HOUSE OF ASSEMBLY

Wednesday 30 May 2012

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

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (11:02): I move:

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

Motion carried.

PUBLIC WORKS COMMITTEE: ASHFORD SPECIAL SCHOOL RELOCATION

Mr ODENWALDER (Little Para) (11:02): I move:

That the 442nd report of the committee, entitled Ashford Special School Relocation, be noted.

It is proposed to relocate Ashford Special School to the William Light R-12 School site at an estimated cost of $9.5 million, excluding GST. The new facility will accommodate an enrolment of 105 reception to year 12 students with special needs. The facility provisions are summarised as follows: four sub schools, each with four general learning areas, wet areas and secure storage; a withdrawal room; student amenities, fully accessible with hoists, hydraulic tables, etc.; a calm room and a secure, all-weather outdoor play area; a stand alone administration area, comprised of a reception area, four offices, two meeting rooms, resource area, treatment room, disability access toilets, staff lounge, staff toilets, SSO work area storage; and various other things including civil and landscaping works.

The project has considered the requirements of the Disability Discrimination Act with respect to making provisions for persons with disabilities. The project will be fully certified in accordance with legislative requirements. The proposed project aims to provide modern, efficient and functional areas for the delivery of special education to the community. The key drivers for the redevelopment proposal were to make a significant and positive contribution to the families with students enrolled and be of benefit to the community as a whole, to provide new accommodation for the special school, and avoid the continuing and escalating high cost of maintenance of existing school buildings. The project is expected to be completed by November 2013.

I would like to thank the members of the committee and the staff for their contributions to this inquiry. I would also like to make mention of the member for Ashford, who has taken a long-term interest in this project and made a very worthwhile contribution to our inquiry. 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) (11:04): I believe the member for Ashford wants to speak, but the opposition thoroughly supports this project. It is a good project. It was a most interesting hearing and quite a bit came out of it that a number of us can use in the future with regard to the needs of special students in our area schools, so we support the project.

The Hon. S.W. KEY (Ashford) (11:05): I would first of all like to thank the Public Works Committee, an excellent committee chaired by the member for Little Para, for the opportunity to address the committee and also to talk to some of the people who have been involved in the planning. As the chair has said, I have been involved with the concept of this proposal and the proposal for quite some time. The first opportunity I had to hear about it was with the former minister for education, Jane Lomax-Smith, and, other than my usual duties as the local member, I have been to that school many times.

With the focus of redevelopment, changes and improvements to Ashford Special School students and staff, there were a few things I wanted to put before the committee and now want to put before parliament. First of all, we were hoping that by having the Ashford Special School located at the William Light School, the R to 12 school, there would be some positives for the William Light School as well as obviously improving the facilities considerably for the Ashford Special School.

There are still some concerns. Although the William Light School community is quite excited about the concept of this co-location, we wanted to make sure that the very valuable sporting facilities, particularly the oval, were not interfered with in any way because, in addition to the school activities on the oval, both cricket and soccer, important community soccer and cricket are also played there, and we would like that to continue. We are very mindful of the fact that we do not want the Ashford Special School footprint to interfere with that green space.

Secondly, there has been a problem for quite some time at William Light with regard to car parking and also dropping off and picking up students to go to school, so I am very keen to make sure—and this is one of the points I made before the Public Works Committee—that particularly with Access cabs and buses and the different vehicles needed to transport some of the students with special needs or mobility issues, the importance of that is taken into consideration. If you visit the school (and I was at a breakfast there just recently), you have to park a few blocks away because there is no parking. I just hope that the issues of traffic congestion and making facilities available are taken on board.

As I mentioned, when this concept was first raised I was with the former minister Jane Lomax-Smith, and we were very impressed that the current Ashford Special School has a small swimming pool. That small swimming pool has been used as a calming agent in many respects for some of the students who, in many cases, have a number of not only intellectual disabilities but also behavioural problems. The pool has been used by the staff not only to try to give the students some water skills but also to calm them down.

