bill and look forward to its swift passage.

Motion carried.

MCGEE, MR EUGENE

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:00): I seek leave to make a personal explanation.

Leave granted.

The Hon. J.R. RAU: As I stated earlier this morning, I said on the radio that my recollection was that the McGee conspiracy trial was concluded before 2010. As indicated earlier, my recollection was mistaken. In fact, the trial ended just a few days before the 2010 election. I accept that between the conclusion of the conspiracy trial and the election, the then attorney had no opportunity to refer the matter to the Legal Practitioners Disciplinary Tribunal.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

In committee.

(Continued from 13 March 2012.)

Clause 1.

Ms CHAPMAN: Given the exchange yesterday with the Attorney, I reiterate that I had indicated that there were three prospective amendments from the opposition. One strengthened the protection of self-represented parties in relation to the statement of agreed facts proposal in the bill. The Attorney-General pointed out that he felt that a subclause of the current bill covered that matter; although it is not exactly the same as the court making an order, it can't be done without permission, and I think that matter will be resolved and, if it is not, they can talk about it in the other place, and they will certainly do that.

The second matter was to retain the status quo of correctional services officers issuing direction to offenders under supervision. We will have a look at that again, so I indicate that there may be something in the other place, but it seems as though that is near resolution.

The final matter relates to the delegation power by the Director of Public Prosecutions, which is considered in clause 13 with the addition of a new section 6A. The opposition will be opposing that clause. So, I invite you, Mr Chairman, to present to the committee, clauses 1 to 12, and I indicate that the opposition will be supporting those, but I will be seeking a vote on clause 13; otherwise the bill will be consented to.

Clause passed.

Clauses 2 to 12 passed.

Clause 13.

Ms CHAPMAN: On this clause, I indicate that the opposition opposes it, for the reasons I have outlined in the second reading address.

The Hon. J.R. RAU: I thank the honourable member for her support for clauses 1 to 12. In respect of clause 13, I am still not entirely clear on exactly what the nature of the amendment might be, and for that reason—

Ms Chapman interjecting:

The Hon. J.R. RAU: Yes, I will oppose it, but, in doing so, I just want to put on the record that it may or may not be that what ultimately is the form of the amendment is completely objectionable. I do not know because I have not seen it. There may be things that are capable of being resolved. But I do not know that presently, and for that reason we would urge that existing clause 13 be adopted.

Clause passed.

Remaining clauses (14 to 23) and title passed.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (COURTS EFFICIENCY REFORMS) BILL

Adjourned debate on second reading.

(Continued from 1 March 2012.)

Ms CHAPMAN (Bragg) (16:08): I rise to speak on behalf of the opposition on the Statutes Amendment (Courts Efficiency Reforms) Bill 2012. Except for some amendments, which I will foreshadow in my contribution, the opposition will otherwise be supporting the bill. I will probably be the only speaker for the opposition, although I see the member for Fisher is here, and he may be very interested in this debate.

In summary, the bill proposes to reduce court backlogs, predominantly by extending the jurisdiction of the lower criminal and civil courts and allowing some functions of the court to be handled administratively. Very specifically, it is to make pre-trial determination to judicial officers binding on the trial judge and allow video and audio links from the present facilities to be deemed to be a person's presence at an appeal hearing.

The bill also allows courts to correct technical errors in sentencing at their own volition. It allows the minister, in addition to the court, the power to extend the time period in which a person can serve community service. It increases the sentencing jurisdiction of the magistrate from two to five years' imprisonment for a single offence and a cumulative total of 10 years, and increases the jurisdiction of the civil court from $6,000 to $12,000 for small claims and to $100,000 for general claims. They currently have limits of $40,000; motor vehicle injury and property claims are currently $80,000.

The bill also allows the Youth Court magistrate to impose sentences for major indictable offences. Under the proposed changes, the jurisdiction of the Magistrates Court will be explicitly limited so that it cannot consider charges of treason, murder or conspiracy, or intent to commit

either of the two. I am not sure how many treason cases we have had in any court in South Australia in recent times; nevertheless, it does seem to be an issue, especially if one ever reads the Criminal Law Consolidation Act schedules and sees the edicts of previous kings and queens on treason. I am surprised anyone would understand it in any court. In any event, it does seem to be an area which they should not. Historically though, magistrates have been competent to hear, at first instance, murder charges. Nevertheless, this is a matter which clearly is always ultimately determined in a superior court and seems to have merit. The opposition supports most of these recommendations.

In short, the history is that seven years ago, in November 2005, the Chief Justice and Chief Judge requested that His Honour Judge Paul Rice commission a report to consider court delays and the means of improving the efficiency of the court system. The Rice report was released in 2006 and identified that court delays had resulted from a range of factors, including the length of pre-trial preparation of the office of the DPP, non-enforcement by magistrates of the Summary Procedure Act and increased penalties.

The report also identified that there was an expectation of increase in delays resulting from new child pornography, criminal neglect, instruments of crime, traffic and aggravated offences, in the ramping up of penalties and processes, and even the law, in a number of these areas. Of course, we had the Mullighan inquiry and the flow of cases from that, and there was an expectation that this would cause even more chronic delays. There were a number of solutions that were indicated. I suppose it is interesting as to what the government has picked out of this, but in any event for that which they have considered, this package seems to be mostly meritorious, although there are a couple of areas that I indicate we will be looking at for some change.

In October 2006, the former attorney-general, Michael Atkinson, formed the Criminal Justice Ministerial Taskforce to examine how the court system could be more efficient. The taskforce recommended increasing the jurisdiction of the Magistrates Court by allowing more serious offences to be heard in the Magistrates Court. However, the government has proposed that instead of offence types, sentence lengths be the determinate of the jurisdiction. So, it has not necessarily followed a number of these recommendations.

In any event, on 18 December 2010, the relatively new Attorney-General announced public consultation on the draft bill, to close on 11 February 2011. While the Law Society has expressed general support for the reforms, it has suggested that a number of clarifying amendments be made. The opposition considers that it is critical of the extension of jurisdiction of the Magistrates Court by sentencing length, rather than offence type. The Society argues that having more serious matters, like rape, cause death and manslaughter, should always be heard by the District Court to preserve the public perception of the seriousness of offences like these. Instead, the Law Society proposes that the recommendations of the CJMT relating to jurisdiction be adopted.

The opposition accepts that the majority of changes will help the courts be more efficient. I will summarise the areas of concern. The first is the appearances in court by CCTV. Audiovisual links could be an effective way of reducing costs and time required to conduct hearings for persons in custody. However, the technical capacity to appear by audio or video link may not satisfy the person in custody's desire to be present at the hearings. Technical problems may mean a person cannot see or hear proceedings, yet there is no requirement for a court to ensure that an audiovisual link is fully utilised or functional. While we support reforming the law to allow the person to appear by audiovisual link, should they consent to doing so, we consider that a person should always have the right to appear in person, should they wish to do so, as the current law provides.

Next, is the area of community service order time extensions by the minister. This is a proposal in the bill that a person who wishes to seek an extension of time of up to six months should be able to apply to the Minister for Correctional Services. Currently, the minister can apply to the court for an extension to be made, but they cannot make the variation themselves. Such a change might be considered to usurp the court's power by way of an administrative function and, in doing so, offend the separation of powers, and therefore be unconstitutional. It is also inappropriate for a minister to second-guess—and indeed potentially even politicise—the determination of a court. The minister would be held accountable for a decision previously made by a court and, for these reasons, this change is certainly opposed.

Then we come to the small claims court jurisdiction. The government is proposing to increase the small claims court jurisdiction from $6,000 to $12,000. The threshold has not increased since 1991. Such a change is long overdue and follows the private member's bill of the member for Norwood, which proposes an increase to $25,000. This proposal was endorsed by the

opposition and we are very keen to continue to support the proposed threshold of $25,000, which is consistent with the current Queensland position.

In essence, yes, it is important that we update and contemporise the thresholds for the South Australian jurisdiction. It is now some 20 years or more since this was reviewed and it clearly needs to be increased. We, however, think that the member for Norwood was on a good thing (and, as the commercial says, stick to it) and that the $25,000 should be there. We will introduce an amendment in another place to cover that.

Finally we have retrospectivity. The government is proposing that changes to the jurisdiction of the Magistrates Court in relation to criminal proceedings should be retrospective. In other words, the sentencing powers of magistrates would be extended even for those cases already before the courts. Retrospective provisions should be opposed on principle and may cause disruption and confusion for cases already being heard which may have otherwise been heard in a superior court.

The government has provided no justification for the retrospectivity other than, it seems, to suggest that dealing in this manner with all of the cases in the pool would be appropriate. That is a principle, just like the separation of powers, which the opposition suggests should not be offended and, accordingly, we oppose the retrospectivity aspect.

In short, we say: protect the person's right to attend a hearing in person if they so wish; remove the proposed ministerial power, which is clearly a breach of the separation of powers in having the executive interfere with a judicial function; increase the proposed small claims jurisdiction from $12,000 to $25,000; and remove the retrospective transitional provisions. With that contribution, I indicate that we will otherwise be supporting the passage of the bill in this house.

The Hon. R.B. SUCH (Fisher) (16:18): I will make some brief comments. I think this bill has a lot of very good components. There are some aspects that I think, down the track, could be included as part of a reform package.

I have mentioned before the issue of the selection and training of magistrates, in particular post-appointment training. I have come to realise that the Magistrates Court is the most important court. Judges probably think their courts are more important, but I believe the Magistrates Court is the most important because, if matters are resolved there or dealt with there, that is generally the end of the matter. However, the whole basis of our court system is predicated on having suitably qualified and appropriate magistrates, and in particular that their post-appointment training is relevant to some of the new technology that arises from time to time. I think that needs to be addressed.

I think the system is very cumbersome in the Magistrates Court. I can only go on my own experience. That is the only time I have ever been there, apart from taking students. I think I attended about eight times in the lead-up to a three-day trial. I think the whole concept and the amount of time involved, for what is a relatively minor traffic offence, is ridiculous, such as the number of adjournments because the prosecutor wants to go to Europe and all this sort of thing.

I think the court system needs to be a lot stricter on people having matters adjourned. It is a bit like private members' time here: there are so many adjournments that, by the time the magistrate has dealt with those, there is not much time left to do anything else. I think it was the visiting thinker in residence who suggested that lawyers who delay should be penalised in some way. I think that should apply to the prosecution, too.

The Magistrates Court in particular, I believe, is increasingly bogged down with what I would call minor traffic matters. I was talking to someone who approached me in the street yesterday, who said he was going to contest something in court. The police had followed him through five intersections. Finally, he pulled over and then they pulled over and he said, 'Are you following me?' They said, 'Yes, you went through an amber light four intersections ago.' He is going to contest that in court. What an incredible burden on the state. You are going to have a magistrate and all the court processes tied up with that.

I support getting a lot of those minor issues out before someone—whether you call them a traffic ombudsman, or like New South Wales that has an independent assessment panel that looks at these issues. More and more people are saying, 'I've got the right to go to court.' You are going to bog the system down. You are paying magistrates a significant income, and all the support that goes with running a court, and you are bogging them down. I get the feeling—I could be wrong—

that magistrates get annoyed and resent having to spend a lot of their time on whether Johnnie had his tail light on or not.

I believe there are some sensible alternatives. As I say, New South Wales has a system for minor traffic matters—we are not talking about hit-run and things like that—such as whether a person had the numberplate correctly displayed on their bikes on the back of the car. That sort of thing should not end up in court. It is just nonsense; it is ridiculous.

I know it is not part of this bill, but I would urge the Attorney to look at that as a way of promoting greater efficiency and effectiveness in the court system to get a lot of those minor traffic matters before a technically-qualified panel. You could have some JPs who have technical expertise in road engineering, a retired police officer, or whatever, to have a look at the matter, rather than the current system where the person in effect appeals to Caesar, who issued the expiation in the first place. Not only is it bad practice to have the people who issued it assessing it—I think that is really bad and fundamentally wrong—but I think it would be a lot more efficient in terms of the court process to keep a lot of those traffic matters out of the court system.

I have canvassed in the past the idea of having a specialised traffic court. I think a better approach is to have either a person or a body outside of the court that can look at contested expiations and minor traffic matters. I think it would be a good investment. There are a few other things. Even to this day I am not sure whether in my case we even had a pre-trial conference. I know the magistrate got cross, because he said, 'Why wasn't this particular matter raised in the pre-trial conference?' I am not aware that we even had one. If we had one, it was so invisible that I have never seen a trace of it. I think that the processes of the court need to be tightened up to make sure that matters are not suddenly brought up or sprung on people in a trial; they should be dealt with.

It is really an extension. It is not quite a mediation approach, but a lot of these matters, surely, could be sorted out before you tied up the court for three or four days on a trial issue relating to a relatively minor traffic matter. The other thing that I find frustrating is that you have three or four different magistrates all with a different view on an issue, and you do not have any continuity because you get all these adjournments because someone wants to take a holiday, or whatever.

I think that there needs to be a bit more rigour, a bit more discipline, in the way in which the system operates, and I do not think that would in any way take away from a person's right to be heard in court or the prosecution to put a case. I think that, at times, the current system is sloppy. When I turned up on what I thought was the day of the trial there was nothing on the notice board. I asked at the office of the Magistrates Court in Adelaide and they said, 'Oh, no, it's been cancelled.' I thought, 'That's a bit strange.' She said, 'Haven't they told you?' I said no. I then had to find out. I eventually made contact with the magistrate's chambers and was told, 'Oh, no, it's on. It's on shortly.' So, even basic administrative things were pretty slapdash.

I think that there is a case for some reforms, some of them very simple, even to the point of making sure that what is put up on the list for the day is accurate and current, because, if I had decided, 'Oh, well, it's been cancelled,' and went away, I could have had a judgement made in my absence. It might have turned out to be a better judgement, but we will never know.

With those few words, I believe that this bill has a lot of good points to it, but I would urge the Attorney not to come to the conclusion that his reforming passion needs to end. I think that it has only just begun. As I say, if he picks up on some of the suggestions to keep some of the minor traffic matters out of court, I think that not only will we have a fairer system but he will save the taxpayer a lot of money.

Mr MARSHALL (Norwood) (16:27): It is my pleasure to rise to speak on the Statutes Amendment (Courts Efficiency Reforms) Bill introduced by the government last year and recently reintroduced to this house. I indicate that, as my colleague the member for Bragg has indicated in her speech, the opposition will be supporting this bill, subject to amendments in another place.

This bill proposed by the government seeks to reduce court backlogs, predominantly by extending the jurisdiction of the lower criminal and civil courts and allowing some functions of the courts to be handled administratively. I strongly support the move of the government to change the very low threshold of the current minor civil division of the Magistrates Court as is proposed here by the government.

What is often referred to as the small claims threshold is currently set at $6,000. This was the original threshold set by the Magistrates Court Act when it was originally assented to back in 1991. There has been no change to it in this time, and this has caused, I believe, major inefficiencies in our courts administration in South Australia—and it has been a major disadvantage to the small business sector, the sector which I represent here in this house.

In fact, this point was made very clearly by the government's very own Thinker in Residence, Judge Peggy Hora, who published her report in which she made the comment:

> Where there is a dispute involving a large sum of money only the wealthy or corporate bodies can afford to have it resolved in a court of law.

This is because, of course, the small claims jurisdiction threshold of $6,000 meant that anything above $6,000 would need to go into the general division where both parties, generally speaking, are represented by lawyers. This pushes up the costs, and it means, really, that not only are costs increased but often justice is not served. Judge Hora was correct, and we are very pleased that the government has taken up this suggestion.

The opposition brought this matter to the attention of the parliament last year; in fact, I think it was in June or July of 2011 that I introduced a private member's bill to change the threshold for the Magistrates Court minor civil claims division from $6,000 to $25,000. When we were sitting at $6,000 it was the lowest in the country. The most recent jurisdiction to move was Queensland, and it moved that threshold to $25,000, for very good reason.

Currently, the government has seen fit to move the threshold from $6,000 to $12,000. It is a movement in the right direction, but we would put the point that we do not think it is enough. There is no mention in this bill that is put forward by the government of any mechanism to update this threshold. Given that it has not been updated for 21 years, I hope we will not get ourselves into the situation of not quite catching up to Queensland. After another 21 years we will be left right out of any real relevance with that threshold.

As I said, the low threshold does have cost impacts on the private sector and, in particular, small businesses. I believe that, by raising the threshold to $25,000, we will be allowing more small businesses, more family businesses, and individuals to achieve justice and cut down on the backlog in the general division of the Magistrates Court. I believe that by having people representing themselves instead of being represented by lawyers, this will be more cost effective and a fairer and more expedient way of resolving disputes here in South Australia. I would urge the Attorney-General to consider the threshold, and go with his party colleagues up in Queensland and set our threshold at $25,000.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:32): I thank all the contributors for their words in relation to this legislation. I just want to say a couple of things in particular. First of all, in relation to the foreshadowed matters that the member for Bragg dealt with in her contribution, I am trying not to sound like a broken record, but it would be handy if we had them in here because it would be an opportunity for us to specifically address the particular wording that the opposition would like to be considered.

What is happening is that this chamber of the parliament is being ignored, and I do not think that is helpful for anybody, quite frankly. It is very disrespectful of this chamber, particularly with legislation that commences here. I can understand if it commences elsewhere, but, if it commences here, I do not think it is unreasonable that all of us on both sides of the chamber, and the Independents, should have the opportunity of debating the particular provisions that are being suggested. I do not think that is unreasonable.

Again, I am not singling out the member for Bragg, because I am sure it is not her fault, but this happens all the time. As I said, it is disrespectful of the chamber as a whole. All it involves is somebody getting off their—

Members interjecting:

The ACTING SPEAKER (Hon. M.J. Wright): Order!

The Hon. J.R. RAU: Just let me finish. It is the parliamentary counsel who does the work. The material could be made available in this chamber. Those on the crossbenches who do not have counterparts elsewhere are completely shut out by this process—completely shut out—and they do not have the benefit of any informed debate down here about these important measures;

all they get is a general sense of unhappiness about particular provisions and a general sense of acceptance of others.

I think we should also be considering the crossbenchers because they want to make up their minds about these things too, and it is not assisting their job to have that information unavailable in this chamber. That is something that I have said before, and I will continue to say it because I think it is wrong.

The next thing to say is that the member for Bragg mentioned something about serious offences in the Magistrates Court. If I correctly understand the member's point—and, again, I am handicapped because I do not know exactly what amendments are being proposed—where she has a problem is that we have said that in certain instances where an individual pleads guilty to an offence, and the prosecution and the defence are both content with it, that the Magistrates Court should be able to sentence.

If I am thinking the wrong thing please let me know, but if that is what the honourable member is talking about, that provision was there to help people in the more remote parts of the state where a District Court judge is not in town all the time. If you do have a person who has decided to plead guilty, and you do have agreement between the defence counsel and the prosecution that the magistrate who happens to be in the town all the time can deal with the matter, then that provision enables people in remote parts of South Australia not to have to wait and wait, or travel to Adelaide or a regional centre like Port Augusta or Mount Gambier or somewhere when there is a Superior Court on circuit. If that is what—

Ms Chapman interjecting:

The Hon. J.R. RAU: No? Okay; perhaps I did not understand what the honourable member was objecting to there. In relation to the small claims jurisdiction—and I think I said this last year to the honourable member for Norwood—I agree with the thrust of the private member's bill that the honourable member put up. I think I said to him that we were already working on that and he would see something, and here it is. You saw it last year and you are seeing it again this year. I was not being flippant about that.

There is no right or wrong answer about where you cut that number; it is a matter of judgement, I suppose. However, given that we all agree that $6,000 is way out of date, our judgement was that to double that would be a fair start in terms of keeping pace with community expectations. I do agree that we should obviously review it more frequently than every 21 years and I can say that if, in five years' time, I am still occupying this office I will be doing that.

I can also say this: the honourable member for Norwood is absolutely right that the amount of work created by matters in that range between $6,000 and $12,000 being in the mainstream, should I say, rather than in small claims is considerable, and this will make a substantial impact on resource allocation in the Magistrates Court. I think it will be very good for the Magistrates Court, and it is strongly supported by the Magistrates Court. However, it is not all beer and skittles because—as I am sure the honourable member for Bragg would be able to tell you—self-represented parties are not always the easiest people to manage. Sometimes something that might take 10 minutes with competent lawyers can take considerably longer with self-represented people who have read a couple of text books—

Mr Marshall interjecting:

The Hon. J.R. RAU: Possibly so, but there are some people out there who think they are pretty good at this stuff. Indeed, and without naming anyone, the honourable member for Bragg would know that there are certain serial litigants out there in Adelaide who keep the courts tied up and who keep on just the right or the wrong side of being vexatious. They are quite good at it, and they do occupy a lot of time. Anyway, it is not all fun and games. As I said, the broad thrust is that I am very pleased that the opposition endorses the idea of increasing the threshold. I think that for a first step the jump from $6,000 to $12,000 will be very useful, and I think that is helpful.

I think there was also mention by the honourable member for Bragg of Judge Rice's report and of a number of things having been lifted out of that. It is true that most of what is in this bill has been the subject of reports to government, in particular the Rice report, so this is not party political in any sense. It is a person who is an operator within the system trying to provide government with his insights as to how we can improve the mechanism. That is really where it has come from.

As a matter of interest, given what happened yesterday in another place, I should say that another recommendation of Judge Rice, which apparently has not found favour, was legislation to

provide for fast-track guilty pleas attracting significant discounts and to encourage greater awareness within the profession of graduated discounts that sentencing judges apply on guilty pleas. That was also one of his recommendations that was also reduced into a bill. We are not talking about that presently, but I just thought I would mention it. Judge Rice says many things, and we are trying to advance all of them, even though sometimes we come into heavy weather.

The honourable member for Fisher raised a number of things about the Magistrates Court. Some of the stuff he is talking about there is a reasonably complex problem to solve. It is not that hard to articulate the problem, but finding the solution sometimes is. It might be—and I just say this in general terms—that some of the work we are presently doing in relation to a civil and administrative tribunal may offer some alternative resolution pathways that will accommodate some of the issues the honourable member was raising today.

That is something that, hopefully, I will be able to bring to the parliament in the not too distant future. We are certainly looking at that because there is no doubt that keeping people out of the formal court process is good, obviously, for the people involved, but it is also saving resources for those cases that do need to be in the courts and it is also, obviously, saving people money.

As I said, inasmuch as I understand there is general support for the bill, I thank the opposition. Just to touch on it again, I think it is unhelpful—I will put it in a neutral term—that we are not able to have a more particular discussion about the changes the opposition would wish to see in the legislation, because I would like the opportunity to place on the record my view about those things so that people are informed one way or the other about that. In any event, I think I have probably canvassed enough.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:43): I move:

That this bill be now read a third time.

Bill read a third time and passed.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 March 2012.)

Ms CHAPMAN (Bragg) (16:44): I indicate that I will be the lead speaker on behalf of the opposition for the Graffiti Control (Miscellaneous) Amendment Bill and, further, that, subject to some amendments, which have been tabled in my name and which I will refer to shortly, we will be supporting this bill. This is another bill which was introduced last year. It had been informed by consultation in February and March that year. We were not privy to any of the 49 submissions that were presented on a discussion paper by the government, but ultimately we had access to them through freedom of information.

I will not repeat my concern about the government's practice, which has been to generally make it fairly difficult for the opposition to have access to submissions on bills. I thought that there was a little window of brilliance on a recent bill when the Attorney-General put all the submissions on a website and we were able to view them. I recommended to him that he follow that practice with other bills, and he may do so; we are ever hopeful. This bill was introduced last year before the light bulb moment that he had about openness and transparency, so we had to go through the freedom of information process.

This bill will take the opposition a little time to outline. I suppose graffiti is seen by members of the public to be relatively minor in the great spectrum of offences, and it is. Clearly, we are not talking about armed robbery or treason or murder or any of the serious offences that are the blight of our community, but what is so important about this offence is that it is so prolific.

Rudy Giuliani, a former mayor of New York, once said that, if you can clean up graffiti, you can clean up serious crime in a city, and he made it part of his mantra, when running for the mayoralty of New York, that he would make the commitment to clean up New York. Indeed, even serious crime under his reign significantly decreased with this approach. So, you start with the lowest level of public offence and social disorder, and you clean it up, and you bring back pride and respect in the community for the person and property within that community, and you make a difference.

I will spend a little time on this. Graffiti is an offence which touches the lives of many people and their families—whether offender or victim—and which can have some serious social consequences if it is allowed to be rampant in a community. Under the Graffiti Control Act, between 1 February 2002 and 31 December 2009, 33,317 offences were committed; 78 per cent of the offenders apprehended between those years were once-off offenders; and only 1 per cent of the offenders had five or more graffiti apprehensions between that period. I make the point that recidivists in this area are a minor component; and we are dealing with a minor number of people, very significantly in the younger age group, where there has been a problem, so it is not unreasonable that the government would try and strengthen our approach to how this is managed. We do not disapprove of that.

I think that there are a number aspects that have also been enhanced as a result of significant events. One is that, with the advance of the invention of cans of spray paint, which are the offending instrument in the Graffiti Control Act, it is proposed to be expanded to graffiti implements. That is to be prescribed by a class by regulation. I will have something to say about that in a moment. There is a very significant doubling of penalties. I do not think I need to traverse the government's objective there. They clearly wish to use it as a deterrent.

They are introducing a number of other penalties for offences, including supplying a prescribed graffiti implement to a minor, introducing as an offence the advertising of a graffiti implement, and introducing a specific higher penalty for making graffiti on or within a cemetery, a public memorial, or a place of worship or religious practice.

I will add a comment on that aspect. There have sadly been some people who have broken into and caused significant damage and acts of woeful disrespect to public memorials and cemeteries in recent years. I can recall a significant graffiti on the memorial on North Terrace which attracted the ire of the community, not surprisingly. Damage has been done to cemeteries. I think I mentioned in another bill in this place this week that community service orders will be undertaken at West Terrace cemetery for the maintenance of graves.

This aspect is also important here because it is part of the objective of the government—and I think it is a good one—to introduce reparation by offenders. As part of that exercise I think that when we are dealing with places of memorial there should be some attempt to ensure that the offender does act to remedy their damage. It is part of the process of reinforcing that this is unacceptable in the community and that this parliament holds considerable contempt for those who undertake that practice.

There are also some more novel approaches in relation to extending a learners or provisional licence permits for up to six months or disqualifying a person from holding a licence. It is fair to say that this is an offence within the realm of the younger part of our community. They hold dear a drivers licence, so there are some aspects of this we think are good. We think the government have got a bit too far, but I will refer to that shortly.

There is also the allowance for the police to temporarily confiscate graffiti implements in the possession of a person in a public place if the officer reasonably suspects the implement has or may be used in contravention of the Graffiti Control Act 2001.

The Hon. Bob Such, the member for Fisher, introduced back in 2010 a bill to allow courts to order compensation to be paid by graffiti offenders for removal costs, participation in graffiti removal programs for offenders, a ban on the sale of spray cans to minors, and drivers licence disqualification—all areas which are in slightly different ways covered in this bill. However, the member for Fisher had gone further than this bill in covering some aspects, including a licensing regime for various businesses and the like. The government has not picked that option.

We would agree with the government that undertaking a licensing regime for businesses, keeping a record of all transactions, is going to be overly bureaucratic, if that was their reason for not pursuing it, and if it was we would agree with it. Whilst we have not heard from the member for Fisher on this debate at this stage (doubtless we will), he may advocate a very good reason why it should be reconsidered; but we are not in the business of being oppressive to businesses in the sense of their business management but also in providing for search powers for prescribed areas and also for an offender register. Tighten this up, by all means: it is prolific, it is anti-social and it is conduct which is unacceptable, but we think the regimes otherwise are taking it a bit further.

Can I just refer to the areas of concern. Prescribed graffiti implements: we suggest that the categorisation of graffiti implements to be prescribed by regulation is not acceptable. Any business selling graffiti implements would need to keep those items secure and have adequate procedures

in place to check the age of consumers. For a large number of classes of implement prescribed, it would create an onerous situation for businesses. Whereas current provisions apply to any business selling spray cans, the expanded provisions may, for example, apply to any business selling wide tipped markers.

I am not sure how long it has been since the Attorney-General or other members of the house have been in a children's toy shop, but I have had recent reason to attend one or two. They have a magnificent array of different equipment for children these days, which is fantastic. In the course of inspecting appropriate presents for my grandchildren, I found that large, thick markers are very popular. Unlike the Derwent pencils that we used to love and buy in boxes of 50 or 60, if you were really lucky—my grandparents would only give me a box of six or 12, which was a bit ordinary I thought—the thing today is not to have the Derwent pencils or the skinny little textas like we used to get that would run out and you would have to dip them in water to keep them going, there is none of that now, they get the great big, fat textas, and I have observed some children mark their parents' walls with them with gay abandon. So, they are a bit of a dangerous weapon in the wrong hands, especially a four year old's hands.

What we do not want to do is create a level of regulation, in the good intention of capturing those who are going to be destructive in a graffiti sense, with innocent children and many retail outlets that are providing, not weapons of destruction but weapons of education, useful implements in that regard. I am happy to move with the times and understand that there are changes and very inventive ways in which some young people will use particular equipment to be destructive in a social sense and create graffiti, so we need to be much more prescriptive in the legislation to deal with that.

I will foreshadow an amendment which will define a prescribed graffiti implement as a can of spray paint or a graffiti implement designed or modified to produce a mark that, one, is not readily removable by wiping or by use of water or detergent, and two, is more than 15 millimetres wide. Let me say, that could still, innocently, catch the four year old or the grandparent buying a big texta for the four year old, but we are hoping to at least narrow this down to make sure that every poor little toy shop owner, and I am sure they have not been consulted about this bill, would be inadvertently caught. The restricted display provisions of the Graffiti Control Act will also apply to these implements. The police commissioner's submission noted that:

> Restricting the display of graffiti implements may place unnecessary restrictions on businesses and will be difficult to police. The proposal cannot be supported without further explanation.

So, at this stage we have the police commissioner on side with us on that. As for the doubling of penalties, again the commissioner of police has weighed in on this. The opposition feels that the doubling of penalties in itself will not necessarily double the penalty given to the offender. The courts maintain the discretion to set appropriate penalties for the offence. Again, the police commissioner says:

> Increasing the penalty to act as a further deterrent is not justified on the figures cited in the discussion paper since the majority of individuals were apprehended only once. A greater focus on compensation in lieu of increased penalties is the preferred option.

I am a strong advocate of the view that penalties in themselves are not the deterrent. It is the fear that an offender is going to be caught that is the greatest deterrent anyone has to distract them from undertaking that course of conduct. In any event, the police commissioner is on our side in that regard, so we feel that is probably excessive for an extremely small number in the community. Other submissions to the consultation also question the evidence behind the increase in penalties.

There is little data presented. Perhaps the minister could outline something further; it was not evident from his second reading contribution on this, remembering that the data in the discussion paper had identified that the average fine imposed by courts on adults convicted of graffiti offences was $258 and $117 for juveniles. This bill proposes up to a year of imprisonment and fines of $2,500 and $5,000, etc. Increasing these limits, the discretion will still be there. It relates to a very small number of people. It seems that the general consensus in the community is that this is excessive.

Regarding the sale and supply of graffiti implements, I think I have outlined the concern we have about the massive higher penalties for this. I see the government's objective here: it is not just a question of keeping a check on those who might perform the act of graffiti but, if we are going to be serious about them being in the possession of implements, then let us also make sure that the

suppliers are caught if they were to really aid and abet this type of conduct by supplying the equipment.

However, there is a very significant obligation then on the suppliers to really protect themselves against unfair inclusion into this or being swept into this. The only defences to offences of supplying graffiti implements are: the person reasonably assumed that, or made attempts to determine that, the person is over 18 years old; the minor used fake identification; or the defendant can prove that they believed on reasonable grounds that the provision of the implement was for a lawful purpose. Proving a reasonable belief of lawful purpose may be a difficult matter.

Here I have my most impressive ally in the opposition's approach to this in which we do say there is really a burdensome obligation placed on some retailers in this regard. Here is what the then families and communities minister, the Hon. Jennifer Rankine, said:

> Such a provision will likely also place a significant and unjust imposition on retailers who would likely grapple with the complexity of determining 'a graffiti implement'. In addition, such restriction of supply may send a message to the general community that all minors are potential offenders and cannot be trusted to purchase and use anything that makes a mark.

I thought it would be a long time before I would welcome the comments of the then minister for families and communities, the Hon. Jennifer Rankine, but I do thank her for making that contribution. It is a sensible submission, which I should not be alarmed or surprised by. I am just grateful for it because, on this occasion, I agree with her wholeheartedly.

I have made comment about the importance of respecting public memorials, cemeteries and places of worship. The public expects that we do impose a significantly higher penalty for any desecration of these graves. There are special offences as well for destruction but in particular here we are talking about the graffiti aspect.

There is compensation and participation in the graffiti removal programs. As I have said, the courts still have discretion to impose a penalty of participation in graffiti removal programs under the supervision of 'an appropriate authority' and 'if a suitable program exists'. It makes provision for alternative requirements, for the offender to pay compensation to the owner or occupier of a property, or for a person to remove graffiti or cause the graffiti to be removed. This is a widely supported approach and we agree with it.

On the extension of the provisional or learner's licence or licence disqualification, a court may, in addition to any other penalty, impose an extension of a provisional or learner's licence by between one and six months. Alternatively, the court may disqualify a person from holding a driver's licence for between one and six months. There is no requirement for the person's offending behaviour to have any connection with their driving record or use of vehicles. Penalties are more credible when there is a clear link between the punishment and the offence.

Licence disqualification may also inhibit the rehabilitation of the offender by limiting their ability to attend school, work or other community service. The court may benefit from having more discretion with the conditions placed on a person's motor vehicle use, such as curfews and other conditions of use. At present, the Criminal Law (Clamping, Impounding and Forfeiture of Vehicles) Act 2007 allows an offender's vehicle to be clamped and impounded for up to 28 days, or up to 90 days with a court order, or forfeited for a range of offences, including graffiti offences. There is already considerable power available to the courts at this time.

Finally, the bill provides for the police to confiscate prescribed graffiti implements where the officer reasonably suspects that the implement has been or may be used in contravention of the act. The fact that an item can be used for a purpose is likely to meet the test of 'may be used' as an item. We think that suspicion that an item 'will be used' is a more appropriate threshold.

In addition, this provision uses the term 'reasonably suspects' rather than 'suspects on reasonable grounds'. The first relates to whether it is reasonable for that person to suspect something on the basis of their subjective view. The second is more objectively based on what would be reasonable to the ordinary person. Indeed, the defence in clause 8 in supplying a graffiti implement to a minor uses the objective 'suspects on reasonable grounds' test. It is the opposition's view that this should also apply for the police confiscation aspect.

The bill places restrictions based on age rather than propensity to offend, such as the restriction on sale of implements to minors. The Office for Youth's submission in this regard calls for, 'Measures [to be] put in place to protect young people against discrimination or wrongful charges.'

The submissions were quite comprehensive. The government seems to have acceded to the consultation process to some degree, but in major areas it has not. The opposition has been as generous as we can be in supporting the government in this important area. To deal with this effectively as we can, we propose the following amendments: first, the removal of provisions related to driver's licence disqualification and penalties from the bill; secondly, to require suspicion on reasonable grounds as the basis for confiscation of implements; thirdly, to provide that prescribed classes of graffiti implements be named in the act rather than by regulation; and, fourthly, not to allow a lawful purpose for supply of a graffiti implement to be prescribed by regulation.

I think that covers the amendments that have been prepared. As quickly as I can, I will advise the committee where they apply in each clause. I will indicate that the first of those relates to the defining of prescribed classes of graffiti implements in the bill by definition, which will be amendment No. 1, and I will try to guide the committee as quickly as I can, Madam Speaker, as to where the others are.

I think that the Attorney will have also had only a quick look at the amendments. They have been tabled only this afternoon, and so I will try to assist as quickly as possible. I think that I have identified where the areas of concern are. I do not propose in committee to repeat a lot of that, but I am happy, of course, to answer any questions from the Attorney on that as we proceed.

The Hon. R.B. SUCH (Fisher) (17:10): I am delighted to see this bill before the house. I would use a racing term. I do not know a lot about racing and I do not want people to take this the wrong way, but I think that it is 'graffiti control bill by such out of rau'! I do not want people to take that the wrong way or there is no implied unusual behaviour, but I just make the point that I have been in here over 20 years and I have introduced five private members' bills and, I think, three motions relating to graffiti since I attended the World Graffiti Conference in Melbourne in 1990.

Members need to recall that graffiti vandalism costs South Australia a minimum of $12 million a year. I write to councils and other authorities regularly and ask them. I will just give a couple of quick examples. These are figures from the end of 2010: Adelaide City Council, $409,060 for graffiti only, other vandalism adds up to $780,697; City of Salisbury, graffiti only, $358,258; City of Playford, $280,000, graffiti only; City of Onkaparinga, $472,000; and the City of West Torrens, $130,000. I could list them all but that gives you an example of the seriousness of this issue.

Some people seem to think that graffiti is just young people having a bit of fun. Well, I can tell you that a lot of them are not all that young. There are people who travel interstate and vandalise our trains. There are people who drive from one end of town to the other to vandalise. They film their activities and put it online. They are often quite sophisticated. They have rope ladders and they attack trains that are waiting, for example, on the Belair line. They attack them and deface them. One character recently—I am pleased to say that the police caught him; I think that he was from Victoria—left a bit of his flesh on the razor wire at Belair trying to get in to deface the trains that are kept there overnight. As a result of leaving his specimen of flesh, the police were able to DNA test him and that person will appear before the court shortly.

We are not talking about little kiddies who, on the spur of the moment, might do something silly. What we are talking about often is organised groups who are adults and who want to basically stick it up society. I have never understood the argument that it is only marking something. It is just as costly and damaging as someone stealing property. I am delighted that the Attorney has acted. We have had a lot of talk over time but we have finally got a bill. It does not include all the things I argued for.

I can see why the government did not want to include the register of graffiti offenders in terms of their purchase, even though the police have a similar system for some other types of activities where the police can cross-reference people's offending, but I accept that it could be a bit onerous on business. What is in the bill is the ability to recover some costs—taking away a licence in some cases. I think that they are all suitable and appropriate measures.

With those words, I do not want to delay the house, I commend this bill and commend the Attorney for acting on an issue which is very important to the community in terms of tackling something which is not only disconcerting to people but which is a very costly imposition, not only on private dwellings but also on businesses and councils. This is an important measure. It has been a long time coming but I welcome it.

Mr PENGILLY (Finniss) (17:14): I also wish to say a few words on this bill. As indicated by the member for Bragg, the opposition is supporting it. I heard what the member for Fisher had to say about it being a bill from Rau out of Such, and I would say it is going to get 'Chapman-ed' before it is finished, and then it will be done over in the other place as well, but it is another step in the right direction.

As the member for Fisher said, it is a horrendous cost to the community. As I drive around my electorate, but more so when I find it necessary to come to the metropolitan area, I am regularly appalled by the amount of graffiti that is around the place. I see it while I am driving around the state as well—trains are attacked, buildings are attacked, fences are attacked, and it is never-ending. It is seemingly never-ending, and in my view these people who are taking up this form of activity are deserving of absolute contempt.

In particular, I would like to point out the cost to local government and the councils around the state. I know from my own experience that graffiti is something that councils just have to budget for, unfortunately. Although we do not get a lot of it in my electorate, we get enough of it, and in the town of Victor Harbor Margaret Kneebone goes out every day and rubs it off or paints it out. She does a mighty job and should be congratulated, as she has been on a number of occasions. Margaret is heavily involved in Neighbourhood Watch down in Port Elliot and Victor Harbor and keeps a close eye on graffiti.

It is a blight on society. I think that when it comes to graffiti there is something to be said for the Sharia law about cutting off fingers. Graffitiing is a mindless, stupid activity, and one which does our society absolutely no credit at all. Although we seem to amend legislation, try to put more controls in place—we put controls on who can purchase spray cans—and we try everything possible, it still continues. I say that if this bill in any small way helps to reduce the amount of graffiti, we are well off.

It is interesting that the member for Bragg is handling the bill in this house for the opposition. Her late father, Ted Chapman, used to have a saying that if people worked hard they should be paid accordingly; if, for some reason, they couldn't work, they should be looked after; and, if they could work and wouldn't work, they should be starved. Well, it may be that we need to add another line to that phraseology in relation to graffiti artists.

I actually do not call them artists; I think they are just straight-out criminals, quite frankly, and I see no good reason whatsoever why people who are running businesses and working extremely hard, and also public instrumentalities such as trains and buses, should be targeted by these fools who seemingly get away with it on regular occasions. You do not see too much in the press about graffiti artists getting their comeuppance in the courts; it is not sexy enough to rate a mention, most of the time.

Perhaps if the police were able to exert a bit more physical activity, they might be able to give them a few clips around the ear and sort them out. I think it is a failing of our society now that the police are so handicapped in what they can and cannot do, whereas 20 or 25 years ago, or even less than that, if they caught kids out doing the wrong thing they would give them a good swift kick up the backside and a clip around the ear, and it would frighten the daylights out of them.

It needs bringing back; we have got into this sanitised, stupid way of thinking—that you cannot touch anybody and that you cannot do anything to anybody. Well, it used to work wonders. It was a bit like the cane in school; I seem to remember getting a fair few of them myself. It never did us a lot of harm. Over lunch, the member for Mount Gambier was elaborating on a few strokes of the cane he received as well—and look how well he turned out.

Getting back to the bill, I believe it is a step in the right direction. I think we need to continue working away at this, and I hope that the Attorney and the government take note of the member for Bragg's amendments, that they take them on board and accept them, because they are made in the best spirit of the bill and, in my view, should be put in place. With those words, I support the bill.

Mr SIBBONS (Mitchell) (17:20): It is my pleasure to offer my contribution today on the Graffiti Control (Miscellaneous) Amendment Bill 2012. This is another good government bill delivering strong laws that the people of South Australia, and indeed the people of my electorate of Mitchell—

Members interjecting:

Mr SIBBONS: They want that; they want it. The government knows that these new stronger powers are what the people of South Australia want because that is what they have told us. The Labor Party made this commitment an important part of its agenda at the last election, and the bill now before us is the product of the six-week public consultation on a graffiti prevention discussion paper released last year. The bill, which was introduced last year before parliament was prorogued, underwent further consultation to iron out additional concerns.

A long list of government agencies, including SAPOL, made important contributions, as did local government and many other interested parties, including, I understand, the good member for Fisher for whom, I believe, this matter has been a longstanding concern. All this very welcome input was received and taken into account in shaping this bill. I have spoken to many people within my electorate, and one thing that really annoys them bitterly is graffiti. Whether it be their front fence, the Stobie pole down the road, a vehicle or their personal property—whatever it may be, they detest it, and they want it cleaned up. That is a simple fact.

What was clear from that work is that there is widespread support for a whole range of measures working in harmony to deter graffiti vandalism before it happens and to remove graffiti as swiftly as possible when it does occur. It is a combination of prevention and fast cure that will have the greatest impact on our communities. The government is seeking to strengthen prevention through restrictions on the sale of graffiti implements. The sale of spray cans is already restricted and, in spite of the inconvenience this causes, those restrictions are broadly supported.