I am very sad that what was suggested by the former minister and very much endorsed by myself does not seem to have been incorporated. I should actually tell people that the former minister and I would go swimming in the morning together, so we did have a vested interest in swimming itself. We thought one of the pluses could be that the new co-located school could have a swimming pool, at least a small swimming pool like the one that is currently at Ashford Special School. So I am very disappointed in looking at the plans that this does not seem to have been incorporated. We are now two education ministers on, so I guess the intention of the former minister, Jane Lomax-Smith, has been lost somewhere in the ether.

The other point that I would just like to make is that with the co-location I was really hoping that the fairly dismal facilities for the administrative staff and also the staffroom at the William Light School may be improved by this co-location. Sadly, that is not going to happen and it is really very sad that there does not seem to be much effort in looking at, perhaps, jazzing up the front of the school. I am told that the metal louvres at the front of the William Light School were there when it was Plympton high school (as people remember it) and are quite ancient, so I was hoping that there would be some money put aside to look at dressing up the front of the school.

I hope these things will be taken into consideration but, on the whole, I would like to congratulate all of the people who have worked on this campaign. It is quite exciting and I think it will be, overall, really important for a few hundred students to have this co-location and interaction between the Ashford Special School and the William Light School.

The SPEAKER: Thank you and it was nice yesterday to see people from the Ashford Special School in here.

Motion carried.

PUBLIC WORKS COMMITTEE: KENSINGTON SPECIAL SCHOOL RELOCATION

Mr ODENWALDER (Little Para) (11:11): I move:

That the 443rd report of the committee, entitled Kensington Special School Relocation, be noted.

It is proposed to relocate Kensington Special School to the Charles Campbell Secondary School site. The school has a funding allocation of $10.6 million, together with $250,000 from the federal government BER, giving the project a total budget of $10.85 million. The project will deliver the following for the school: six purpose-built general learning areas, with shared withdrawal areas and staff preparation areas for storage; a new admin area, with support facilities including kitchen, workshop and assisted student amenities. It will provide the opportunity to integrate students with the new Charles Campbell R-12 campus, which will enable appropriate support, and I think it is a very good thing. There will be car and bus parking which will be safe and secure and improve staff and student circulation.

The project is expected to be completed by September 2013. It is a great project and, given this, and pursuant to section 12(c) of the Parliamentary Committees Act, the committee reports to parliament that it recommends these proposed public works.

Mr PENGILLY (Finniss) (11:12): Once again, the opposition supported this project in the committee. Once again, it was another interesting program and another interesting development, so we have pleasure in supporting the program.

The SPEAKER: Member for Little Para, you are very busy this morning.

Mr ODENWALDER (Little Para) (11:12): Thank you. I think I am the only one speaking.

Mr Pengilly: Good committee man.

Mr ODENWALDER: As it is with committees; and I do want to thank the opposition for their support on these projects today.

Motion carried.

PUBLIC WORKS COMMITTEE: GLENUNGA INTERNATIONAL HIGH SCHOOL REDEVELOPMENT

Mr ODENWALDER (Little Para) (11:13): I move:

That the 444th report of the committee, entitled Glenunga International High School Redevelopment, be noted.

It is proposed to redevelop Glenunga International High School with a budget of $15.764 million dollars. Funds of $10 million were included in the 2010-11 state budget for the redevelopment of this school. Additional funding of $5.764 million was provided from the $60 million Expanding Our Schools Initiative as part of the 2011-12 Mid-Year Budget Review process. This program will provide additional accommodation in the following high schools: Adelaide High School, Brighton Secondary School, Marryatville High School and Glenunga International High School.