The proposal to extend bans on the sale of graffiti implements beyond simple spray cans was once more supported by the majority of respondents to community consultation. Nonetheless, there were some concerns that restrictions on display and shelving of these additional implements could potentially impose too much of a burden on retailers. It is not the government's intention to cause undue distress to retailers.

Finally, the proposal of creating a new offence with stronger penalties for making graffiti on memorials, in cemeteries or on places of worship or religious significance met widespread public support—and rightly so. Vandalising a memorial or place of worship is more offensive than the disrespect shown by similar vandalism in other places. As the hurt these acts can create is stronger, so too should be the penalties imposed for such an act. I am pleased to be able to report to my constituents that I am part of a government taking action on this matter and I encourage all members to support this bill.

Mr GARDNER (Morialta) (17:25): I am pleased to be able to stand and support the Graffiti Control (Miscellaneous) Amendment Bill. The opposition has, of course, flagged some amendments that will improve the operation of the bill and I will briefly touch on them later, but I just want to deal first with the offence at hand.

Between 1 February 2002 and 31 December 2009, I am informed that there were 33,317 offences under the Graffiti Control Act, of which 78 per cent were one-off offenders. Only 1 per cent of those offenders had five or more graffiti apprehensions but, clearly, when we are talking about that 1 per cent who have had five or more apprehensions, we are talking about people who are perhaps due for some more severe penalty than had previously been applied by the courts.

As I understand it, the average fine that is awarded by the courts to adults convicted of graffiti offences is $258 or $117 for juveniles. The highest offence under the act, and even more under this bill, is substantially higher than that.

Graffiti is often described as a minor crime but it is a significant scourge on many of our communities. A number of members have already here in this house identified some of the significant problems in their local communities. One of the first incidences that was brought to my attention when I was selected as the member for Morialta in March 2010 was the high rate of graffiti around the Paradise skate park and the bridge over the River Torrens and the Linear Park that is just to the north and east of that skate park. I do not know if many members have seen the Paradise skate park but it is just opposite the Paradise Interchange bus facilities, so I am sure that any members in the north-eastern suburbs wanting to go home probably have to go through that area.

The skate park is visible from Darley Road and it is a constant disgrace. It is constantly completely covered in graffiti. It is deeply unpleasant for the people nearby and the people going to church next door. The bridge next door is possibly even more problematic because, of course, this

is an area where we encourage families to go for walks, take their pets on walks and ride their cycles for recreation and there is this constant blight on the landscape.

When it affects people's personal property it is an even more significant concern, in my view. I know from personal experience, and certainly it is an experience shared by many who have related their concern to me, that when you have your property vandalised in any way it is a violation and potentially a very harrowing experience, especially when it occurs in a repeated way, so strengthening the laws surrounding the control of graffiti is something that I am pleased to be part of today.

On the incidents that I was describing at Paradise though, when I was first elected I spoke to the council and I spoke to the local police and I was somewhat concerned that the approach seems to all too often be a sort of harm management approach. We are not going to police the park regularly, for example, around where all this graffiti happens in my area because, if they did not do it there, the people involved might be more likely to do it in people's private residences, is the information that I received. I can understand that to a certain extent, but I think that it belies an underlying need to get tougher on graffiti vandals.

Some members have talked about whether or not people are graffiti artists. I think there are street artists who can do some magnificent artwork, but the key point is they are not vandalising other people's property or public property. When people are undertaking graffiti on public property or private property—property that is not their own—then they are vandals, they are not artists. I think we need to be very clear about that. We need to give our police whatever powers they need in order to undertake their duties effectively, and hopefully the courts will pay attention to the community concern about this graffiti vandalism in applying the penalties when people are convicted of these offences.

As previously stated, the Liberal Party has a number of amendments to improve the bill. I support those. To take an example, rather than leaving it to regulation, we propose putting in the act the revised definition of 'prescribed graffiti implement'. At the moment there are restrictions around the sale of spray paint to children. We propose that the definition of 'prescribed graffiti implement' be inserted as either (a) a can of spray paint or (b) a graffiti implement designed or modified to produce a mark that, first, is not readily removable by wiping or by use of water or detergent; and, secondly, is more than 15 millimetres wide. I think this is very useful when we are talking about the types of implements that are really only going to be used in this negative way unless controlled otherwise.

I understand that the opposition, members of parliament, and the cross benches are all supporting the bill. I think government members in their remarks can take comfort in that, and I think passionate exhortations that may potentially make for good theatre are not that necessary at this stage of the debate. Everyone is onside. We think we can improve the bill, and we look forward to our attempts to do so.

Mr BROCK (Frome) (17:31): I also would like to contribute to the Graffiti Control (Miscellaneous) Amendment Bill and congratulate all the speakers prior to my having the opportunity to speak. I support this bill. It is long overdue, and we need to review it on a regular basis. I will be very brief, but I would like to elaborate on my previous experience as mayor of the Port Pirie Regional Council and the policy we had in place at that particular point. I take on board the member for Bragg's recommendations and amendments, and I hope that the government takes them seriously because they may be minor but they do assist the bill.

From my previous experience, for every dollar that is spent because of graffiti, there is a major amount of money that is not going into roads and infrastructure, and so on. That applies not only to the government but also to local council and community groups. It is an ongoing issue, and it is a very expensive issue. The member for Fisher indicated that it is not only minors who are doing this, and that is true. In my previous experience, we apprehended adults who went out and graffitied, and they think it is funny, but I do not think it is very funny at all because it is a blight on the community, it is a blight on the image of the community, and it is a costly factor.

When communities are vandalised, it is detrimental to the image of the community. It affects how tourists see that community, that facility, or that location. It also brings down the community's confidence because people take pride in not only their home and their car but also in their communities, and seeing these ridiculous acts of treachery does not do anybody any good at all.

The penalties for the offences should be a deterrent, and they should be consistent and, in my belief, they should also be at the maximum. The member for Morialta indicated a minute ago that the average fines are pitiful. We should be making them so high that they are a deterrent because people who might think it is funny might only be fined a couple of hundred dollars or get a slap on the wrist. As the member for Finniss indicated, we should be stricter with these people and with the punishment.

With graffiti artists—and I call them artists because they think they are—the longer their graffiti is in the public view the more they gloat, and they say all the time, 'This is my trademark, this is my signature out there,' and gloat about it. What we have to do as a community, whether it is government, community leaders or local councils, is get onto those issues and eliminate them very quickly. This is happening in one of the five councils I represent. The Port Pirie Regional Council is experiencing lots of graffiti issues at the moment. I spoke to the CEO just recently. Some of the graffiti has been sitting in different locations for two months, whether it is in toilets, playgrounds, side fences, or wherever. The comment they are making to me is that it is an expensive issue.

It might be an expensive issue to remove, but it is also a very expensive issue for the image of our community there. I will be pushing very hard for that council to remove the graffiti very quickly. I wanted to touch on those issues. It is a very important bill. As the member for Morialta indicated, all the crossbenchers are supporting it. I am looking forward to some of the amendments going through. I certainly support the bill and look forward to the committee stage.

Mrs GERAGHTY (Torrens) (17:36): I have listened to what people have said and I do agree. I have graffiti problems in my community. I have graffiti problems on my front fence. For a long time, at 6 o'clock in the morning there I would be in my jamies painting the fence—

Members interjecting:

Mrs GERAGHTY: A horrible sight, but I took the view that the faster I got it off the less they would come back. It took a long time for them to stop their activity, but I had the feeling they got sick of seeing me out there in my pyjamas.

Mr Sibbons interjecting:

Mrs GERAGHTY: Much better than a scarecrow. In my electorate of Torrens my constituents will be exceptionally pleased to know that this bill is set to go through the parliament, which it hopefully will. Graffiti vandalism is more than an eyesore, as many have said. The damage it causes leads to very significant costs that are borne by all of us in the community. We pay for that through our taxes and council rates but also in the significant clean-up costs. Graffiti has a huge financial impact on our community.

There are also social costs that are harder to quantify, but they are nonetheless real. We all want to live in attractive and safe communities. There is nothing worse than driving around seeing tags, meaningless things and spray painting all over the place. When our public places are blighted by these tags it just makes us feel unsafe in our own communities. Certainly the government has recognised that and the concern that is in the public mind. That is the reason for this bill, and I am really pleased with it.

The bill attacks graffiti vandalism broadly on three fronts. It creates new offences, it further restricts the sale and supply of graffiti implements, and it creates new penalties for graffiti vandals, and that, I think, is a great deterrent. The new offences and stiffer penalties exist partly to act as a deterrent to vandals from making their mark in the very first place, and that is the thing: we want to stop them; we do not want young people thinking it is a great activity in the community.

The government has announced additional funding to complement the deterrent of the penalties. The Crime Prevention and Safety Grants program provides funding from between $10,000 and $50,000 to local councils and community groups to deliver crime and graffiti prevention programs. I think that is very important.

Total funding for this grant program is set to rise to $800,000 per year, with $200,000 dedicated to combating graffiti, meaning more local councils and community groups will be able to deliver innovative and effective graffiti prevention programs. The $200,000 earmarked specifically for graffiti prevention projects is double the amount allocated for anti-graffiti projects last year.

I hope my Klemzig Neighbourhood Watch group will apply for and benefit from this grant, because they do a fantastic job in the community. They have been given a trailer through the local

council and they buy paint, or paint is donated. It is not a young group, it is made up of more senior members of the community (in general) and you will see them out in the community painting away—early morning, during the day, in the evening, they are out there cleaning up. In fact, so good are they at the job they do that they have been asked by other communities to go around and clean up the graffiti in their communities as well. We get fed up with seeing our structures in parks graffitied, even artwork in our parks is spray painted and it looks untidy. You do not want to take your children into a park where there is graffiti all over the place. It is not a pleasant way to spend an afternoon with family and friends.

The new preventative powers will also extend to police powers. This bill will give police the power to confiscate a potential graffiti vandal's spray can or marker. I remember the markers the member for Bragg talked about. I have a young grandson and, thankfully, he has not written on my walls, but some cousins have and I personally would like to see those disappear as well, or any other similar implement in order to prevent graffiti vandalism from occurring in the first place. I think that is the key to all of this.

There are other clear benefits in preventing the commission of the offence in the first place: the clean up is not required, there is no offence to prosecute and there is the warning given to the potential offender. There will be no need for the officer to resort to an arrest or charge, as opposed to the current situation where this is required. I am very pleased to support this bill. I think everyone in all of our communities will be delighted—except for, of course, the graffiti artists—to see this go through and, hopefully, we can walk around our communities and not see this disgusting stuff splattered everywhere.

Ms SANDERSON (Adelaide) (17:42): I rise in support of this bill. Graffiti today generally refers to the illegal defacing of public/private property in the style of words, colours, shapes or scratchings on buildings, overpasses, public transport carriages or infrastructure or other surfaces. It is often done without permission and in all states and territories throughout Australia it is against the law. Graffiti is also unsafe for those who undertake it, often putting themselves in dangerous positions where harm and even death has occurred. I am reminded of the young man who died near Christies Beach last year while trying to tag a bridge.

Although the real amount of money spent by communities and private property owners, small businesses and public agencies each year to repair, replace and clean up property defaced by graffiti vandalism has yet to be definitively documented in Australia, it is estimated that local governments across Australia spend approximately $260 million annually on graffiti vandalism removal. I note that the member for Fisher mentioned a figure for South Australia of $12 million per annum, and for the Adelaide City Council of $409,000 per year, which is an incredible amount of money.

Speaking of that, on Saturday night I was part of a safety audit of Hindley Street. I am pleased to say that there was not a lot of graffiti around. In one of the laneways they actually had a graffiti art exhibition on the sides of a couple of buildings. They even have some light boxes that are used to light the area, as well as have some decorative art as part of the graffiti works on the building. So, there are some positive ways to use the creativity of these young people and focus that in more positive areas.

I will mention the Can the Can program, which is a restorative justice initiative for young offenders involved in illegal graffiti. That is in partnership with SAPOL and local businesses. Last year, I went to a re-launch of the Commonwealth Bank on King William Street. There were three graffiti artists there and they auctioned off their artworks. One young boy spoke about how if he had not been found by the youth worker at the local council that he would have continued graffitiing.

The penalties did not really stop him at the time because he was on drugs and drinking a lot as well; it was the fact that the youth worker found him and was able to put him in a program where he can still graffiti but as an artist. He can sell his work and actually paint sides of buildings where the business owners actually want the building painted, which I think is a very positive way of helping youth.

In the Prospect city council area alone, the council has budgeted $24,000 this year for removal of graffiti from Prospect council property and a further $9,000 for non-council property. The council relies heavily on volunteers to remove and manage graffiti within the area. This is such a waste of money and resources that could be spent on other positive things such as parks or libraries. This does not take into account the many hours of wasted time and resources that could otherwise be spent on improving public service and for other productive purposes.

The presence of graffiti can trigger a decline in property values and cause potential homebuyers and businesses to look in other areas or communities. The economic impact on local businesses can be great as customers decide to shop in other neighbourhoods where they feel and think they are safer.

Graffiti vandalism can also potentially lead to loss of funding for community organisations, youth groups and school programs, as businesses and schools are spending their money removing the graffiti instead of helping employ more people or having more positive programs, so there is a significant social cost to graffiti.

What cannot be measured in lost dollars and business is the real impact that graffiti vandalism has on the fabric of the community and society itself. Graffiti vandalism in public places sends a message to the community that the places where they live and work and the public transportation they use are no longer controlled by the agencies responsible. Its appearance in neighbourhoods is often perceived by residents and passers-by as a sign that a downward spiral has begun, even though this may not be true. I am very supportive and I commend the bill to the house.

Dr McFETRIDGE (Morphett) (17:47): One of the banes of my life down at Glenelg is to come to the office and see graffiti along some of the back lanes and alleyways and around the streets. It is just a pain in the neck. These imbeciles that do this! I just cannot fathom the thoughts that go through their heads, thinking that this is somehow going to make them immortal, get them some respect or in any other way endear themselves to anybody in the community. It is just beyond me how these people can think this is something worthwhile.

We do see lots of it around the Bay, unfortunately, with spray cans and the wide tip markers, but one of the most expensive forms we see is the people who scratch the large front shop windows. It is a very expensive exercise to have that polished out or have the glass replaced, and sometimes you will see shop after shop after shop down Jetty Road with inane tags scratched into the glass. It is heartbreaking for the shop owners because they have to then undertake not only replacement or polishing of the glass but also make sure that any signage they may have had on there is also replaced. It is very expensive.

The City of Holdfast Bay does spend many thousands of dollars every year getting rid of the graffiti and they have some quick response teams that go out that do a terrific job, but why these people do it in the first place is something that is beyond me. We see it on the tops of buildings; we see it where people have climbed up and endangered their own lives. As the member for Adelaide said, we have in the past seen people die as a result of their efforts to immortalise themselves in an inane tag. What they have done, though, is ended their mortality in a very unfortunate way and a very worthless way, in my opinion.

I have seen the other end of the so-called graffiti spectrum and I would call it graphic art rather than graffiti, where some people who were perhaps involved in tagging have actually produced quite spectacular works of art. The very best one I have ever seen was in London in a tunnel by a railway station, and the images were four or five metres wide and three or four metres high in some cases.

The one that really sticks out was the head of a gorilla and it was just brilliant the way it was done in spray cans with shades of grey and black and white. It was really great and there were other examples of what was really good graphic art. This is light years away from the tags we see around some of our suburbs on our signs and on our shops. We have even had tags on the sign at the front of my office, and we have had to clean it off a few times. It is so frustrating for everybody who wants to have pride in their neighbourhood. The member for Torrens said that she is out there painting graffiti off the front of her property, and I remember doing that at my vet practice, getting the graffiti off the signs early in the morning.

The Hon. M.J. Atkinson: Not in your pyjamas.

Dr McFETRIDGE: I was not in my pyjamas, member for Croydon. I might have been in scrubs or something like that, ready to cut some testicles off a cat and take my frustrations out on that. I would do it very gently, though, under anaesthetic. I would like to cut something off some of these graffiti vandals—but I think I would be using a blunt bread knife. I digress, but you can sense the level of frustration.

The Hon. J.R. Rau: Are you foreshadowing an amendment?

Dr McFETRIDGE: No, Attorney-General, I am not foreshadowing an amendment to the penalties, but I am very pleased to see the increased penalties here, particularly in relation to cemeteries and memorials. There is nothing worse, particularly on ANZAC morning, than seeing diggers having to clean off war memorials. Graffiti is something that is so un-Australian, never mind an understandable act.

The big thing with these graffiti vandals is that you have to catch them. We have a particular issue down at the Bay at the moment. I have been pushing for CCTV down there, and I will give the federal government their due because Steve Georganas has helped get some money down there for extra CCTV cameras. However, the council wants to put in more lights. Is this so that the vandals can see what they are doing? We want to see more TV cameras down there.

It is absolutely necessary to spend that money on CCTV so that we can catch these people not only if they undertake the graffiti but, more importantly, to deter them from doing it in the first place. If you can stop them committing the crime, at least you are going to give the residents and business owners some relief from the distress they suffer when they come along in the morning and see the damage that has been done. Some of it is significant damage that takes a lot of work to get off—a lot of high-pressure cleaner and chemicals or, in the case of glass, very expensive polishing or replacement of the glass.

We need to emphasise to young people that this really is an inane act. It really is something that we need to deter. We need to let them know that there are better ways of expressing themselves, such as through art classes, through other education or, as the member for Adelaide said, through some of the graphic art work that is being done by former graffiti vandals, turning graffiti artists into graphic artists. This is so important, and this legislation will help with that. The member for Fisher has long been a champion of trying to battle graffiti, and I think every member in this place would get complaints every day and see it every day in their electorates. It is about time it stopped. How you get it to stop, I do not know.

I will finish by saying that there is one concern about particular tags that you see around the place; one is 'COA' and another is '73A', which I have seen. COA apparently stands for 'constantly on the attack'. I understand that is a group of young people—a gang, I suppose you could call them—that is in cahoots with some of the bikies, and they are being recruited to run errands and do things for the bikies. I think 73A is a bus route that some of these people come in on. They come down around the Bay and leave their tag behind. It is distressing not only to see those tags but also, when you look behind at what is going on with these young people, that they think this is something that will have an impact on their lives or other people's lives. It is completely impossible for me to work out how they think.

I look forward to seeing this bill go through. There are some amendments that the opposition will be moving. The government is well intentioned, but I think the bill could be improved, and I hope that it considers our amendments.

The SPEAKER: I am very concerned about the amount of gratuitous violence this bill is inciting, with the very quiet member for Morphett wanting to castrate and the member for Finniss wanting to bring back police brutality. It is quite amazing.

Mr PEDERICK (Hammond) (17:54): Thank you, Madam Speaker. I rise, too, to support the Graffiti Control (Miscellaneous) Amendment Bill, and I also want to add commentary from my electorate, the electorate of Hammond. Being a grain-growing area we certainly see all the railcars that come through, whether they are bulk grain cars (which are quite obvious targets for graffiti) or other types of railcars, and graffiti attacks on trains seem to be something that has gone on for decades. We also see graffiti on buildings and fences. I know that the fences of electorate offices can be a bit of a target but it soon gets cleaned up. We have a good Neighbourhood Watch group especially in Murray Bridge. Bob Wheare has been a great anti-graffiti campaigner for many, many years, making sure that it gets cleaned up so that these hooligans cannot have their tags up for very long at all.

It is great to see the local work of volunteers—whether they be organised through Neighbourhood Watch or just individuals in the community—who all do their bit to stem the flow of graffiti in communities. I just want to relate an email that came from a group, Graffiti Hurts-Australia. It came to my office several years ago but it is still quite apt in regard to this bill today because, obviously, graffiti still goes on:

> Graffiti, a gateway crime that affects more fabrics of our society than most people would realise.

It is an issue that is often not seen as important yet affects businesses, local economies, the health of many in our community, the cost borne on local community groups and service providers and helps increase insurance premiums, public transport safety, public service utilities, and we could go on.

In fact, although the real amount of money spent by communities, private property owners, small business, public agencies and governments each year to repair, replace and clean up property defaced by graffiti vandalism has yet to be definitively documented in Australia, we do know one thing, the costs are rising. Through [this organisation] Graffiti Hurts-Australia's research—

and this is from 2008—

of all Local Governments across Australia, it costs them over $250 million annually on graffiti vandalism removal, which equates to just under $12 per Australian each year being spent solely on graffiti vandalism.

While seemingly a small issue or as some would believe a way for youth to express themselves, it is in fact a gateway crime that can, and has reduced the sense of community across Australia.

Graffiti Hurts-Australia believes, and the reason for our existence, is to highlight that graffiti has never been a one government department issue, in fact it has never been solely a government issue at all. It is a whole of community issue.

The economic impact on local businesses can be great as customers decide to shop in other neighbourhoods where they feel and think are safer due to less graffiti vandalism other anti-social behaviour.

Graffiti vandalism can also lead to the potential loss of much needed funds for community organisations, youth groups and school programs as they spend money that could be used for such community programs and services or even employing more people.

Graffiti vandalism in public areas sends a message to the community that the places where they live, work and the public transport they use are no longer controlled by the agencies responsible for their management but are controlled by those undertaking antisocial behaviour.

This perception of increased personal risk can also be carried over into neighbourhoods. Left alone, graffiti vandalism is one in a sequence of events in the decline of pride within a neighbourhood known as the 'broken window' syndrome.

According to sociologist George Kelling, 'If a window in a building is broken and left unrepaired, all of the rest of the windows will soon be broken. One unrepaired window is a signal that no-one cares, and so breaking more windows costs nothing.'