The redevelopment of Glenunga will provide new and significantly upgraded existing accommodation to provide facilities for an additional 100 students. It will include a new two-storey building comprising a resource centre, 10 classrooms and student and international student services and amenities, a redeveloped art, music and drama studio, redeveloped science laboratories, redeveloped staffroom, administration and teacher preparation spaces, a PE office and change rooms, IT infrastructure and power upgrades.

Construction on stage 1 is expected to be complete by July 2013 and stages 2 and 3 are to be complete by January 2014. So, given this, and pursuant to section 12(c) of the act, the Public Works Committee reports to parliament that it recommends these works.

Mr PENGILLY (Finniss) (11:14): Once again, we support this project. It was interesting to have Wendy Johnson, the principal, in. Wendy was formerly principal of Victor Harbor High School. Glenunga International High School is very much a leading public school in South Australia and it is a very good project. I wish it well, and the opposition supports it.

Motion carried.

PUBLIC WORKS COMMITTEE: MARRYATVILLE HIGH SCHOOL REDEVELOPMENT

Mr ODENWALDER (Little Para) (11:15): I move:

That the 445th report of the committee, entitled Marryatville High School Redevelopment, be noted.

The redevelopment of Marryatville High School is proposed as part of the government's Expanding State High Schools project. The project proposed by the Department for Education and Child Development involves the construction of a new 21st century learning centre, the refurbishment of existing facilities, the demolition of old timber buildings, and an upgrade to comply with disability access. It will come to an estimated cost of $17.975 million, excluding GST.

The development itself will deliver the following: the construction of a new 21st century learning centre to consolidate all science functions, incorporate additional general learning areas and provide a variety of flexible, collaborative learning spaces to support resource-based learning. The existing science areas will be refurbished as general learning areas and collaborative learning spaces, and the existing library will be refurbished, as will the reception and admin areas.

The entire project is expected to be completed by December 2013. Given this, and pursuant to section 12C of the act, the committee reports to parliament that it does recommend these proposed public works.

Mr PENGILLY (Finniss) (11:16): The opposition supports the project.

Motion carried.

PUBLIC WORKS COMMITTEE: MOUNT GAMBIER PRISON EXPANSION

Mr ODENWALDER (Little Para) (11:17): I move:

That the 446th report of the committee, entitled Mount Gambier Prison Expansion, be noted.

I am glad to note that the member for Mount Gambier is in the chamber as we speak. The Public Works Committee considered an expansion of the Mount Gambier Prison valued at $22.9 million. The new cell block at Mount Gambier Prison will enhance the options available to the Department for Correctional Services when assessing the placement of prisoners.

The proposed expansion will consist of a single storage solution utilising used shipping containers, with the majority fitted out as bunked cells. This solution was considered the best fit on a combination of operational issues and the available budget. The cell block has been designed in a figure-eight shape. The two wings themselves will be single storey, arranged in a square rectangle with a central area that will accommodate a number of support services, such as officers' stations, dining, recreation, medical and interview rooms. Each wing will accommodate 54 prisoners.

The current prison complex consists of a single medium security cell block plus a number of low security residential units, and a number of associated facilities providing services to the prisoners, plus associated admin areas. The new cell block at Mount Gambier Prison is designed to contribute to meeting the need for accommodation resulting from the expected growth in prisoner numbers over the next two to three years. Long-term modelling supports a growth of 2.6 to 3 per cent per annum, or approximately 51 additional prisoners per year. Without the 108 beds that this cell block will provide, the South Australian prison system will not have sufficient beds to accommodate projected peaks in prisoner numbers in 2013-14 or sufficient beds to accommodate expected average prisoner numbers in 2015-16.

Construction will be completed in March 2013. Given this, and pursuant to section 12C of the act, the Public Works Committee recommends these works.

Mr PEGLER (Mount Gambier) (11:19): I certainly support this initiative. I must say that the department and the Mayor of the District Council of Grant have worked very well together. A meeting was organised, and they pointed out the opportunities for local tradesmen in building this addition to the prison. The end result is that there will be many more employment opportunities for people working in that prison from Mount Gambier and also for the services that are provided to the prison, such as food, and for local tradesmen fixing up the various things, so that is all good.

One of the threats that some people have seen is the fact that we could end up with a lot of the families of those prisoners moving down to Mount Gambier, but very few of their families do move to Mount Gambier when they come down there. There is also a great program in place where prisoners from other areas are relocated back to those areas for at least three months before they are released. Those prisoners who have originated from Adelaide or elsewhere come back here before they are released so they are not released into our community. I certainly commend the government on this new build.

Mr PENGILLY (Finniss) (11:20): I do wish to comment on this. I take some interest in the prison system in South Australia. Mr Severin and his department answered a number of questions in relation to the Mount Gambier Prison expansion. It is something that we have to cope with. It seems an inordinate amount of money to keep people under lock and key. However, I would point out that, with yet another shooting last night in metropolitan Adelaide, they will have a few more to put in the cells before it is all over and done with. It is just a pity that there was not more action on this instead of talk from the government; however, that is not the subject of this discussion.

The Mount Gambier Prison is much needed. The idea of the used shipping containers being turned into cells is something that has been fleshed out for some time. It is already in existence at the Women's Prison adjacent to Yatala, and it will become more the norm. However, it is going to be interesting to see where we go in the future because the Remand Centre—just some short distance from this building—was an eighties American-style high-rise prison which has turned

out to be less than useful. It is a disastrous place, and it is a shocking place to go into and see just how it operates. Any member who has not been there ought to go and have a look. I just hope we are getting it right with these shipping containers. The alternative, of course, is to have something like Yatala, which is still there 100 years later.

However, in relation to the Mount Gambier Prison expansion, the opposition is supportive of the project. Of course, it follows along from the grand announcement by the former Rann government of the extension to the Mobilong Prison a few years ago without any knowledge of the local council in Murray Bridge, something that the member for Hammond picked up on at the time. Now we are finding the need to do this down at Mount Gambier. With those few words, the opposition supports the project. We will watch it with interest.

Motion carried.

PUBLIC WORKS COMMITTEE: TONSLEY PARK MASTER PLAN DEVELOPMENT

Mr ODENWALDER (Little Para) (11:23): I move:

That the 447th report of the committee, entitled Tonsley Park Master Plan Development, be noted.

In March 2008, the South Australian government received payment of $35 million from Mitsubishi Motors as a result of its decision to close its 64-hectare Tonsley Park vehicle assembly site. The $35 million was transferred to the Urban Renewal Authority as an equity injection, pending a decision on the government's involvement in the future development of the site.

In August 2011, cabinet approved construction of the Sustainable Industries Education Centre on this site to be located in the southern portion. A Woods Bagot-led design consortium was selected to prepare the master plan for the site. The government intends to develop 61 hectares of the former Mitsubishi Motors manufacturing site at Tonsley Park to create a hub for advanced manufacturing that integrates industry, education, research and commercialisation activities along with residential and community facilities. The total budget for this project is $252.9 million.

The master plan will deliver, as a percentage of total site area, 60 per cent commercial light industrial, delivering 6,300 jobs; 28 per cent medium-high density residential for 1,000 dwellings and 1,500 residents; 10 per cent tertiary education, with up to 12,000 students per year; and 2 per cent supporting retail surrounding a new town square. More than $1 billion in private investment will be attracted through land sales and the physical construction on the site over the life of the project. It is estimated that site construction will deliver $492 million in net economic benefits over the life of the project. The economic development framework for Tonsley Park is designed to:

- attract investment into high-value manufacturing and services that build the value chain, support value creation and value add in the South Australian economy;
- create new high-value employment opportunities in southern Adelaide;
- develop industry clusters, such as mining and environmental industries;
- underpin the diversification of existing industries and the development of emerging clean tech and environmental industries; and
- it also aims to support skills and workforce development and provide links between education, training, research and industry.