New South Wales—

and these are New South Wales' figures I will quote here—

police figures show a steady increase in the number of recorded graffiti incidents between 2004 and 2005 by type of premises as follows:

- Business/Commercial +73.8%
- Education +41 %
- Industrial +91 %
- Religious +74 %
- Residential +49.2%
- Transport +26%
- Vehicle +520%

The above figures show that there is not one aspect in our community that is not affected by graffiti vandalism. Madam Speaker, I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 18:00 to 19:30]

STATUTES AMENDMENT (SHOP TRADING AND HOLIDAYS) BILL

Adjourned debate on second reading (resumed on motion).

Mr BROCK (Frome) (19:30): I would like to talk on this proposed bill that is before us tonight, and I want to make it very clear that I am a believer in people who work at various times being correctly remunerated accordingly and being remunerated accordingly through the appropriate channels, that is, the industrial relations system. I would also like to make it quite clear that I certainly believe that retail facilities should be able to trade at what they consider the best

times and certainly agree that the trading hours for Rundle Mall in Adelaide should be when appropriate.

I have previously worked in small business, operating a roadhouse at Port Augusta and, although it may have been many years ago, I certainly have a fair understanding of the constraints and challenges that are facing small business in regional South Australia. My partner, Lyn, is also a small business operator—and I make that quite clear. We have a small business in Port Pirie (a hairdressing salon), and we are certainly affected by any proposal that may happen. The proposed bill before us now has, in my opinion, been very badly promoted outside the Adelaide metropolitan area.

People I have spoken to in regional South Australia regarding this bill thought it only related to the CBD area and, in particular, to the Rundle Mall operations. I would also like to point out that Port Pirie in particular has enjoyed deregulated trading hours, and at one time the supermarket chains of Coles and Woolworths, both endeavouring to obtain the greater share of business in the retail sector, actually operated 24 hours per day, seven days per week. This certainly was very appreciated by those who wanted to shop at these times, in particular, shiftworkers from the smelters, those in hospitality, and also the health service nurses and doctors.

If those people who wanted to work during these times did so, they were appropriately remunerated for their services under the appropriate awards, and this is still the case today through the industrial relations system. I repeat: this is still the case today, as I understand it, through the industrial relations system. We can still allow for the extra trading hours for businesses in Rundle Mall without creating additional half-day holidays. We already have sufficient holidays in this state, and small businesses are always struggling to cope with the extra demands and remunerations they have to pay out.

The times the government is proposing—that is, Christmas Eve and New Year's Eve—will have a dramatic effect on small businesses, and if they do open then they will not be able to pay the increased rates of pay without increasing the rates of their services dramatically. They may still operate, but they will only operate their businesses themselves, saving the wages. By doing this, they will prevent those who may have worked under the current award systems, receiving no pay whatsoever.

It was mentioned earlier that there are many people who take these part-time jobs and may be working only five or six hours a week, but they may be eliminated and prevented from getting any remuneration on these two particular days. Small business operators in South Australia are already struggling, and it is in these times that they may be able to just make up some of the leeway with their overdrafts and overcome some of the financial constraints they already have.

It appears that Business SA has not really communicated or consulted with their smaller business members, because of the ever-increasing responses which are coming forward now. I am still receiving phone calls and letters from all over my electorate of Frome—in particular from Clare, and also from Port Pirie and Port Broughton—asking me not to vote for the half-day holidays.

I have spoken to numerous business organisations and chambers of commerce. The first that they were aware of the true direction of this proposal was by reading it in the media or being advised by me. They were under the impression that this bill only related to the CBD area of Adelaide and, in particular, to try to get extra trading hours for Rundle Mall.

Although I live in a regional location where trading hours are extended for seven days a week, I believe that the people in the City of Adelaide deserve the same opportunities that we enjoy in regional South Australia. They can enjoy these extra facilities by allowing the extra trading hours but not by creating additional public holidays. If these business operators elect to close at these times, then not only will the current staff not get any pay but it will have a dramatic effect on tourism in these regional areas, and other locations and businesses also could suffer.

I do not have to answer to any political party. I am representing the businesspeople in my electorate, and the people who work there, and I am doing so tonight. I cannot endorse nor support the bill in its current form and I encourage the government to seriously consider the small business operators in the state and to do everything in its power to ensure their continued viability. I certainly hope that the government will look at increasing the opportunity for trading hours in the metropolitan area of Adelaide, but not at creating an extra financial burden in penalty rates.

Mr BIGNELL (Mawson) (19:37): I rise to support this bill and, in particular, the part of the bill that establishes part-day public holidays between 5pm and midnight on Christmas Eve and New Year's Eve.

I would like to look at one particular sector, and that is the police and our emergency service workers who have long fought for decent pay when they work Christmas Eve and New Year's Eve. As someone who, in a previous job, was rostered to work those hours, I know that it is a big burden to be away from your family when Santa is meant to be there putting out the presents and when all your friends are welcoming in a new year. I believe there is an imperative that people should be rewarded for working those very antisocial hours. We do it for a local horse race; we do it for the Queen's birthday that is not actually celebrated on that day but we have a public holiday. There are few bigger nights of the year than Christmas Eve and New Year's Eve for bringing together family and friends.

I was contacted by Mark Carroll, the President of the Police Association, who asked me (and I am sure other members in this place) to support this bill and, in particular, the section of the bill that provides penalty payments for police officers. In his letter, he wrote:

> The Police Association has attempted, through many enterprise-agreement negotiations, to address its members' concerns in respect of payment on New Year's Eve. SA Police rosters a large contingent of police officers who work on New Year's Eve to start between 7pm and 7.30pm. Owing to this rostered start time, our members are not entitled to any payment at public-holiday rates for work they perform after midnight. This is because they work the majority of their rostered shift on the non-public holiday New Year's Eve.
>
> This creative rostering results in on-duty police officers being deprived of the public holiday penalty rate. Many of them are compelled to work overtime and might, ultimately, work a 12-hour shift. Successive governments have failed to act on the strong need to address this issue because of the requirement to amend the *Holidays Act*, which brings the obvious flow-on effect. It is therefore of great interest to our members to see the successful passage of this bill which will eliminate the injustice they have endured for many years.

If any sector of our workforce deserves justice, it is the hardworking men and women of the South Australian police force. They are out there day and night, putting their lives on the line, going into trouble as others are fleeing it. We should get this argument back to where it really belongs and take a holistic view of the entire community of South Australia and what it means for all those people.

The debate has been hijacked by well-organised groups that are doing a good job on behalf of their members, and I refer to the MTA and the AHA. No-one can blame them for being out there and being great lobbyists on behalf of their members. However, I think what we need to do is not worry so much about what the people who are paying the money are doing but look at the consequences on the workers, and the fact that they have to give up so much of their life and their time with family and friends to work these nights when most members of our society do not have to.

It has been in the paper, from the caterers association and the AHA, that cellar doors are going to suffer. There are 65 cellar doors in the seat of Mawson; I have not received any complaints from the cellar doors I have visited since this news was announced that people are worried about it. I have had three emails, and they were all form emails which are sent out by the larger, statewide wine body. The reality in the wine industry is that cellar doors do not usually open after five o'clock, so there is not the need for cellar doors to pay their workers extra money.

I spoke to the chief financial officer of a large winery in McLaren Vale yesterday and asked why he was taking up this fight. He replied, 'It is because we are worried that people will not go out on Christmas Eve and New Year's Eve.' I just do not think that is a reasonable argument. It is not affecting his business directly; he just thinks that people are not going to go to restaurants on Christmas Eve and New Year's Eve because it will be price prohibitive to do so. Many people go out on Christmas Day for lunch, and for those who choose to do so there is a penalty attached to their meal and their wine. No-one bats an eyelid at that. What is going to change?

People can run around and say that the sky is going to fall in, but quite clearly it will not. People will still choose to go out on Christmas Eve or New Year's Eve if that is what they want to do for those particular nights of the year. To say that wine sales will fall because people are not going out is just ridiculous. If people are not going out, and they have a propensity to have a glass of wine, they will go to the bottle shop and buy one, two, three bottles of wine and consume it with their friends and family on those two nights.

I think we need to get a sense of reality back into this argument. While I congratulate the AHA and the MTA—and they have been in here watching this debate over the past couple of days—on their ability to mobilise members and their ability to push through with their message, let

us look at the 81 per cent of people in the news poll who say that they are in favour of these penalty rates on New Year's Eve and Christmas Eve. I was at the mall today, and people were volunteering to get postcards to send to our colleagues on the crossbenches in the upper house. I signed a couple of those for a couple of members up there, and I saw a lot of other people lining up to sign. We need to listen to our whole society and not just to special interest groups—

Mr Pengilly interjecting:

The SPEAKER: Order! Member for Finniss, you were very audible then in your comments and it was very unparliamentary.

Mr BIGNELL: People show the member for Finniss respect when he is on his feet in here talking; if he wants to come in here, wander around and just badmouth people then maybe he should go elsewhere. Look at the editorial that I read out today from the local newspaper, saying that he was held in very low regard by people in the community of Kangaroo Island for what he said about the Prime Minister—

Mr Pengilly: Your turn is coming, son; your turn is coming big time.

Mr BIGNELL: Nice threatening behaviour from the member for Finniss; nice threatening language from the member for Finniss. It is no wonder he gets editorials written about him. Shauna Black won the South Australian Country Press award for the best editorial because she captured exactly what the people of Kangaroo Island think about the member for Finniss. They are not very happy to have him as their local member of parliament when he comes out and says the things he does. She said that he would have no respect from people on the island and that people within his own party would not listen to his views.

Mr Pengilly interjecting:

The SPEAKER: Order!

Mr GRIFFITHS: Point of order, Madam Speaker. I do respect that after the dinner adjournment there are some spirited debates, but how about the member for Mawson getting back to the intent of the bill?

Members interjecting:

The SPEAKER: Order! Thank you, member for Goyder. I ask the member for Mawson to get back to the substance of the debate, please.

Mr BIGNELL: I am quite happy, Madam Speaker, to get back to the substance of the debate, which I was doing quite well until being interrupted by the member for Finniss. I will get back to the police, our emergency services workers and others in our community who will benefit, quite rightly, by this legislation, which will reward them for working on Christmas Eve and New Year's Eve. As I said at the outset, I support the bill and, in particular, I support the part of the bill that establishes part-day public holidays between 5pm and midnight on Christmas Eve and New Year's Eve.

Mr MARSHALL (Norwood) (19:45): It is my great pleasure to speak tonight on the Statutes Amendment (Shop Trading and Holidays) Bill. Of course, I have been scheduled to be one of the very last speakers so many of the key points in this debate have already been covered by those people who have spoken before, but I think it is important at this point to look at a bit of a summary of what has occurred to date.

The very first thing that comes to mind here is that there is furious agreement. There is furious agreement between the government and the opposition benches that we need to deregulate shop trading hours in the CBD. For bringing that point to the house, I would like to acknowledge and thank the very hardworking member for Adelaide, Rachel Sanderson, who has worked extremely hard to bring the government around to this very obvious point, a point that has not been lost on the people of South Australia, that is, that we need to stop the embarrassment—the absolutely shameful embarrassment—that our CBD was closed during public holidays here in South Australia. So, thank you very much to the member for Adelaide. And, thank you very much to the government for coming around to this very obvious point of view.

It is of course, a little bit surprising to us in the opposition that the government has chosen to adopt the member for Adelaide's suggestion to liberalise and deregulate the shop trading hours in the CBD. It is surprising because she introduced a bill to do this very thing that the government is

proposing now, only last year. What was the government's response as late as November last year? What was the government's response? It was outrageous.

In fact, the member for Mawson, who has just been standing up extolling the virtues of this particular bill that is before the house at the moment, told us only last November—only four months ago—that this was a heinous crime that should not be done. It was going to create a massive rift between metropolitan Adelaide and the city, and this would not be good for his people in Mawson. The member for Little Para spoke at length—

Mr BIGNELL: Point of order. The member for Norwood is verballing me. I didn't say anything was a heinous crime.

Mr MARSHALL: Madam Speaker, I am happy to retract that statement 'heinous crime', but there is no doubt that the member for Mawson stood up in this parliament—it is in *Hansard* and we can all read it—and spoke very passionately against this very deregulation that his government and Premier are now putting forward. What an incredible backflip in just four months. The member for Little Para spoke out about it. The Deputy Premier (Hon. Mr Rau) came into this place and told us this was a bad idea.

So, what has actually happened in the last four months? Let me tell members what has happened. The government has worked out that the people of South Australia want to be able to go into their shops on public holidays. They do not want South Australia being the butt of jokes around this country, and good on the member for Adelaide for bringing this to the parliament's notice.

Of course, it is incredible to us also in the opposition that not only has the government accepted the position of deregulating shop trading hours on public holidays but, believe it or not, after all their protestations last November in this parliament and all their protestations over the last 10 years, they have gone further than the Liberal Party policy over the last 10 years. Instead of deregulating shop trading hours down to 3½ days per year (they being Christmas Day, Good Friday, Easter Sunday and half of ANZAC Day), they are now proposing to go down to 2½ days. So, they are actually proposing even further deregulation than that they have actually opposed over the last decade. What an incredible backflip.

As I said, we are in furious agreement on the first three sections of the bill before the house. In fact, it is not just before the house. The Premier was so confident with this proposal of his, he went out and announced it to the people of South Australia before he actually brought it to the parliament. We have all been enjoying shop trading hour liberalisation on public holidays. In fact, we were able to shop on Monday this week. We have all actually been enjoying it, so congratulations to the Premier. Of course, he did go out and say to the people, 'This is going to happen, but the trade-off is going to be that we will be creating two half holidays.'

This is where the problem starts because the Premier cannot actually make that promise to the people of South Australia. The Premier does not decide when we have holidays: the parliament actually decides when we have public holidays. He has fallen into exactly and precisely the same trap that the former premier fell into when he stood up at the solar cities conference several years ago and said, 'We are going to increase the solar feed-in tariff rebate from 44¢ to 54¢.' Well, do you know what? The premier could not do that. In fact, the parliament pointed out to him that he could not do that, and it did not pass this house.

Of course, now we have the embarrassing position for the new Premier where he is very worried that his first substantial piece of legislation he has introduced to this place since being made the Premier of South Australia is looking extremely precarious because he has promised deregulation, which is an extremely popular Liberal idea, but he has put something with it which is extremely unpopular. This is where the rub actually occurs.

The Hon. J.W. Weatherill: Eighty per cent. That's unpopular, is it? Are you reading it upside down?

Mr MARSHALL: No, I'm not. So, let us actually have a look at some of the arguments that the government has put over the last couple of days of debate on this topic. The first point they make is that this is going to be the very final debate ever on the issue of shop trading hours. The Labor Party loves making historic announcements. Here is another one from the Premier: this is the last time we are ever, ever going to talk about shop trading hour liberalisation in the future history of this state. What a load of rubbish. We have been talking deregulation of shop trading hours over the last 30 or 40 years.

In fact, the government has huge form on this. Premier Rann put it in writing before Labor was elected that they would never, ever deregulate Sunday trading in South Australia. What did he do after they were elected? It was deregulated. So, they have got form on saying something will never, ever happen in terms of deregulation and then actually backflipping, and this is going to be one of them. The Premier is trying to assert that, if we do not all sign up to this dirty agreement which is before the parliament at the moment, then it is your last chance. You are never going to see it again. This is a historic agreement. It is now or never.

Of course, the other point that all his ministers and members have been coming into the house making is that if you do not sign up to this agreement you are going to end up with the Liberals' plan, which is some sort of evil. In fact, we heard the Minister for Small Business today refer to the Liberal Party as the 'dark side' and that the plan of the 'dark side' is going to be to destroy competition here in South Australia. All of a sudden, we are going to be taken over by Woolies, and we are going to be taken over by Coles, and there is going to be no competition in South Australia if we go with the Liberal plan.

What a load of rubbish. In fact, this was perfectly highlighted to the parliament yesterday when the Deputy Premier, the second-highest ranking elected member—and I use that term 'elected member' very carefully there—of the Labor parliamentary team, stood up in the parliament and said that if we are not careful in South Australia we are going to be taken over by Coles and Woolies. By way of example, he talked about fuel prices in South Australia, and he boasted that one of the reasons why we have the lowest fuel prices in the country was that we had not gone down this path of total deregulation. Never let the truth stand in the way of a good story. I had to point out to the Deputy Premier that the trading hours of petrol stations had in fact been completely and utterly deregulated for years and years. So, the very example that he demonstrates to the parliament—the evils of total deregulation—is actually an example of where we have had total deregulation. And, guess what? Our petrol prices are the lowest in the country. So, it is a great example that the Deputy Premier wants to use.

In reality, this is a dirty deal. The Premier has got himself into a very precarious situation. He has gone out and promised the people of South Australia that they are going to have what they want, which is deregulated shop trading hours in the CBD. What people do not want, though, is a massive increase to the cost of their business, and this is absolutely fundamental.

As the shadow minister for industry and trade and the shadow minister for small business, it is my responsibility to stand up in this parliament on behalf of those businesses and say, 'This is not good enough'. There is no logical connection whatsoever between the liberalisation of trading hours and increasing public holidays unequivocally leading to increased costs to the business community in South Australia. I want to give some examples.

I have recently been down to Mount Gambier. They have had, by the way, complete deregulation of shop trading hours for many years, and, guess what?—they still have competition down there. The last time I was down there, there were plenty of independent retailers. Coles and Woolies had not taken over the entire South-East; in fact, there were some fantastic local businesses which were operating extremely successfully.

The people down in Mount Gambier do not think it is at all fair that their costs—in their small businesses, in their aged-care facilities, in their petrol stations—are going to have to go up. Why? What are they going to get in return? What they are going to get in return is that the people in Adelaide are going to get deregulated shop trading hours in the CBD on public holidays. Hello? Do you know what they were asking me: 'What's the connection'? There is no connection. There is no obvious connection, unless we just scrape a little below the surface and work out who has actually suggested this to the Premier.

I put it to you that this is unequivocally the suggestion of the SDA. The SDA is actually running this state at the moment. This is why the government was so violently opposed to it last year: the SDA would never agree to it. All of a sudden, it has, but what is the price? The price is two new public holidays for South Australia. It is just not good enough. It is the parliament that decides these things, it is not one union, it is not the SDA, it is the parliament that will decide these things.

In the final minutes of my speech, I would like to take the member for Mawson to task. The member for Mawson quite rightly points out that people work very hard and, when they work very hard, they should be rewarded. He specifically talked about people working on New Year's Eve and Christmas Eve. He said that these people should be paid more money. Again I say to the member

for Mawson and to the government: these two issues should not be connected. If the member for Mawson and the government believe that these people—doctors, nurses, people working for the public sector—should be paid more on those two nights, they are completely within their rights to pay those people additional payments on those nights. They could have done this at any time over the last 10 years, but they choose to do it now and make some sort of crazy connection with the deregulation of shop trading hours.

This is a pig of a deal. It is a pig of a deal for the small business sector, it is a pig of a deal for industry. The government has it half right: we do want a vibrant city. Unfortunately, this Labor government has let the City of Adelaide wither on the vine for the past 10 years. Every single initiative that the Liberal Party has put forward to make our city a more vibrant city, every last one—and I am talking about the Riverside redevelopment, a Liberal initiative; I am talking about bringing football into the city, a Liberal initiative; I am talking about deregulated shop trading hours, a Liberal initiative—has been opposed by this government.

It is a bit rich for the government to come out now and say, 'It's all or nothing. It's both of these or you can forget about it'. We call on the government to push through its liberalisation of shop trading hours and to forget about the massive and unnecessary cost increase to all small business in South Australia.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (20:00): I thank members for their contribution. Can I begin by reminding members why we are proposing this reform. The government does want a vibrant city, but we also want to protect what we think all South Australians want, and that is the relationship that exists between our CBD and the broader Adelaide community and our towns and cities. That is, we want to protect or enhance the vibrancy of our city centre, but we also want to protect what people increasingly regard as one of South Australia's great strengths—the family friendly nature of our suburbs.

Most importantly, we also want to protect family life; that is, the opportunity for people to spend time with their family and friends at those special times of the year. I make no apologies for reflecting those values in legislation. I am proud to say that it has the effect of providing additional rights to working people in this state.

I heard the most extraordinary contribution from the member for Norwood, who suggested that people do not want this. He seemed philosophically incapable of considering the matter from the perspective of working people. It would only take a moment's analysis for him to realise that the greater burden of working on Christmas Eve and New Year's Eve falls on the individual who is called to do that.

In any sort of sensible analysis of the proportionality of the effect on a business or the worker the massive burden of adjustment falls on the working person in that scenario. To not even actually mention it in his contribution just demonstrates how philosophically incapable those opposite are of considering matters from that perspective.

We also want to protect something else that we value very highly in South Australia, and that is an independent retail sector. This is a very significant element of this legislation, the capacity to protect our very strong, independent retail sector here comprising about 30 per cent of the retail sector in South Australia, which is a South Australian phenomenon which has massive benefits for a range of our producers in South Australia, in particular our fresh food producers and our processed food producers, many of whom get a start by getting on the shelves of independent retailers.

We know that this is a crucial part of our objectives for promoting our clean, green food to the world. Many of these small producers get a vital start, and it does have the effect of ameliorating that extraordinary market power that we see from the other large retailers, Woolworths and Coles. These are the important benefits of this legislation.

Can I rebut some of the points that have been made those opposite? It has been suggested by the member for Davenport and, I think, more latterly by the member for Norwood that somehow this involves a violation of the announce and defend versus debate and decide proposition that I put forward for public debate. I must say I am having trouble with this concept. Aren't we involved in the middle of the most public of public debates? I do not know how much more open I could have been with the South Australian community. In December last year I proposed these matters. In this year—

Members interjecting:

The DEPUTY SPEAKER: Members on my left, if you want to participate in the debate, do so in the proper way or you can leave the chamber.

The Hon. J.W. WEATHERILL: There is no way the deal could be done. The deal requires the assent of the parliament, and I knew that from the start. That is why we always said we would be bringing legislation to the parliament. So the first thing we did was make at the earliest opportunity a public declaration of the government's position. Then we made a ministerial statement about the nature of the public debate, then we introduced legislation into the parliament, so there is a full and adequate debate, and the debate has been raging in the community. So, the notion that somehow this amounts to some announce and defend—that applies to executive action, it does not involve the parliament. Of course we have to have the parliament supporting this legislation, that is why we are in here making our case, that is why we are powerfully advocating our position.

This is not a debate that has arisen in the past few months. This is a debate that has been raging in this community for years and years. It has been raging between the ears of the member for Davenport for over a decade. Back in 1994, he was an ardent restrictionist. He did not want deregulation of shop trading hours. Then he found himself in support of deregulation of hours on Sunday morning. Then, as leader of the party, he was in support of total deregulation. He now comes in here unable to find himself in favour of support of this modest amount of deregulation in the CBD. The debate has been going on—

The Hon. I.F. EVANS: I rise on a point of order. The Premier is totally misrepresenting my position. He just said that I do not support deregulation in the city. The record will show that is simply not true. My opposition is to the two public holidays.

The Hon. J.W. Weatherill interjecting:

The Hon. I.F. EVANS: It is what you said, Jay. Go read the *Hansard*.

The Hon. J.W. WEATHERILL: Mr Deputy Speaker—

The DEPUTY SPEAKER: Premier, take a seat; there is a point of order. There is no point of order.

The Hon. I.F. Evans: Isn't there?

The DEPUTY SPEAKER: You know there isn't. You know there is no point of order. If you want to make an explanation you have to make a proper explanation. The next member who interrupts without proper cause will leave the chamber.

The Hon. J.W. WEATHERILL: He cannot find himself in a position to support this legislation that involves a small deregulation of shop trading hours. The suggestion that somehow there has not been a debate is an abject nonsense. We have an opportunity, as I have said before, to once and for all settle this debate. The reason why I say that is not because there is not an opportunity to come back to this parliament and propose legislation. My point has been—

Mr Pisoni interjecting:

The DEPUTY SPEAKER: Member for Unley, you have been warned—last warning.

The Hon. J.W. WEATHERILL: The reason why I say this is not because it is not capable of bringing a piece of legislation to this parliament, it is just that there will be no substantial constituency in favour of further deregulation if we do this. Just consider it: there will be a massive lobby in favour of the city maintaining its advantage in relation to present shop trading hours, should this pass; there will be a massive constituency in the suburbs for those independent retailers who have an interest in maintaining the status quo to ensure that their business models are protected. There will simply be no significant voice in the community in favour of this, and of course the whole of the working movement, represented by the trade unions and other working people.

That is the sense in which we say this will settle the debate for all time. The reason why there are independent retailers and grocers who are supporting this legislation is that they understand that fact, they actually get it. They understand that this will break the capacity of the large retailers (Woolworths and Coles) from ever being able to get a majority in this state for the further deregulation of shop trading hours. We know there is a political party that has on its books the deregulation of shop trading hours almost in toto, subject to a few public holidays they are

prepared to preserve. That has consistently been the position of the Liberal Party, and up until recently it was the position of Business SA.

This is the point that really explains why this is such a crucial and historic deal; that is, because the shop assistants union had to do something that I think they never would have contemplated, and we certainly would not have expected from them, which is to involve themselves—

Mr Pisoni interjecting:

The DEPUTY SPEAKER: Member for Unley, you were warned. You can leave the chamber.

Mr Pisoni: For how long?

The DEPUTY SPEAKER: Fifteen minutes.

The Hon. J.W. WEATHERILL: You got a discount; you are very lucky.

Mr Pisoni interjecting:

The DEPUTY SPEAKER: Thank you very much, member for Unley. Do you want to add some more time to it?

The honourable member for Unley having withdrawn from the chamber:

The Hon. J.W. WEATHERILL: One needs to understand the nature of this compromise in that, on the one hand, Business SA would never have contemplated anything short of total regulation; on the other hand, the shop assistants union would never have contemplated the possibility of its members working on public holidays. But both of those large institutions, which have really been the protagonists in this debate for many decades, chose to come together to settle this issue in the interests of their members. Of course, both of them have had to lead and both of them have had to make a judgement of what is in the long-term best interests of their various constituencies, and I think they both made the correct judgement. That is why we as a government were prepared to support this, and we knew that it needed the support of the government to bring this into law.

The importance of this reform is one which is not lost, I think, on both of the organisations that proposed it, and it was a long debate within their constituencies to be able to come to a view about this. Many of us would have expected that this would have been an unresolved issue in the life of this parliament. We have an opportunity now to resolve it—opening our city but also protecting those things we like about it—and, in doing so, I think, to reach a very sensible and practical proposition about the expansion of two part-day public holidays.

The other point that was made by the member for Davenport and others is that this is somehow an illegitimate use of the public holiday legislation—that somehow it is trampling on the federal industrial relations system. I think this is simply misconceived. Under the referral of state industrial powers to the commonwealth, all private sector employers and employees are now covered by the Fair Work Act 2009.

The nature of that referral protects and preserves, through the National Employment Standards under the Fair Work Act 2009, those people who receive appropriate penalty rates of pay under relevant industrial instruments. It was contemplated to operate consistently with various pieces of state legislation, such as the Shop Trading Hours Act and the Public Holiday Act, and it has always been thus. It has always been thus that there is a relationship between the state Holidays Act and various industrial instruments, whether they be federal awards or, indeed, state awards.

The public holidays and shop trading hours legislation have always interacted with the awards system, and it really does reflect judgements that are made about essentially a complex set of regulatory arrangements, which are not just about one thing or another. It is not just about shop trading hours and workers' remuneration; it is also about the pattern of the retail industry that we want to see in this state. Of course, that has implications for remuneration.

But I must say that it is passing strange to hear organisations such as the Motor Traders Association, which benefit from a particular restriction in the shop trading hours—at their request so that they do not have to compete over very long deregulated hours for what they regard as a limited market, which would not necessarily do anything other than spread their employment costs over a much larger period—claim that it is somehow illegitimate. They are the beneficiaries of the

restrictions in shop trading hours in certain respects, yet it seems to be put against us for our using the shop trading hours to have a particular affect on the pattern of the way in which industries develop is somehow illegitimate.

There has always been a careful calibration of shop trading hours to reflect what the community regards as the appropriate disposition of the pattern of development of retail industry in this state. It is a pragmatic decision, but it is one that has served this state well. We are not simply deregulationists for the sake of it. We think that there is a strong role for competition in certain circumstances, but there is also a strong case for it in the public interest in other circumstances.

Much has been put about the effect on small businesses and, in particular, regional businesses. Can I say this: while there has been much made of regional businesses and small businesses, not much has been said about those workers who work for those businesses and we unashamedly are a party that believes in representing the interests of those working people.

We think that on Christmas Eve and New Year's Eve, family time deserves protection in two ways: first, the right to say no to work at that time and, secondly, the opportunity for higher rates of pay. I think the community overwhelmingly supports that judgement. That is why, the longer this debate goes on, we are happy to talk about this all day and all night, week after week, because we believe the community is with us. If it is going to take you that long to actually understand this and respond to the needs of the community, we are prepared to do that.

I believe that the effects on business that have been suggested are exaggerated. We are talking about 14 hours in a total of 8,760 hours within a working year, and it should be remembered that the overwhelming majority of businesses are not open on these evenings or, if they are open, they are open for a short period of time.

There simply has not been detailed evidence brought to us about the deleterious effect that this will have. For those businesses that are in fact suggesting that this is going to be the end of the world as we know it, it is difficult to square that up with those businesses that already trade on public holidays, and many of them do in their interests on those occasions.

For those hospitality workers who work on these evenings, we know that many informally are given premiums merely to attract them to work on these evenings, so we know that there is already a recognition that it is difficult, and there are some additional burdens and difficulties associated with working on these evenings.

I will address a number of specific issues that were raised by a number of speakers which can be disposed of quickly. The member for Davenport suggested that there was an issue of substitution of the proposed public holidays for the next day, should they fall on a Saturday or Sunday.

That is in fact specifically precluded by the legislation, so that issue does not arise under the legislation that we are proposing to the house. Clause 6 of the bill lists the actual dates of these part-day holidays that are affected in that way, and they do not include the half-day public holidays that are proposed here. The remaining matters I can address in committee, perhaps.

Bill read a second time.

In committee.

Clause 1.

The CHAIR: The member for Davenport indicated a number of amendments to this matter. The first amendment which seeks to amend clause 1 is required only if other clauses are passed, as I understand it. Do you wish to speak to that amendment after or do you wish to speak to that one first?

The Hon. I.F. EVANS: As a point of process, we have a number of questions to ask on the clause. Do you want the questions before we move the amendment or after we move the amendment? From our side of the house we would be happy to ask the questions first and when that is all over move the amendment and work through it that way—it would be a simpler process.

The CHAIR: I do not have a problem with that. The point I am trying to clarify is that with the amendment to clause 1, if the other clauses fail, then I understand that clause 1 is redundant.

The Hon. I.F. EVANS: No, I intend to move all the amendments down to—

The CHAIR: In that order?

The Hon. I.F. EVANS: Yes, I think I will do them in numerical order, yes.

The CHAIR: I am happy for you to do that. If you wish to clarify some issues before the other clauses by opening up clause 1, I am happy for you to ask questions then but deal with it after you have dealt with the other ones because it only comes into consideration if the others are passed.

The Hon. I.F. EVANS: We can do questions on clause 1 now.

The CHAIR: You can do that. I will open up clause 1 and you can ask questions and we will defer consideration until we have dealt with clauses 2, 3, 4, 5, 6 and 7. Member for Davenport, you have the floor in terms of questions.

The Hon. I.F. EVANS: A question on clause 1: prior to introducing the legislation, why did not the Premier consult with the aged-care industry and the disability industry about the impacts of the legislation, given that they have told the opposition that there will be significant cost increases to those two groups as a result of the legislation?

The Hon. J.W. WEATHERILL: As I outlined, I do not think I could have been more public about our intentions. We made an announcement in December of what our intentions were, that we would be bringing legislation to the parliament in the new year. We set out in all relevant detail the nature of the legislation. It is not very difficult to understand: it is the extra public holidays trading and the two half-day public holidays. We have now presented the legislation to the house and there has been a full public debate, and there will continue to be one through the course of the stages of the parliamentary debate.

The Hon. I.F. EVANS: Premier, how did the cabinet consider the impact on the disability and aged sector if, prior to cabinet making a decision, it had no input from those sectors as to the likely cost impact of the legislation?

The Hon. J.W. WEATHERILL: We assessed our judgement about whether to support this legislation on the effect it would have on working people and the effect on their remuneration and also an understanding of the relatively modest effect it would have in relation to the other sectors. This is confirmed by discussion with leaders within the aged-care sector, despite what is suggested by the Aged Care Association. We have feedback from the aged-care sector that this is a very minor issue in the total scheme of things in relation to the aged-care sector, a question of thousands of dollars in payrolls of over millions of dollars. This is a relatively minor impost in the overall scheme of things, but obviously a very important issue at the level of each individual employee.

The Hon. I.F. EVANS: How did cabinet consider the impact on the disabled community and the cost of care to the disabled community if it was not consulted prior to cabinet signing off on the decision to implement the legislation?

The Hon. J.W. WEATHERILL: By the same process. It is a relatively modest change in the overall cost structure of any enterprise: 14 hours throughout the course of the whole year is a relatively minor impact. We weighed that against the importance of providing this additional remuneration and the additional opportunities for working people on those evenings.

Dr McFETRIDGE: Premier, you said that you had consulted widely on this and you just said then about the aged-care sector. Down at Glenelg we are very lucky to be a tourism precinct and we can open extended hours. We have a number of aged-care facilities that are going to be impacted by this, and I know that from talking to them.

However, the issue that we need to recognise and a big part of our problem is that—and I use Glenelg as an example because we already have extended trading hours down there—the businesses there now are very concerned. I will read some emails, if you like, as evidence—not just anecdotal but firsthand evidence from businesses there to say that they really are suffering. One particular business has a business in Adelaide as well as Glenelg and it is paying its casual staff over 21 years of age, $42 an hour because of changes to public holiday rates since early 2011. They have said in their email to me:

> Should the proposed changes go through State Parliament re proposed Christmas and New Years public holidays we will have no further choice but to...only trade our take away services only for these evenings.

They are going to shut down their dining services. They state here that the proposed laws will actually backfire and result in reduced business income as businesses remain closed or partly closed (as in their case), and reduce staff income as they only roster a quarter of a team on

takeaway services versus a full team. The suggestion of surcharges are simply unrealistic in the highly competitive hospitality retail sector. In fact, there are no real winners. That is one email. There is another here from a seven-day food place, like a mini supermarket. It states:

> ...I am thoroughly opposed to any change. At this time, small business is doing it tough, I know of very few traders who would speculate that times are better...Staff costs for my business represent almost 10% of sales, with a 25% margin this leaves very little to cover rent and other outgoings.

Another one states:

> Business just cannot sustain such costs and it would adversely affect the purpose of even opening during these times. You may think 'Well just don't open' but then we lose market share to the bigger chains and department stores who can put on skeleton staffing numbers...core hours should be at normal pay rates, regardless as to whether these hours are considered 'significant socialising hours'...As it is, I haven't paid myself for the past 3 years. It leaves me wondering in the wee small hours of the morning why [am I here].

Premier, I have more and more evidence from local traders at Glenelg who have extended hours because of the tourism zone down there and they are going to be badly affected. I spoke to one major hotelier down there who said, 'We will just put a surcharge on our business, so the punters are going to be paying for your half days.'

There is real evidence of this: it is not just anecdotal evidence and it is not just scaremongering. These people are doing it tough and they are paying $1,000 per square metre for rent down there and they are having to pay now $42 an hour for casual wages. That, in itself, is a different issue but you are imposing more hours on these people and they just will not open.

The CHAIR: Premier, do you wish to comment? It was not a question but do you wish to make a comment at all?

The Hon. J.W. WEATHERILL: No.

Mr PISONI: Premier, can you name the businesses and/or business organisations that were consulted about your plan to introduce two additional part public holidays—the public holiday on Christmas Eve from 5pm and the public holiday on New Year's Eve from 5pm—before you took your submission to cabinet, before bringing it to the parliament?

The Hon. J.W. WEATHERILL: We, of course, consulted with Business SA, the peak business body for the whole of South Australia. I know that it is fashionable to criticise Business SA and try to character assassinate Mr Peter Vaughan, but he has obviously made a decision that those opposite are incapable of making. He has managed to think about the broader interests of the state and the broader interests of the whole of the business community in South Australia, as opposed to the narrow interests of a small section looking at this issue in a very narrow way.

I must say, interestingly, that my initial response from the AHA, when we spoke to them before we made our public announcement, was that they were going to take a positive stance in relation to this. They wanted to negotiate some of the details but they did not seem alarmed by the matter.

Of course, it is interesting to note that the significant members of the key protagonists in this debate, the AHA and the MTA, are Woolworths and Coles. That might tell you a little about where those organisations are coming from. We, of course, have consulted through the process that we have adopted, that is, the public announcements in December, the ministerial statements and this parliamentary process. The whole of the community is capable of putting their point of view, and obviously I am in the hands of the parliament.

Mr GARDNER: I note that the Premier in an earlier answer talked about his consultation with the aged-care sector when answering the member for Davenport's question about the effects on the aged-care sector and the disability sector. Can the Premier outline the consultation he had with the disability sector in relation to those groups that are going to have increased charges on Christmas Eve and New Year's Eve?

The Hon. J.W. WEATHERILL: As I said before, we have had the broadest possible exposure of our proposals to the community, and people are free to put their points of view forward. I think the disability sector has generally accepted the view that I think has been reflected most recently in the SACS Award increases—the substantial increases that have been awarded to workers in the disability sector, through the good work of Prime Minister Gillard and supported by our government—to properly remunerate people who work in the disability services sector.

I think workers in that sector for too long have had the sort of implications that probably underlie the member for Morialta's question, and that is that the clients are always raised as the excuse for why the workers in the disability services sector should accept less than fair wages. We do not accept that, and we do not think that there is any good reason why workers in these sectors—the aged-care sector and the disability sector—who traditionally have been quite lowly paid, should be treated any differently from any other workers.

This is a proposition of general application. It is a point of principle: public holidays being declared, in part, on Christmas Eve and New Year's Eve represents a social norm. It represents a social norm we believe in. Of course this has consequences for the world of work, where people are required to work, where they are remunerated when they work on those days, but that is a social value that we uphold. We think that is what is being put about the effect on businesses is exaggerated.

Mr GARDNER: I note that the Premier in his response did not identify a single person or group in the disability sector that had been consulted, but I will leave that to one side. My understanding is that public servants will attract an increased pay rate and will be duly compensated, and police officers and others will attract the increased pay rates on these hours.

I am interested in the organisations and the companies that provide services on behalf of government and, in particular, Disability SA. If those groups do not have increases in their block grant funding or in their contract funding for individual contracts for the services they are supplying then the choice will be stark: either the service will be reduced or removed, or the cost will be greater.

Even before Fair Work Australia's ruling to increase the pay rates which the Premier has just espoused and which will hopefully make the sector more attractive for people to enter, has the government made any funding commitment at all to any of these organisations or companies that will meet the increased costs? Alternatively, how much reduced service does the Premier expect to see?

The Hon. J.W. WEATHERILL: The truth is that the work that is done on those evenings is very limited in relation to those sectors. Our advice is that the overall cost impact would be negligible. Much of the work that is done by those people that requires very extensive amounts of care is generally provided by the government sector, which has been, of course, funded through the budget process. Those things have been addressed through a budget provision.

Mr PISONI: You mentioned in a previous answer to a question that having public holidays on New Year's Eve and Christmas Eve, and therefore increasing the rates of pay for people working on those days, is the social norm. Could you name other jurisdictions in Australia or elsewhere in the world that have public holidays on New Year's Eve and Christmas Eve?

The Hon. J.W. WEATHERILL: West Virginia; there we go, there's one. We do not resile from the fact that we have decided that this is what works for South Australia; we accept that. There are other states with different patterns of public holidays. New South Wales has an additional public holiday than we have here in South Australia. It has always been the province of states and territories to determine their own public holidays. I think the ACT has an additional public holiday. This is how we think South Australians overwhelmingly see these evenings.

What has not been mentioned in this debate thus far are the particular religious groups that have significant celebrations on Christmas Eve in particular. Many orthodox communities have one of their most substantial celebrations on Christmas Eve. A number of faiths regard Christmas Eve as the more important celebration than even Christmas Day itself; I think the Polish community, to offer one, and of course a range of faiths. My own faith, the Anglican faith, generally has the midnight masses on that evening, which commence, obviously, well before midnight. Many people are making preparations, and those who do not have faith, of course, like to have family time on those evenings.

We think this is a South Australian solution and I am proud to say that we want to enshrine that in legislation. The overwhelming majority of this community supports it and that is why we are approaching the parliament asking for its support.

Mr GARDNER: I just want to clarify the Premier's previous answer in which he described the costs that would be increased in the disability sector as negligible. I think he said that there was a budget provision that would compensate for those clients who are covered by Disability SA direct government services. I just want to clarify though whether that budget provision provides any extra

funding to the block grant or the contracts for those clients who are serviced by organisations or companies rather than directly by Disability SA employees.

The Hon. J.W. WEATHERILL: The most recent update by the Treasurer outlines the particular areas that he made provision for. There was a provision made in the budget which covers the particular services that are provided by the state government which are affected by the new penalty rate. That budget provision was, I think, announced at the last budget update, the Mid-Year Budget Review. The Treasurer certainly made an announcement to accommodate the changes that have been made since I have been in this role. There was a range of changes, and this was one of them that was accommodated in that budget update. I can provide the detail of what that covered in that budget update.

Mr MARSHALL: Can the Premier outline to the house what consultation has taken place with the small business sector, and the business sector in general, in regional and rural South Australia, the sector of our economy which, of course, is going to suffer increased cost even though the deregulation will occur in metropolitan Adelaide, in fact in the CBD, many miles away from the place that they operate in?

The Hon. J.W. WEATHERILL: Member for Norwood, if you had been in the chamber you probably would have heard my previous answer, which was a generic one. I brought this to the parliament. We made an announcement of our intentions in December. I flagged my intentions to approach the parliament in January. Prior to bringing the legislation to the house, we made a ministerial statement setting it out. Our intentions have been known for over six months, and all members have had the opportunity to consult their constituencies and to put their point of view, and that is no doubt what we are in the process of enjoying right now.

Mr MARSHALL: Premier, just for clarity, no specific consultation was undertaken by the government with the small business sector in regional and rural South Australia whatsoever? It was just generic. You put it out there six months ago and members of parliament could consult and maybe feed that into the government, but the government did not do any specific consultation with the small business sector in regional and rural South Australia?

The Hon. J.W. WEATHERILL: I am sorry if it does not sound too grand to have the Premier of South Australia make a public announcement and try to communicate with every citizen in South Australia, but that was the nature of our communication. Of course, this proposition was developed in part by Business SA, which has an important role. It is the peak body for all businesses in South Australia. I mean, it might seem like a small matter that you would like to assume away, but the most significant business body in South Australia decided to promote this proposition.

I think that we were entitled to rely upon that in forming our views about going out to the broader community, and that is precisely what we did. Now, you can criticise that body, but it does happen to be the peak business body in this state with a venerable history, probably as long if not longer than the history of your party. I think that it is a significant institution in this state. It is an institution that is enshrined in legislation in a range of ways. It is an institution that this parliament has resided with its trust and faith about representing the interests of the business community in a range of tripartite legislative arrangements.

So to somehow suggest that we should not be allowed to take note of that business body in formulating our position just because it happens to disagree with the Liberal Party of South Australia, well, I am sorry, I disagree with that proposition. Now, does that mean that members should not be allowed to come in here and agitate the issue and promote different points of view? Of course not, and that is why we are here. We are here debating the issue.

I have got to say that I think the debate on this issue has been as full and as robust and as developed as I have seen on many issues in this house. In fact, I had one upper house member today say that she had more representations on this than she had on the euthanasia bill, which is a very substantial achievement.

The Hon. I.F. EVANS: My question is to the Premier. The Premier indicated earlier that the response from the Australian Hotels Association initially was generally supportive and it wanted to negotiate a couple of details.

An honourable member interjecting:

The Hon. I.F. EVANS: Sorry—generally positive, and it wanted to negotiate a couple of details. Is it true that the Premier contacted the Australian Hotels Association about the extra public holidays after cabinet had already made the decision to introduce legislation?

The Hon. J.W. WEATHERILL: Well, we do not comment on the timing and the nature of cabinet deliberations, except to say this: I contacted them before I was about to make a public announcement.

The CHAIR: Member for Davenport, I will allow this as a supplementary. I just bring your attention to the fact that you have actually had four questions already and I have been lenient. I am happy for you to have one supplementary.

The Hon. I.F. EVANS: Okay. I am happy to go onto clause 2.

Mr GRIFFITHS: I want to ask a question. Premier, I have a question on behalf of the owners of two regional newspapers in my electorate who contacted me yesterday. They had received some advice from the Printing Industries Association indicating concern that, while they have staff who will be out reporting on local events on New Year's Eve and Christmas Eve, all their staff would incur a liability for public holiday payment for those times between five and 12.

Can you just clarify that it is only applicable to people who would be rostered on to work and there will be no penalty attached to the employers of people who work in industry, such as the newspaper industry, and it is not all staff members who will be liable to a penalty payment?

The Hon. J.W. WEATHERILL: Yes, I think I can confirm that it will be only those workers working during the hours of the part-day public holidays.

Mr PEGLER: Premier, I can understand why you would be making a decision based on what Business SA has said in the support they were giving to this proposal, but at any stage in developing this proposal did Business SA inform the government of the consultation process that they had gone through with their membership?

The Hon. J.W. WEATHERILL: Yes, we did have discussion with Business SA about their decision-making processes, and they accepted that there would be elements of their membership that did not agree with this, but there would be, in their view, the overwhelming majority of their membership that did agree with it.

They were also taking a broader view about what was in the interest of business across South Australia; they took the view that this settled an issue which had been plaguing the state for decades. They take a view about South Australia and its reputation in the broader community, which is more than just the interests of any individual business. They see that, in a sense, a rising tide lifts all boats; so, to the extent that South Australia has a better business reputation generally, it is good for all businesses.

The extent to which we have a vibrant CBD, that lifts the interests of South Australia generally. The extent to which we can resolve a vexed debate which has been going on for decade in this state, that is good for business generally. So they understood; they had their eyes wide open. They were taking a broader perspective about this than the particular perspective of any one interest.

Just as, say, people like the independent retailers have taken the view that, while it may involve some increase in penalty rates for them on these two evenings, the broader protection of their business model through the rampant growth of the large retailers in a totally deregulated environment is something that they were prepared to accept as a trade-off. They understood that there was essentially a trade here, and they were cognisant of that, but they thought on balance it was worthwhile.

Mr HAMILTON-SMITH: Although I note this comes up later in the bill, I would like to raise it under part 2. Why did the government choose Christmas Day, Good Friday and ANZAC Day only as the days it would set aside for no trading and, in particular, why did the government choose Good Friday over Easter Sunday, and why did you not include Easter Sunday in the list of those days during which trading should not occur?

The Hon. J.W. WEATHERILL: I imagine it was because Good Friday is regarded as the holiest of days; it is the day when some people regard the maker of the universe died for the salvation of the whole of mankind.

Mr Whetstone: Are you making light of it? You're making light of it.

The Hon. A. Koutsantonis: No, he's not.

Mr Whetstone: Are you making light of it, or—

The Hon. A. Koutsantonis: No, he's not.

The Hon. J.W. WEATHERILL: You had better not accuse me of that, sunshine, otherwise you will find yourself out of here very quickly.

Mr Whetstone: Hey, I'm not 'sunshine'.

Members interjecting:

The CHAIR: Members, could everybody just take their seat for a second.

The Hon. I.F. EVANS: Point of order—

The CHAIR: Let me finish. The member for Davenport will have a chance in a second; I will give you a chance to raise a point of order. I would ask all the members to just cool down a bit. Member for Davenport.

The Hon. I.F. EVANS: I will just make the point that when the Premier says to my colleague, 'You will be out of here very quickly—'

Mr Whetstone: 'Sunshine'.

The Hon. I.F. EVANS: '—sunshine,' the Premier has no authority to do that. The Speaker may, but we know the Speaker is independent. The Premier has no authority to do it; I will just make that point to the Chair and, indeed, to the Premier.

The Hon. J.W. Weatherill interjecting:

The CHAIR: Premier, take a seat, please. Firstly, it is not a point of order, and secondly I don't think you need to tell me how to do my job, member for Davenport.

The Hon. I.F. Evans interjecting:

The CHAIR: Yes, you did; I am happy to get the *Hansard* down and indicate how you did.

Members interjecting:

The CHAIR: Members on both my left and my right made comments which were unhelpful, and I was happy to let them go. If you want me to go strictly by the book, I am happy to do so on both sides. Premier, I think it has all been said, and there is nothing else to be said. Member for Waite.

Mr HAMILTON-SMITH: Given that for most people in the Christian community Good Friday and Easter Sunday go together (Good Friday being the death of Christ and Sunday being the resurrection), I ask what consultation the government conducted with the heads of churches to test their support or otherwise for your decision for the first time in the history of the state to open up Easter Sunday to trading in the city, and what was their response?

The Hon. J.W. WEATHERILL: We made a judgement based on extending these hours in a limited way. The judgement was made in a pragmatic way to ensure that this was not extended more broadly. I think that there is great sympathy within our cabinet, the broader community and some of the significant proponents of this change for there to be no trading on any of these religious days.

I think the pragmatic decision that was taken by the shop assistants union, which has very strong views about protecting the sanctity of some of these holy days, was that unless they made some accommodation for the interests in the community who were concerned to expand shop trading they would find themselves in a more deregulated environment.

That has really been the motive for many of the people in this debate, many who would not be obvious supporters of trading on any religious days but who have taken the view that it was sensible to open up, in a limited way, certain shops within the CBD so as to protect the restrictions on shopping more generally in the whole of the state on all of the days, including Easter Sunday and Good Friday. I think that is the nature of this judgement here.

You need to realise that there is no appetite, necessarily, for people to permit shop trading on any of these days, but there is an acknowledgement for religious reasons (realising that this does intrude upon religious days) that there is an acceptance that some people want to shop on

these days and some people are prepared to work on these days. We wanted to constrain the extent to which that change is made, so the judgement was made that this is a sensible compromise between those two ideas.

So it is not a question of trampling on those religious days, it is a question of understanding that we live in a pluralist society where some people do not regard those days as being as important as others, but there are some people who regard them as extremely important, and we try to take what steps we can to protect family life for as many people as we possibly can.

Mr HAMILTON-SMITH: The Premier has not answered my question which was specifically whether—

The Hon. A. Koutsantonis interjecting:

Mr HAMILTON-SMITH: Did you support this measure, member for West Torrens, in the party room? Did you fully support trading on Easter Sunday?

Members interjecting:

Mr HAMILTON-SMITH: Very good. Thanks for clarifying that.

The Hon. A. Koutsantonis: Do you? Do you support 24-hour trading now?

Mr HAMILTON-SMITH: I just wanted to—

The Hon. A. Koutsantonis: Do you support it?

Mr HAMILTON-SMITH: No, I didn't, and I just want to clarify that.

The Hon. A. Koutsantonis: Well, isn't it your policy?

Mr HAMILTON-SMITH: But it's nice to know it has your personal support.

The Hon. A. Koutsantonis: But it's your policy, though. It's good to know that you've come out against it. Thank you very much!

Mr HAMILTON-SMITH: My question to—

The CHAIR: Minister!

Mr HAMILTON-SMITH: I think I have struck a raw chord, minister. I have obviously struck a raw chord.

The CHAIR: Minister!

Mr HAMILTON-SMITH: You must be saying one thing to others and another thing in your own party room, minister.

The Hon. A. Koutsantonis interjecting:

The CHAIR: Member for Waite, resume your seat for a second.

Mr HAMILTON-SMITH: Yes, I will.

The CHAIR: Both the member for Waite and the minister will be asked to leave in a second if they do it again. Both of you will be asked to leave. Member for Waite.

Mr HAMILTON-SMITH: The specific question I was asking the Premier was whether he, as the proponent of the bill, had sought formally the opinions of the heads of churches and whether he had met with them to discuss their views on this fairly historic decision for a government to declare Easter Sunday a shop trading day. Was there formal consultation and what were the results of that consultation?

The Hon. J.W. WEATHERILL: I am familiar with the views of the religious community about any trading on any Sunday, and it remains the same for all Sundays. The truth is that any of them are days on which our religious community would prefer that people did not work at all. It is called the Sabbath, and it is something sacred in terms of worship but also in terms of no work. Many people observe those in different degrees, but it is generally the case—and I am familiar with this; I do not need to ask—that they would regard each of those days as days of worship and not days of work.

However, I have to make judgements that are broader and the cabinet has to make judgements that are broader, trying to protect as much religious and family life as is consistent with

living in a pluralist community. That is what we sought to do with this decision, and we believe we have achieved the correct balance.

The CHAIR: Member for Waite, you have used up your questions; you will have to wait. We are still on clause 1. I have been very lenient; I think I have allowed quite a bit of debate on this clause and have been more than fair. The questions will come up in other clauses; there are plenty of clauses.

Ms CHAPMAN: We have read in the paper, of course, and there have been public statements, of Mr Malinauskas and Mr Vaughan having struck a deal—they suggest a compromise—to bring forward trading hours with a holiday component. My question to the Premier is this: have you made any decision to progress this matter in the preparation of a bill before or after you were advised of the agreement?

The Hon. J.W. WEATHERILL: My decision, to take to cabinet for its consideration of the issue, was influenced by the fact of an agreement between Mr Malinauskas and Mr Vaughan. However, I can say that the nature of the support for this bill goes well beyond those two gentlemen. It is their two organisations and, indeed, I am sure almost the whole of the trade union movement and working people generally, and a very large section of the business community, including all those businesses that exist in the CBD and, of course, the whole independent retail sector that see the benefits of this change.

Ms CHAPMAN: With the proposal set out in the compromise reached between Mr Malinauskas and Mr Vaughan, having been presented to you and you then taking a proposal to cabinet, was there anything different between what was presented to you by those two gentlemen and what you took to cabinet? If so, what?

The Hon. J.W. WEATHERILL: We do not disclose what is taken to cabinet, but we made our own independent judgement about what should be part of this arrangement. My recollection is that the matters that ultimately did find their way to cabinet differed in some degrees from the nature of the discussions that occurred between Mr Malinauskas and Mr Vaughan, and indeed their respective organisations.

In one respect, in particular, we are proposing a series of much broader reforms to streamline the way the Shop Trading Hours Act operates to assist the easier promotion of exemptions under the act and some other administrative arrangements that are promoted to the legislation. That certainly has been part of the government's decision-making in relation to this matter.

Ms CHAPMAN: Then, apart from some administrative things and the processes that apply to the proclaiming of certain days (which, I think you have explained, Premier, you have tidied up while the act was open), the trading hours and the holidays proposed are exactly as have been presented by the proposal to you, is that the case?

The Hon. J.W. WEATHERILL: I will have to take that question on notice. I am not precisely sure that every single detail of the nature of the agreement that was reached between Mr Malinauskas and Mr Vaughan is reflected in every detail in the legislation.

Can I say this: we have made an independent judgement that there should be two part-day public holidays on Christmas Day and New Year's Eve and that the other holidays, as now opened in the CBD, should be part of the legislative framework for shop trading hours in South Australia. I think they, in substance, are the matters around which agreement was reached by Business SA and the Shop, Distributive and Allied Employees' Association

Ms CHAPMAN: I thank the Premier: I have had my three questions. But, if he is taking this on notice, perhaps he could clarify: is there any aspect of the agreement reached between Mr Malinauskas and Mr Vaughan which the government rejected from the package specifically? So, when he takes it on notice, I ask particularly if there is any aspect which he has decided in his independent judgement that was simply not acceptable to be presented to cabinet? I will look forward to receiving those details.

The CHAIR: Premier, would you like to move postponement of further consideration of clause 1 until after consideration of clause 7?

The Hon. J.W. WEATHERILL: I move:

That consideration of clause 1 be postponed until after consideration of clause 7.

Motion carried.

Clause 2.

Mr PISONI: Premier, this clause refers to the commencement of the act. Are you able to inform the house when the act will actually be proclaimed and the holiday trading hours will be law? What notice can city traders expect of their ability to trade on Easter Sunday and Easter Monday this year? Will you be proclaiming those holidays if this debate is not concluded by that time and, if you are intending to proclaim those holidays, will you proclaim them sooner rather than later?

The Hon. J.W. WEATHERILL: Can I answer the opposition by saying we could give you certainty tonight if you were to pass this legislation and get your colleagues in the upper house to pass the legislation. We would all know where we stood.

Mr Pisoni: You said you wanted to debate it.

The Hon. J.W. WEATHERILL: You can debate it all week and then we could tell them that we are going to pass it. We could do that really quickly, with the cooperation of you and the people in the other place. Obviously, if the passage does occur through both houses, we would like to proclaim this so that it is in place for Easter so that we are in a position to give those businesses certainty about the Easter trading arrangements.

Mr PISONI: Does the Premier feel that it is fair and reasonable to give businesses and their staff less time, at a very significant time of the year, Easter, when we know that many families like to get away—for instance, through the member for Goyder's electorate, a very popular place for fishing on Easter holidays—and often people book accommodation in shacks and that requires quite a bit of notice?

Then, of course, those who are running businesses in the CBD, who may very well like to take advantage of the new trading hours, may very well want to organise a mail-out to their regular customers. They may want to organise special promotions. They may want to organise a number of marketing programs that may, in fact, take quite some time to put into place. Premier, are you comfortable with the fact that your—

The CHAIR: Member for Unley, you have asked one question. The Premier will answer that question; that's a separate question you're putting now.

Mr PISONI: Well, I'm not finished on my feet yet.

The CHAIR: No. Because you can ask 10 questions in a row doesn't make it one question just because you are on your feet. You have asked the question. I have been very lenient, but you have asked the question. The Premier will answer it.

The Hon. J.W. WEATHERILL: It is hoped that the speedy passage of this legislation would end all uncertainty and that is what we are promoting.

The CHAIR: Member for Unley, this is your last question.

Mr PISONI: Premier, you made this decision and this announcement in November. We had two sitting weeks in November. We have had two sitting weeks this year already, we are debating this in the third sitting week and you are saying to the opposition that, if this is not passed immediately, we are to blame for getting in the way of marketing or holiday arrangements of businesses in the CBD. That is reasonable is it? That is the new sort of leadership that you are offering the people of South Australia?

The Hon. J.W. WEATHERILL: I think the member sort of summarised the case pretty accurately really. We are the government. We are trying to act. Those opposite want to prevent us from acting and then they want to blame us for the delay. I do not actually understand the difficulty.

Mr HAMILTON-SMITH: I just get back to the question I asked earlier because I am very keen to get a clear answer from the Premier.

The CHAIR: No, the questions have to relate to the clause before us.

Mr HAMILTON-SMITH: The Premier has just told the house that, this Easter, these arrangements could commence if the bill passes through the house this week. So, I am asking a question about Easter Sunday.

The CHAIR: No, you already have. You can ask that on another clause later. This clause deals specifically with when it will come in by being fixed by proclamation. I think the questions

have been asked, unless you can actually rephrase your question. You will get a chance later to ask that same question at a relevant clause.

Mr HAMILTON-SMITH: Do you want a late night, Mr Chair?

The CHAIR: That's okay.

Ms CHAPMAN: In relation to the commencement date, may I just ask you, Premier: assuming for the moment that this is passed this week in this house, when is the earliest you expect that it can go through the upper house and be proclaimed because, in reality, even if that all occurs, we are a matter of days away from Easter? Isn't that the situation? You are in control of this. You are saying you want us all to cooperate. When do you say is the earliest that this could be proclaimed?

The CHAIR: Correct me if I am wrong, but how quickly the government can actually proclaim the bill depends on what the upper house does. I do not think the Premier is actually responsible for the upper house, last time I looked.

Ms CHAPMAN: Well, given the circumstance that we have got no idea how quickly this bill could be progressed through both houses, Premier, given that the Chairman has given you the answer that you have got no idea and therefore cannot predict that, don't you think it is reasonable to at least consider, for people's preparation for the Easter period, given the proximity to that, being a matter of weeks away, that the proclamation be made?

The Hon. J.W. WEATHERILL: We have a simple proposition. We have a piece of legislation before the parliament that we want the parliament to support. That is the simple proposition, and we would ask you to support it. Do not posit a notion that your lack of support, which will cause delay, will then cause some negative consequence. Do not visit that upon me or this government. We are seeking to change the law. Support us in our role of leading this state, but do not be an obstructionist opposition.

Ms CHAPMAN: I would not call the debate here obstructionist but, nevertheless, that is your take on this. We all know that some time this week this bill will pass in this house. Let me put it in the reverse. Given that neither of us have control over how this may progress in the upper house, what is the latest date you will issue a proclamation for the Easter holiday period in the event that there has been no progression of this matter through the upper house?

The Hon. J.W. WEATHERILL: I am confident that this bill will proceed through the upper house in a speedy fashion, and we will proclaim as soon as possible.

Clause passed.

Clause 3 passed.

Clause 4.

The CHAIR: Member for Davenport, I understand that you have two amendments.

The Hon. I.F. EVANS: I think the procedure we agreed to was that we would ask questions and then come to the amendment.

The CHAIR: No, that was only for the first clause, because we were going to postpone it and give you no chance to introduce other topics. I was being lenient.

The Hon. I.F. EVANS: Just so that I am clear, if I lose the amendment, I can come back and ask questions on clause 4? How do I ask questions on the original clause 4 before the amendment is debated?

The CHAIR: If your questions are about the clause itself to enable you to debate your amendment, I will allow the questions first.

The Hon. I.F. EVANS: Clause 4 deals with insertions into the act in relation to part public holidays and it deletes the definition and substitutes another clause in relation to public holidays. It also inserts a new clause in relation to statutory instruments in relation to public holidays under the Holidays Act and talks about part-day public holidays. My question to the Premier is: given that this clause introduces the concept—in the definition phase at least—of part public holidays, is there any agreement with the Rundle Mall authority to ensure that the shops in Rundle Mall stay open later than 5 o'clock on Christmas Eve, or will the shops be closing at 5 o'clock on Christmas Eve and the rest of the state inheriting the part public holiday penalty rates?

The Hon. J.W. WEATHERILL: There is no intention to oblige the Rundle Mall shops to be open. I think it sort of misses the point a little. There is not a direct quid pro quo between the CBD and the rest of the city. These two pieces of legislation, or these two concepts, have been brought together in a couple of ways, but, most fundamentally, they reflect our judgement about what is an appropriate social norm for working on public holidays. That stands and falls on its own and we independently support it. It also has the great virtue of being able to reach a settlement of a long-standing debate in relation to shop trading hours. The two things are not connected in the way you suggest.

Mr HAMILTON-SMITH: Clause 4(2) deals with the definition of a public holiday. I am going back to my question, to which I hope to get a clear answer, about whether the Premier consulted with heads of churches before making changes to the arrangements for Easter Sunday. Before making this proposal and bringing it to the parliament, did the Premier consult with them formally, and what was the outcome of that consultation?

The Hon. J.W. WEATHERILL: I am in regular discussion with the heads of churches. I know precisely what they feel about Sundays and working on Sundays. These are days of worship. They regard them as days when there should not be work. I am very clear about that, and I do not need an additional consultation to understand that very basic point about faith and its worship in this state.

Mr PISONI: The bill enables any shop in the CBD, as defined by the bill, to trade after midday on public holidays except for Christmas Day, Good Friday and ANZAC Day. Will Rundle Mall traders be able to trade on the public holiday between 5pm and midnight on Christmas Eve and 5pm and midnight on New Years Eve? In other words, will this enable David Jones to open until midnight on Christmas Eve and New Year's Eve, or will they be prohibited from doing so?

The Hon. J.W. WEATHERILL: If they fall on a weekend they close at 5pm, and if they fall on a weekday they can extend to 9pm; so the usual rules apply.

Mr HAMILTON-SMITH: Premier, on what date did you last meet with heads of churches, and at that meeting on that date did you raise this issue with them and gauge their agreement or otherwise with the Easter Sunday proposal?

The Hon. J.W. WEATHERILL: I do not think the honourable member understood my previous answer. I am in regular discussion with the heads of churches, and I understand intimately their views about the notion of work on days of worship, whether that be Easter Sunday or any other day. As I said before, we have made decisions about workers and their needs about working on these days and the way in which that interacts with family life. All those views have been taken into account and balanced alongside the views of others who are relaxed about working on those days. Indeed, those in the community who are happy to shop welcome the experience of shopping on those days. All those things have been taken into account to arrive at our decision.

Mr HAMILTON-SMITH: Premier, did your government tell the heads of churches that they would have until 31 March to consult on this issue? In telling them that they would have until 31 March to consult, did you make them aware that in fact you were going to bring this bill before the parliament before that date for a decision?

The Hon. J.W. WEATHERILL: I do not know what the member for Waite is talking about.

Mr HAMILTON-SMITH: I might clarify it then, Mr Chair. I have been advised by at least one office of the heads of church that your government told them they would have until 31 March to consult with you on this matter, and we find the matter before us for a decision well before that date. I seek your guidance as to whether your government can corroborate that they were told they would have until 31 March to consult on this matter.

The Hon. J.W. WEATHERILL: I am not aware of that. I will ask some questions about it.

Mr HAMILTON-SMITH: Will you find out and come back to the house, Premier.

The CHAIR: Any other questions on this clause?

The Hon. I.F. EVANS: I will move the amendment standing in my name.

The CHAIR: I have been advised that, given your amendment seeks to delete that clause, and you just spoke against it, if it passed those clauses then automatically—

The Hon. I.F. EVANS: Okay, if that is the advice of the committee.

The CHAIR: That is the advice I have been given by the Clerk. So, the question is that clause 4 as printed be agreed to; if that fails then that achieves your outcome.

Clause passed.

Clause 5.

The Hon. I.F. EVANS: Just so the committee is clear, there is an amendment from the opposition in relation to clause 5, it is amendment No. 4 dealing with clause 5. The opposition has a series of amendments which go to one simple principle, that is, the deletion of the provisions that bring in the two extra half-day public holidays. All of the amendments deal with that issue. The substantive amendment comes up in a couple of clauses. So, for the sake of the exercise, I will move amendment No. 4 standing in my name, which effectively deletes clause 5.

The CHAIR: So, based on the advice I received earlier, the question is that clause 5 as printed be agreed to; if that fails that achieves your outcome.

Clause passed.

Clause 6.

The Hon. I.F. EVANS: I think I need to move amendment No. 5, which is actually a deletion before clause 6, it deletes the heading before clause 6, which is part 3. So, I will need to move amendment No. 5 standing in my name. It simply deletes the heading which is before clause 6. Or do you wish me to move amendment Nos 5 and 6 together, which deletes the heading and deletes the clause?

The CHAIR: I understand what you are saying. I think the advice is that you can only do 5 if the actual clause itself is deleted.

The Hon. I.F. EVANS: So, do you want me to move that clause 5 be taken into consideration after clause 6?

The CHAIR: With clause 6, if you want to ask questions then ask questions now. If not, then—

The Hon. I.F. EVANS: I want to move an amendment to clause 6. I do not want the heading to be agreed to until we deal with clause 6.

The CHAIR: No, I accept that. I understand what you are saying.

The Hon. I.F. EVANS: I am happy to ask questions on clause 6 now. Just so the committee is clear, clause 6 deals with the amendment to the Holidays Act. This is the provision that brings in the Christmas Eve and New Year's Eve part public holidays. The clause refers to:

> The part of the day from 5pm until 12 o'clock midnight on—
>
> (a) 24 December; and
>
> (b) 31 December,
>
> will be a public holiday (*a part-day public holiday*).

It is this section that we are seeking to delete in relation to my amendment No. 6. The opposition has made it clear over the course of this debate that we oppose the new public holidays, so there are some questions that I am sure my side will ask the Premier. My question to the Premier is: can he explain to my small businesses in Blackwood that already open on Christmas Eve and New Year's Eve during these times and do not have to pay public holiday rates, and have done so for decades, why they now have to pay public holiday rates?

The Hon. J.W. WEATHERILL: Because we think this is something that deserves to be recognised. We think this is family time, that people should be with their families and friends, and that it is long overdue for this to be recognised in our public holiday system. In fact, it gives people the right not to work on these evenings and also to get higher rates of pay, and we think that is supported by the overwhelming majority of the community. It also provides a means by which the working people, who are also substantially affected by this change, are able to come to the view that they would be prepared to support something they perhaps would prefer otherwise not to support, and that is the liberalisation of shop trading hours in the CBD.

The Hon. I.F. EVANS: Can the Premier advise the committee what are the circumstances in the retail industry, for instance, when the Rundle Mall is open a couple of days before Christmas for 24-hour trading, which obviously impacts families? What rate is then paid to the retail worker

during those hours, and will it be different from the public holiday rate proposed under this provision and, if so, why?

The Hon. J.W. WEATHERILL: It would be administered or governed by the relevant industrial award, which would provide for penalties after a certain number of hours at times of the day which attracted certain penalties. So, that would be the relevant instrument that would determine what those rates of pay would be.

The Hon. I.F. EVANS: Premier, why is it the government's position that retail workers can be involved in a 24-hour retail operation a couple of days before Christmas and the rate of pay is set by the award but for Christmas Eve and New Year's Eve the pay rate is going to be set by an act of parliament? Why the different policy? With retail shops open 24 hours, the impact of a retail worker working at 11 o'clock, 12 o'clock, 1am, 2am or 3am is probably more significant to that individual than it is to the retail worker working at 7 o'clock, 8 o'clock or 9 o'clock on Christmas Eve or New Year's Eve, so why the different policy position? Why treat that differently?

The Hon. J.W. WEATHERILL: Basically, there has always been a holidays act since 1910 and probably before that. Certainly, there has always been an acceptance that the community will declare certain days a public holiday for certain purposes, and they will always have an interaction with the industrial awards, as they always have. The industrial awards are predicated on a series of state holiday acts that then apply certain penalties. Of course, they give rights beyond remuneration; they give rights to refuse work—and, of course, they are based on the fact that these are special days the community has decided to declare for certain purposes, some religious, some social. So, it is essentially a cultural norm which this community expresses which has an interaction with the industrial relations legislation.

Mr PISONI: Premier, are you able to inform the committee which unions have made submissions in recent times—say, in the last five or six years—to the Industrial Relations Commission for penalty rates to be paid at 250 per cent on New Year's Eve and Christmas Eve?

The Hon. J.W. WEATHERILL: I do not have those records with me, but I can certainly say that the industrial relations system, at least over the last decade, has been mostly predicated on enterprise bargaining rather than on general award movements by application. I know that it has been a matter of regular agitation by the Police Association, in particular, on behalf of its members, about the arrangements for Christmas Eve and New Year's Eve and the rates of remuneration. So, the Police Association certainly has agitated the point.

In relation to the extent that the various unions have been successful in agitating their concerns, I know the shop assistants union has agitated its concerns with its retail employers without success. But this is a different mechanism. This is the community saying that this is a social norm that should be recognised by a public holiday. As I have said before, this is not without precedent. There are countries and states in the United States that have this mechanism. Indeed, in the various Australian states and territories, there are states and territories with superior public holiday arrangements. So, it is not without precedent.

Mr PISONI: Premier, you said you could not at this time provide those details. Are you able to bring them to the parliament and advise the parliament which unions have in fact asked for those provisions? Can you also advise whether this government has opposed in the Industrial Relations Commission those types of penalty payments for public servants, whether they be police or others, who have asked for such conditions in their enterprise bargaining agreements?

The Hon. J.W. WEATHERILL: I do not have access to the applications that have been made by trade unions. They are independent bodies; they make their own applications in respect of their own awards. I do not have them, and to the extent—

Mr Pisoni: They're public documents.

The Hon. J.W. WEATHERILL: Well, if they are public documents, then you go and find them. In relation to the previous position of this government, I am happy to tell you what the position is under the government I lead, and that is that we are proposing two new part-day public holidays, and I am proud of it.

Ms CHAPMAN: I have some questions as to the cost to the state government of the public holidays, Premier. In a recent press article in *The Advertiser*, I think by Ms Novak, she quoted a $5 million figure. It has been repeated in some correspondence as approximately $5 million. Has that been assessed by the government and, if so, what is the figure?

The Hon. J.W. WEATHERILL: I think that figure is accurate. It is my recollection, at least, of the figure, and I think it is an estimate that has been provisioned for. I think it was announced by the Treasurer in his updated budget statement, which took account of the decisions that had occurred since the change of leadership, and savings were found to offset those. That was certainly part of that statement that was made, so that is the nature of the assessment.

Ms CHAPMAN: Does the $5 million include provision by the state government for the payment of services indirectly? For example, I think you have been asked some questions about NGOs and the like, but there is also of course a very significant cost to the commonwealth government for the provision of aged-care services and the like. Does that cover the commonwealth costs, that being one very significant area of cost?

The Hon. J.W. WEATHERILL: No, it does not cover the commonwealth costs. In respect of the earlier part of your question, I undertook to take on notice the elements of the cost that were covered in respect of the non-government organisations in answer to a question that was asked by one of your colleagues.

Mr GRIFFITHS: Premier, I am interested in the impost on private enterprise. Has there been any modelling that has actually looked at what the collective costs will be for those businesses that employ staff operating between those times either by Treasury or even by Business SA as part of their agreement to this in proposing it to you? Did they present to you any figures on what the estimate will be?

The Hon. J.W. WEATHERILL: No, there has not been that precise work done but, remember, we are talking about 14 hours in 8,760 for a relatively small proportion of the economy. The overwhelming number of businesses do not trade on those evenings and, for those that do, we are talking about 14 hours in the total number of hours within the year. The businesses or the enterprises or at least the concerns that operate on those evenings are often government enterprises, so the large burden of adjustment will of course fall on government, and we have made the appropriate provision.

Mr GRIFFITHS: To clarify that, many of the concerns have been about businesses that operate in the extremities of South Australia, so there will be a significant impact upon businesses. To confirm: there are no Treasury modellings or no estimates at all on what our costs might be? You say that physically it is 14 hours, but with the double time and a half provisions it becomes 35 hours, or the equivalent of a week's work for two part-days. A week's work is therefore 2 per cent of a wage cost for a whole year. So, when you consider what the wage implications are over the whole year for private enterprise, yes it is a smaller number than those that would operate every day, but there has to be a cost implication on which surely cabinet and Treasury have provided information.

The Hon. J.W. WEATHERILL: As I said before, we made the estimates of the things that were within our capacity and control, which is those government workers who are the overwhelming majority of the people who we are working on that evening. That is the basis on which cabinet made its consideration. Of course, in any government decision or cabinet process we always have a business impact statement, which is given consideration as part of the budget deliberations.

Mr HAMILTON-SMITH: Premier, where a worker is rostered normally in the time slot 5pm to midnight, let us say a nurse or an aged-care worker—someone along those lines—and it is normal for them to work in that time slot, and it happens to be one of these two days—Christmas Eve or New Year's Eve and a weekday or whatever—and that worker calls in sick or takes leave for that day, will they be paid for that day's sick leave at the penalty rate applied, and will the employer then face the dilemma of having to pay the worker on leave or sick at the penalty rate, as well as the replacement worker who he or she must bring in to replace the worker who is on sick leave or annual leave for that day, and therefore suffer a double whammy effect in terms of his wages bill?

The Hon. J.W. WEATHERILL: This would be dictated by the relevant industrial agreement or award. I have never seen one in all my years of practice which provided for the penalty rate to be paid for somebody who was on sick leave.

Mr HAMILTON-SMITH: Premier, if this is mandated by law as a public holiday, surely the relevant award would specify that the penalty rate would be applied. For employers who have a significant number of employees—if you have, say, 100 employees—you may well have sicknesses and leave absences on these days and have to double up. Surely, because it is a

change through an act, the employer would be mandated to pay the penalty rate. Is that not your understanding?

The Hon. J.W. WEATHERILL: No, it is dictated by the relevant award or industrial agreement. Generally speaking—there might be exceptions—if you have sick leave you are not paid at the penalty rates; you are paid at the ordinary rate of pay.

Ms CHAPMAN: I understand from what you said, Premier, that a business impact statement has been done and, if it has, can that be made available to the parliament? While you are considering those things, it may be different under your government, but there was a policy to have a regional impact statement done for matters to be determined by the cabinet. Has that been done and, if so, will you make that available?

The Hon. J.W. WEATHERILL: I thank the honourable member. These are all matters of cabinet consideration. Can I say about all these matters that there has not been one question asked about the effect on working people and the impact it will have on those people. I know that there are those who are obsessed. I know that it is hurting a little bit that this actually has about an 80 per cent approval rate in the community. We are happy to talk about it all day and all night.

Members interjecting:

The CHAIR: You will get a chance to seek further clarification.

The Hon. J.W. WEATHERILL: We have made a balanced assessment about what we think is in the broader interests of the business community and also the working people of South Australia. We have been informed, in relation to business interests, by Business SA. We have been guided by Business SA about the impact of these changes on the business community and we thought it was appropriate to rely upon the advice of Business SA.

In fact, I think there are quite a few pieces of legislation that require us to take into account Business SA's perspective on the question of the effect of legislation on the interests of business people, and I think we were within our rights to do that. However, of course, we did not solely rely upon its judgement; we exercised our own independent judgement in the cabinet deliberation process.

Ms CHAPMAN: Thank you, Mr Premier, I—

The CHAIR: Member for Bragg, is this supplementary?

Ms CHAPMAN: No, it's a second question.

The CHAIR: No, it's your third. You have already asked three according to the Clerk.

Ms CHAPMAN: Premier, I understood—

Mrs Geraghty: You've asked three.

Ms CHAPMAN: I get three, member for Torrens. You have been here long enough to know I get three.

The CHAIR: Which I have granted you.

Ms CHAPMAN: This is my third.

The CHAIR: No, you have had three already. According to the Clerk you have had three questions.

Ms CHAPMAN: No, not on this clause. I am only starting. I was warming up on this clause.

The CHAIR: According to the Clerk, on this point you have had three; according to his record. However, I will allow this question.

Ms CHAPMAN: I seek your clarification. I understood from the Premier's earlier statement that he said that a business impact statement had been done. He is quite within his rights to say to the parliament, 'You are not going to look at it; I'm going to keep it under wraps. I've consulted all these other people and Business SA'—and whoever he wants to consult, and that is fine. However, he made a statement to this parliament that he had done one. My simple question to him was: have you done a regional impact statement? Then we got some other waffle about what he has done or not done and what he is not going to show us.

I think this parliament is entitled to know, in the directions of this government, if it is actually complying with its own direction, and that is that they conduct these assessments for the purposes of relying on it when they make those decisions. That is all I am asking. Peter Blacker probably knows nothing about it because he has probably never seen a regional impact statement.

The Hon. J.W. WEATHERILL: Of course, the effect on business is broader than just the effect on each individual business. The whole business environment that is created in the state through what has been, up until this point if this legislation passes, one of the most restrictive shop trading regimes in the country will be an important business reform.

The Productivity Commission has been calling for us to make these reforms. It has been probably called upon by the Competitiveness Council and other commonwealth institutions. So I think in terms of the business impact, the net benefit would be a very positive one. These are the sort of judgements that are made by Business SA when it reaches agreement about these things.

Ms CHAPMAN: Just tell the truth, Jay; you haven't even done one.

The Hon. J.W. WEATHERILL: These are appended to cabinet documents. They are not ones that we traditionally release to the—

Ms CHAPMAN: You said you had done it and you haven't done it.

The Hon. J.W. WEATHERILL: I am actually looking at it.

Ms CHAPMAN: If you are looking at it and reading from it, I ask you to table it.

The Hon. J.W. WEATHERILL: It is attached to—

Ms CHAPMAN: I ask you, Mr Chair, to require him to table that document. He says he has got it in front of him and he is reading from it. That's what he said.

Members interjecting:

Mr HAMILTON-SMITH: Point of order, Mr Chair.

The CHAIR: And your point of order is?

Mr HAMILTON-SMITH: Previous Speakers have ruled very clearly, based on existing standing orders in Erskine May, that if a minister refers to a document in the house it must be tabled for the house to see. I know that speaker Lewis, speaker Oswald and speaker Such all made rulings on this matter. The Premier has referred to the document and he said he is looking at it. As a matter of order—and this may require us to call the Speaker to the chair, unless you rule accordingly—I ask that you direct the minister to table the document to which he has drawn the house's attention.

Members interjecting:

The CHAIR: Would all members please keep quiet. I will seek clarification from the Premier. Premier, did you quote from the relevant document?

The Hon. J.W. WEATHERILL: No.

The CHAIR: I have sought clarification from the Premier, and he has now put that response on the record. I am satisfied with that response. There is no point of order.

The Hon. I.F. EVANS: Point of order. I request that you look at the *Hansard* record overnight to see if the Premier indicated to the house prior to your question that he was reading it and then come back with a ruling tomorrow. I am asking you to have a look at the *Hansard* record.

The CHAIR: I am happy to look at the *Hansard* overnight. That was my understanding.

The Hon. J.M. Rankine interjecting:

The Hon. I.F. EVANS: Point of order. The minister has suggested that I scratch my belly and roll over. I think that might be unparliamentary. I ask the minister to withdraw because the Premier says we have to set new parliamentary standards, and I think the minister just crawled under them.

The CHAIR: Has the member for Norwood actually complied with that request at any time? No. I am advised that the comment is not unparliamentary. However, if the member is offended by the comment, and if the minister wishes to withdraw it, you can do so.

The Hon. I.F. Evans interjecting:

The CHAIR: Member for Davenport, take your seat. Minister, do you wish to withdraw the comment?

The Hon. I.F. EVANS: Point of order. Normally, if a member is offended the member asks for it to be withdrawn. You have ruled it is not unparliamentary. I have said I am not offended. There is no need for the minister to withdraw it. I am happy for it to be on the record.

Mr WILLIAMS: Some minutes ago the member for Bragg asked the Premier whether the $5 million cost of this measure to government covered the cost of aged-care beds funded by the commonwealth, and my question goes to that particular matter.

For the benefit of the house, it is very common in rural communities for aged-care facilities to be provided by the local hospital, and those facilities have now been taken over and are managed by Country Health SA. They were established and run by country hospital boards, but this government chose to get rid of those, and the administration of those aged-care facilities associated with our country hospitals are now administered by Country Health SA. However, in a number of communities the alternative is that the aged-care facilities are run by a community board/trust for the benefit of the community. So the delivery of aged-care services in country and regional South Australia is quite different from that in metropolitan South Australia. It is not generally delivered by a private profit-making organisation.

I think the answer to the previous question from the member for Bragg was that the cost to the state did not include cost to the commonwealth. Does the Premier envisage that the commonwealth will pick up the extra costs of running commonwealth aged-care beds in these community based facilities or hospitals that are run by Country Health SA in country and regional towns?

The Hon. J.W. WEATHERILL: That will be a matter for the commonwealth. I am advised by representatives of the aged-care sector that they have much more significant issues to raise with the commonwealth in terms of cost pressures than the public holiday issues. This is a very small and relatively negligible component of the sorts of cost pressures that they are seeking to raise with the commonwealth in relation to their aged-care bed licences. That is certainly the perspective that has been put to me by the aged-care sector; but that will be a matter for the commonwealth.

Mr WILLIAMS: Premier, are you telling the house that you have not consulted your colleagues in the commonwealth government on this particular issue and the cost pressures that may befall such aged-care facilities? Are you also informing the house that you have been informed by the aged-care sector that this is not a significant cost and that they are not concerned about the impost at all? If that is the case, do you have anything in writing to substantiate those statements?

The Hon. J.W. WEATHERILL: In relation to that last point, I have had discussions with representatives from the aged-care sector that this represents a relatively minor proportion of the cost pressures they are facing that they seek to raise with the commonwealth. That is the nature of the communication I have had there.

Regarding the commonwealth's position in relation to this bill, they support it. The commonwealth government's position is that they support this bill, cognisant no doubt of the potential cost pressures that it would impose on not only commonwealth public servants but the broader spectrum of their funding requirements.

Dr McFETRIDGE: Will contracts for bus services or Allwater contracts be adjusted to build in the extra costs that are being imposed on them by these half holidays? We have seen fines for bus companies. Will we now see some extra incentives given to them?

The Hon. J.W. WEATHERILL: That will largely depend on the nature of the contract and its relationship with the various industrial instruments that govern their conditions of employment. Once again, to remind us here, we are talking about 14 hours in 365 days. It is a very important issue for those workers, but a relatively minor cost impact on the enterprises that do operate on those occasions, which is generally speaking a very small proportion of their total workforce on a very limited number of days in the year.

Mr PISONI: Obviously there is the extra pay, but I certainly got the impression from Mr Malinauskas, who is a key broker in this deal, that one of the selling points that he has been

using for workers about the introduction of the public holidays is that it would give workers the choice not to work on those public holidays, as you have described, on those very special times of the year. There will be no compulsion to work.

Will bus drivers who are generally rostered on permanent afternoon shift or some other time, or on a rotating shift, and who, for argument's sake, would be working on, for example, New Year's Eve or Christmas Eve on a Thursday, be able to tell their boss that they do not want to work on that day? Also, what provisions does the government have in place if people working in our public hospitals decide that it is a very special day for them and they do not want to work?

Can you guarantee to the committee that there will not be a reduction in staff and services in our hospitals because people will not be compelled to work if they do not wish to on the two busiest nights, particularly in emergency in our hospitals and also on the two busiest nights for public transport?

The Hon. J.W. WEATHERILL: This difficulty has not arisen in the past in being able to get sufficient workers to provide services on these evenings, and we do not anticipate that this will be a problem in the future. What it does mean is that those people who are working on those evenings obviously get remunerated for the disability of having to work while others are enjoying themselves.

[Sitting extended beyond 22:00 on motion of Hon. J.W. Weatherill]

Mr MARSHALL: My question is to the Premier. The Premier has repeatedly tonight indicated to the committee that the government has relied on the advice of Business SA to provide input to this process and to represent the business interests, if you like, in this process. Can the Premier outline any specific consultation that Business SA did with the small business sector in regional and rural South Australia?

The Hon. J.W. WEATHERILL: That is really a matter for Business SA, I think, to answer that question.

Mr MARSHALL: Just for clarity, because Business SA is not here, is the Premier saying that he is completely unaware of any consultation that Business SA—the group that he is relying on to provide business impact analysis for the government on this—did with the small business sector in regional and rural South Australia?

The Hon. J.W. WEATHERILL: No. I am simply saying that if you have any questions to direct to Business SA you should direct them to Business SA and not to me. We have taken into account the advice of Business SA and we have made our own independent assessments. I suppose, a very fundamental consideration for us was that we do not believe that workers in rural or regional South Australia should be treated any less favourably than workers in metropolitan South Australia.

The Hon. I.F. EVANS: Following the Premier's answer to that question: why then does the government policy allow retail trading hours to be fully deregulated in regional areas—which obviously has an impact on the staff—and in the city, it is in restricted areas, which has a lesser impact on staff? Given you have just told the house you do not thing regional employees should be treated any differently, why, under the retail trading act, are they?

The Hon. J.W. WEATHERILL: It is a cute debating point, Mr Chair.

Members interjecting:

The Hon. J.W. WEATHERILL: Mr Chair, the proposition of those opposite is that somehow regional businesses should be given some separate consideration from other businesses. That has been the burden of the point they have been raising. What I have been saying, making the corresponding point, is that we do not think regional employees should be treated any less favourably for the purposes of this legislation. Now, I have expressed it in a shorthand way, and the member decided he would make a cheap debating point about it, but that is what I meant; that is obviously the context in which I made the remark.

Mr BROCK: Premier, the member for Davenport has just asked a question regarding regional South Australia and how they have already been deregulated. Can you explain to me how I go back to my businesses and say that they are going to continue trading at their current hours, and they are now going to have to pay another 250 per cent—or whatever the percentage is? Can you tell me how I am going to justify that to the business community of Port Pirie?

In addition to that, Premier, in case you did not hear my speech, I said the regional small businesses are really, really struggling. Even though you say this is only 14 hours out of 8,000, it will still be an impost on those businesses.

The Hon. J.W. WEATHERILL: There is no doubt that it will be an impost on those businesses, but it will not have a devastating impact.

Ms Chapman: How do you know?

The Hon. J.W. WEATHERILL: It is exaggerated—

Members interjecting:

The Hon. J.W. WEATHERILL: It is—because of the nature of—

Members interjecting:

The Hon. J.W. WEATHERILL: Well, I set one up; I actually set one up from scratch. Unlike—

Members interjecting:

The Hon. J.W. WEATHERILL: —many of you here who have run a few into the wall, and many of you who have just inherited something from mummy or daddy, I actually set one up from scratch, so don't talk to me about business.

Members interjecting:

The CHAIR: Order!

The Hon. J.W. WEATHERILL: Now—

Members interjecting:

The Hon. J.W. WEATHERILL: I'm enjoying this.

Members interjecting:

The Hon. J.W. WEATHERILL: Mr Chair—

The Hon. P.F. Conlon: I think that hurt, Jay; I think you hurt their feelings.

The Hon. J.W. WEATHERILL: That's right.

The Hon. P.F. Conlon: I think you hurt Iain's feelings.

The Hon. J.W. WEATHERILL: That's right. Mr Chair, can I answer the member for Frome's question? The first thing I think you should do is speak to the workers of Port Pirie and explain to them what this bill means to them; that is, that they will be recognised for their work on those evenings, and many of them are affected—and positively affected—by this legislation. The truth is that the pattern of deregulation in this state has been pragmatic; it has responded to the local circumstances that exist.

In the town that you obviously represent, in the Port Pirie area, a decision was made in the past in the best interest of that community to have a deregulated shopping environment. There have been different judgements made about the city, and we think we are making a further important, pragmatic change which will have benefits well beyond just the interests of the CBD.

I know that it is not a popular thing for regional members to hear, but the truth is that the success of the city is intimately related to the success of our state. Many of the important transactions—

Members interjecting:

The Hon. J.W. WEATHERILL: No, this is the truth of the matter. The success of our state is intimately related to the vibrancy of our city and this, I believe, is an important reform that drives our state forward. There is a great reputational risk to our city and our state by having the appellation of being a closed state, and so that is why we are introducing this reform, a reform that those opposite could not achieve when they were in government. We are going to achieve this reform in the life of this government through making sensible compromises where business and worker interests are brought together in the broader public interest.

There will be some burden on some small businesses, but it will be modest and, in my view, is overweighed by the broader public interest in having a vibrant open city, and once and for all settling the shop trading hours debate. We need to remember what is at stake here. What is at stake is that if those opposite get their way we will have a totally deregulated environment across the whole of the metropolitan sector.

Ms Chapman: That is rubbish; you are not even reading the amendment right.

The Hon. J.W. WEATHERILL: Well, it is in your party policy.

Ms Chapman: Don't mislead the house, Jay.

Mr HAMILTON-SMITH: Premier, either in this place or the other place, should this provision for two extra public holidays on 24 December and 31 December be struck out, will you be continuing with the remainder of the measure or will you be pulling the bill?

The Hon. J.W. WEATHERILL: It's my intention to promote the bill in its current form. That is the legislation we are putting before the parliament. We are not putting before the parliament any alternative measures.

The CHAIR: Is this a supplementary, member for Waite?

Mr HAMILTON-SMITH: I have only asked one.

The CHAIR: Not on this clause, you haven't, according to the Clerk. According to the Clerk you have actually asked four already on this clause. If it is a supplementary I am happy to—

Members interjecting:

Mr HAMILTON-SMITH: It was really an associated question.

Ms Chapman: Supplementary.

Mr HAMILTON-SMITH: Call it a supplementary, if you like—a follow-on—I am sure the Premier is up to answering whatever comes his way. If your proposition in regard to 24 and 31 December is amended in the other place by the honourable—

An honourable member interjecting:

Mr HAMILTON-SMITH: Well, an Independent member, to reduce it from six hours to three hours, do you see that as a fall-back position?

The Hon. J.W. WEATHERILL: That sounds like the same question asked in a slightly different way. Can I say we want the legislation we have brought to the parliament. The government has made a decision; it is not my decision. The government has made a decision. We have got legislation before the house. We are trying to persuade this chamber and once we have persuaded this chamber, hopefully, we will then try to persuade the next chamber that this is the correct model.

The CHAIR: Unless there are any questions on this clause by members who have not asked three questions I am going to put the question that the clause be agreed to and if it fails—

Ms CHAPMAN: No; the amendment has to be put first.

The CHAIR: No. I have been advised by the Clerk that, essentially, it is like the previous two. Your clause is to strike all of it out by putting the actual motion itself or the clause itself. You vote it down and that is how you strike it out.

The committee divided on the clause:

AYES (23)

Atkinson, M.J.	Bedford, F.E.	Bettison. Z.L.
Bignell, L.W.	Breuer, L.R.	Caica, P.
Close, S.E.	Conlon, P.F.	Fox, C.C.
Geraghty, R.K.	Kenyon, T.R.	Key, S.W.
Koutsantonis, A.	O'Brien, M.F.	Portolesi, G.
Rankine, J.M.	Rau, J.R.	Sibbons, A.L.
Snelling, J.J.	Thompson, M.G.	Vlahos, L.A.
Weatherill, J.W. (teller)	Wright, M.J.	

NOES (18)

Brock, G.G.	Chapman, V.A.	Evans, I.F. (teller)
Gardner, J.A.W.	Goldsworthy, M.R.	Griffiths, S.P.
Hamilton-Smith, M.L.J.	Marshall, S.S.	McFetridge, D.
Pederick, A.S.	Pegler, D.W.	Pengilly, M.
Pisoni, D.G.	Sanderson, R.	Treloar, P.A.
van Holst Pellekaan, D.C.	Whetstone, T.J.	Williams, M.R.

PAIRS (4)

Hill, J.D.	Venning, I.H.
Odenwalder, L.K.	Redmond, I.M.

Majority of 5 for the ayes.

Clause thus passed.

Clause 7.

The Hon. I.F. EVANS: I have no questions on clause 7, although I am not sure whether my colleagues do. There is an amendment to this clause standing in my name, but I advise the committee (and it will be very sad to hear this) that the rest of my amendments deal with the same issue we have just voted on, so I do not intend to proceed with any further amendments standing in my name.

Ms CHAPMAN: I seek some clarification on clause 7, which is to amend section 7 of the act by adding an extra provision. This is the section of the act which identifies the payments in other acts on holidays and Saturdays and, in particular, says you cannot be forced to work on these days (which I think there has been some questioning on) and, secondly, currently makes provision for the entitlements to be on the following day if they fall on Saturdays and Sundays, etc. This extra provision, subparagraph (3) that is to be added, says:

A reference in this section to a public holiday does not include a part-day public holiday.

So my question is this: what is the situation to apply in the event that it falls on a Saturday or Sunday under subsection (2) of the act?

The Hon. J.W. WEATHERILL: I need to ask clarification of the member. What does not apply?

Ms CHAPMAN: Subparagraph (2) says:

When, except for the provisions of this section, a person would be obliged to make a payment or do an act on a public holiday, bank holiday or Saturday, the obligation applies to the next day following that is not a public holiday, bank holiday or Saturday, and payment or performance on that day will be due payment of the money or performance of the act, but nothing in this Act exempts a person from making a payment or doing an act on a public holiday, bank holiday or Saturday that the person is by law specially required to make or do on that day.

That is the sort of general provision. We are adding a clause which says that part days do not count. Can you explain how that is going to work?

The Hon. J.W. WEATHERILL: I think this is a provision which talks about the sort of days upon which a set of obligations falls due for the payment of debts or for the purposes of certain acts such as the banking act and that certain things ought to happen. The days that are exempted for those purposes, at present, are Saturdays, Sundays and public holidays. This provision provides that this part-day public holiday is not a public holiday for those purposes. Given that it starts at 5pm, it will not attract that relevant exemption, if you like.

Indeed, Saturdays and Sundays are not otherwise compellable for those purposes, in any event, so it would not matter that the next day was a Saturday or Sunday. Essentially, if you are given a certain number of days to pay a debt, or any other obligation, certain days are counted to be the next relevant day to make a payment and it will not be counted as exempting you in a way that an existing public holiday is.

Clause passed.

Clause 1 passed.

Clauses 8 and 9 passed.

Clause 10.

Mr HAMILTON-SMITH: I just refer the Premier back to his earlier answers to my questions in regard to Easter Sunday and the process that was taken or not taken to consult with the heads of churches. Given that the Premier has not given us a date when he last met with the heads of churches and has not clearly indicated that he has met with them specifically to discuss this issue—I think that is correct, Premier—could he now tell me whether, in the last 24 hours, he has directed his office to contact the heads of churches to put together a short-notice meeting with them next week? If he has, on what day next week has he scheduled that meeting with the heads of churches and what is the purpose of that meeting?

The Hon. J.W. WEATHERILL: I have given no such direction.

Mr HAMILTON-SMITH: Let me be specific. Has anyone in the government arranged a meeting with heads of churches for next week at which it is intended to discuss this issue? Mr Chair, I consider that to be the one question. Who will be attending that meeting on behalf of the government?

The Hon. J.W. WEATHERILL: Look, I do not know what other people have done about meeting with the heads of churches. It would be orthodox for us to meet from time to time with the heads of churches. It may be about this bill, if such a meeting has been arranged.

Members interjecting:

The Hon. J.W. WEATHERILL: I don't know.

Members interjecting:

The Hon. J.W. WEATHERILL: I do not know, and I do not know whether other members of the government have and, if they do, I am sure it is an appropriate thing for them to do.

Mr HAMILTON-SMITH: So, is the Premier saying that he has no plans and is not aware of any arrangements, either by him or anyone else in the government, to meet with heads of churches next week? Is that what he is saying? He is denying any knowledge of any meeting of any kind between his government and the heads of churches next week to discuss this issue. Is that correct?

The Hon. J.W. WEATHERILL: Yes, I am not aware of it, but—

Mr HAMILTON-SMITH: You are aware of it?

The Hon. J.W. WEATHERILL: I said I am not aware of it. Look, you are really excited about this, but it may well be that the—

The Hon. P.F. Conlon: Are you meeting with the Scientologists next week?

The Hon. J.W. WEATHERILL: That's right. Given that you seem quite certain that you know something that I do not know, it could well be the case that somebody in government has arranged to meet with the heads of churches about this matter. I do not know if they have, and I think that it is a pretty reasonable thing to do, if they have concerns.

Mr HAMILTON-SMITH: Again to the Premier: you are not planning to meet with them next week. Is that correct, or you will not be meeting with them?

The Hon. J.W. WEATHERILL: I am not planning to, but the only caveat I will put on that is that I am not entirely sure of what goes into my diary at any one point in time, so it could very well be that somebody else is planning for me to meet with them.

Mr MARSHALL: My question is also on the Easter Day inclusion. Can the Premier advise who came up with the suggestion that Easter Day be included as a day for trading in this proposed bill? Was it the SDA, was it Business SA or was it, indeed, the government?

The Hon. J.W. WEATHERILL: We take ownership of the decision we take. I think it does also reflect the substance of agreement between Business SA and the shop distributive union, but we take ownership of the decision to open up public holidays of shopping on this day in the CBD.

Mr MARSHALL: Can the Premier advise why he has a differential starting time between Easter Day and Good Friday and, indeed, ANZAC Day, and the reasons for that differential?

The Hon. J.W. WEATHERILL: It is consistent with all of the hours for Sunday trading, which is 11am until 5pm. I think that is to make some accommodation for the hours of worship, obviously in the early part of Sunday. We discussed before the significance of Good Friday, being the holiest of days. There is no doubt that that was influential in the minds of people who had given consideration to completely excluding that as a day of trading.

Mr PISONI: Premier, are you able to define the physical locality or the physical boundary of the area of the CBD to which this clause relates for a description in *Hansard*?

The Hon. J.W. WEATHERILL: In the definition section it is described as the Hundred of Adelaide. If the honourable member is interested, I have a pictorial representation of that. I am happy to table it if he would like to see what it actually comprises.

Mr PISONI: Can I move that it be inserted in *Hansard*?

The Hon. J.W. WEATHERILL: We will find a way of showing that to the honourable member.

The CHAIR: My understanding is that it can be tabled but not inserted in *Hansard* because it is not an actual graph or a statistical table as such.

Clause passed.

Title passed.

Bill reported without amendment.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (22:29): I move:

That this bill be now read a third time.

I would like to thank honourable members for their contribution to the debate and also those officers who assisted me in the debate and in the preparation of the bill.

The Hon. I.F. EVANS (Davenport) (22:30): I understand that I can contribute to the third reading. I just want to make a comment with regard to the bill, that is, we learned something tonight about the Premier. The Premier made great play about announce and defend in some previous comments that were well known publicly. Of course, tonight we find out that that relates to 'executive decisions only'. What we have here is a piece of legislation, and by the Premier's own admission—

The Hon. J.W. Weatherill: This isn't a debating chamber.

The Hon. I.F. EVANS: The parliament is a debating chamber; it is not a consulting chamber, Premier, and I will get that on the record. The Premier interjected that the parliament is not a debating chamber. Of course it is; but, you see, the Motor Trades Association, the hotel industry, aged care, the disability sector, restaurants and catering, the transport industry, all of those groups would like to have been consulted and are not on the floor of the house being consulted tonight. We are trying to represent their view as best we can, but they are not on the floor of the house being consulted.

It is an interesting point to note that under this Premier the way the consultation is going to work is that he is going to take the thing to cabinet, whack it into the parliament, and say 'We are now consulting,' then essentially ignore the consultation and try to put it through. This is in relation to the Premier's own bill, which this one is. Why undertake a different consultation process with this bill, if there was a consultation process at all, and clearly there has not been outside of business and the union movement generally—

The Hon. A. Koutsantonis interjecting:

The Hon. I.F. EVANS: Well, there are plenty of small business organisations that feel they were not consulted. Take a look at that consultation process and compare it to what they have done with other bills, for example, the Treasurer's bill on the changes to the motor accident scheme, bringing in a no fault motor accident insurance scheme. Put out a discussion paper with six or seven months consultation and it comes through, and everyone has a chance to have a say. Not this Premier.

It is interesting that this Premier was quick on the uptake to go out and belt the former premier and deputy premier in the nose about the idea that we need a change of style. However, we have noticed something about the debate about this Premier. The change of style is simply not there. It might be quieter, but the style is the same: make the decision in cabinet, do the deal, and everyone else can just suffer the consequences of it. That is the message out of this bill.

The other issue is that the Premier often makes comments that need to be corrected, and I will correct one now for the Premier. I took a point of order at the time. The habit of this Premier is to say things that are not necessarily as accurate as they could be. The example is that the Premier says the opposition never asked a question about the workers.

The *Hansard* will show that I had only just finished (I think, two questions before) questioning the Premier about the impact on workers who work in the 24-hour retail cycle earlier than Christmas Eve. I asked about the impact of that. I just finished asking, and the Premier stands up and says, 'The opposition never asked me a question about workers.' It is just an example, and that is why I took a point of order.

The Hon. J.W. Weatherill interjecting:

The Hon. I.F. EVANS: No; the Premier thinks it's funny, and that's fine. I will keep correcting him because I think what your colleagues say about you is true. I will keep asking questions and making the point to the Premier. The reality is that we will continue to fight this matter in the upper house and, hopefully, the upper house will make a different decision than this one.

Mr PISONI (Unley) (22:34): In wrapping up the debate over the last few days in this chamber, I think it is clear that one of the things that the Premier has been successful at doing is dividing the business community in South Australia. Nothing was more compelling than the debate we saw in Rundle Mall between Theo Maris and John Chapman on Monday afternoon about the proclaimed trading day in the mall for the Adelaide Cup. There is no doubt, despite what this Premier, as education minister, told the pagans of Semaphore, that he wanted to change the style of this government. Double page spread in the weekend magazine, Premier; a great read, the pagans of Semaphore. The pagans of Semaphore, is that one of those religious groups you have been consulting over this bill? I just wonder if they were.

So, we have seen the Premier's first major act as a division of the business community in South Australia. Of course, there could be no worse time to be causing divisions in the business community. Despite the fact that during the election climate this government promised to deliver 100,000 new jobs, not a single full-time job has been created in the two years since that promise was made. When Labor made that promise before the last election nobody would have thought it was only talking about part-time jobs, and even then only 13,000 part-time jobs, nearly 18,000 short of its target of 100,000, one third of the way in (two years in).

We need a government that has business interests and community interests, a government that does in fact consult, not one that says it is going to consult, but one that does general consultation. You can understand why the Premier thinks that consulting Business SA or doing a deal with Business SA must include everybody, because they think that what the unions say represents everybody. The unions only represent 17 per cent of workers in the private sector, but of course, as a political party, they will do what the unions tell them.

Then there is the argument the Premier gives that this will stop the debate about trading in Adelaide for all time. Do you remember the three mines policy? That was going to fix the Labor Party's debate over uranium for all time. No selling of uranium to India, that was another one that was going to fix the uranium debate in the Labor Party for all time. Then, of course, we remember the historic River Murray agreement of several years ago that was going to fix the Murray for all time, but now we have a Premier who is going to take the Eastern States to the courts.

You cannot believe what this Premier says. Look at his record on the way this bill has been handled; his lack of consultation with the people who actually generate the wealth in this state, the people who employ. The vast majority of people who are employed in South Australia are employed in the small business sector. I can only express how supportive we are of the revitalisation of the city. After all, it was our plan to bring football to the city when this government said, 'No; West Lakes is the home of football in South Australia.' We all remember that: 'West Lakes is the home of football in South Australia.' After arguing that footy should stay at West Lakes, with a $100 million grant, after six months they realised they were not going to win that battle and followed the Liberal Party to take football to the city. We support a revitalisation of

Adelaide but we do not support an unfair burden, a bypassing of the Industrial Relations Commission through use of the Public Holiday Act.

I hear the Premier saying that workers deserve to be paid these penalty rates. Janet Giles says workers deserve to be paid these penalty rates. We hear Peter Malinauskas saying that workers deserve to receive these penalty rates. I say to Janet Giles and Peter Malinauskas: start your own business. Pay workers as much as you like. I will be right behind you if you pay workers as much as you like. I do not have any problem with that at all. What I do take offence to is people who have no experience of running a business, bypassing a legitimate system that has worked in this country for 100 years in negotiating fair and proper wage regimes, using another act of parliament in order to impose an unfair burden on small businesses in South Australia.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (22:40): Deputy Speaker, all eyes are now on the Liberal Party, whether they are prepared to support the revitalisation of our city and to permit workers who want to choose to spend time with their families and friends on Christmas Eve and New Year's Eve or, if they have to work, receive a higher rate of pay for working on those evenings. That is the proposition.

We now expect that this bill, with the support of the house, will now go to the other place. All eyes are on the Liberal Party about whether they are going to block higher rates of pay for those workers who have to work on Christmas Eve and New Year's Eve, when the rest of us are enjoying ourselves, when many people are seeking to enjoy time with family and friends, and when others are wanting to celebrate religious ceremonies. That is the simple proposition that is before the house, and all eyes are on the Liberal Party about whether they are prepared to support this measure.

Bill read a third time and passed.

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

The Legislative Council agreed to grant a conference as requested by the House of Assembly. The Legislative Council named the hour of 3.45pm on Tuesday 27 March 2012 to receive the managers on behalf of the House of Assembly at the Torrens Room on the first floor of the Legislative Council.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (22:42): I move:

That a message be sent to the Legislative Council agreeing to the time and place appointed by the council.

Motion carried.

At 22:42 the house adjourned until Thursday 15 March 2012 at 10:30.