Target industries for the Tonsley Park redevelopment include, but are not limited to:

- clean tech, including renewable energy, water, environment and building technologies;
- health and medical services, including medical devices;
- mining and resources—things like remote mining technologies; and
- functional food and instrumentation, including rapid prototyping and integrated management systems.

The total project cost is expected to be offset in part through land sales and rental income, and this is estimated to be about $172.1 million. Sales are projected to occur over a 16-year period, commencing in 2012-13, and rental income is forecast at $27.5 million over the life of the project.

I think this is an exciting project. I want to thank the members of the committee and also the staff—Paul Lobban and Amanda Sheeky—for their help. Given this and pursuant to section 12C of the act, I and the committee recommend that parliament supports the proposed works.

Mr PENGILLY (Finniss) (11:26): This was yet another project that opposition members had a multitude of questions about. We are still doing some work on it. We are not 100 per cent sure that the figures all add up. There could be a bit of good old government spin put into some of these suggested outcomes. We hope that is not right, but that will be borne out in time.

I am sure that the City of Marion will be hoping for a successful outcome and be watching it closely, because it is in their best interests and in the best interests of South Australia to have this area working again. Yes, the opposition does support the project—we have not got much choice but to support it—but, as I say, it is with a degree of guarded support in relation to some of the figures that were presented to the committee.

Mr SIBBONS (Mitchell) (11:27): I certainly would like to endorse the Tonsley Park master plan. This is certainly great news for the southern suburbs. We have seen over many years the decline in employment opportunities and growth in the southern suburbs due to the closures of the Mitsubishi plant and the Mobil refinery. We have also seen a reduction in job opportunities for the people who live in those areas.

I see this as a great opportunity for the people of the south to seek employment in advanced manufacturing and also in some innovative areas. There are also opportunities that can be presented through the relationships with the other stakeholders within the southern suburbs, such as the Flinders Medical Centre, the university and the other companies that are there as well.

I would also like to congratulate Marion council for having a very active role in wanting to make sure that the precinct delivers great opportunities for the southern suburbs. I would certainly ask the parliament to support this project and I look forward to the wonderful outcomes for the people of the southern suburbs.

Motion carried.

STATUTES AMENDMENT AND REPEAL (SUPERANNUATION) BILL

Adjourned debate on second reading.

(Continued from 16 May 2012.)

The Hon. I.F. EVANS (Davenport) (11:30): I rise to speak on the Statutes Amendment and Repeal (Superannuation) Bill 2012. This bill was introduced into the House of Assembly by the Minister for Finance on 16 May, and I indicate that I am the lead speaker. This bill seeks to amend the following acts for the purpose of making amendments to the superannuation arrangements provided under these statutes, that is: the Judges Pension Act 1971, the Parliamentary Superannuation Act 1974 and the Police Superannuation Act 1988. The bill also seeks to repeal the Unclaimed Superannuation Benefits Act 1997, and proposes consequential and technical amendments to the Subordinate Legislation Act 1978 and the Superannuation Funds Management Corporation of South Australia Act 1995.

There are a number of proposals under this bill. The opposition is generally supportive of the bill. There is an issue with one section of the bill that I will raise, but generally we are supportive of this measure. The first proposal is the repeal of the Unclaimed Superannuation Benefits Act 1997. What is proposed under this bill is that the commonwealth government, which has introduced national legislation dealing with unclaimed superannuation benefits, which is aimed at having all unclaimed super money centrally located by the Australian Tax Office. The commonwealth and all state Governments have agreed that this arrangement provides a better opportunity for workers to be reunited with their lost super, and in order for South Australia to become part of the new arrangement the state's Unclaimed Superannuation Benefits Act 1997 needs to be repealed. The opposition supports that move.

Proposal 2 is the repeal of some legislation dealing with the method to determine the value of an accrued super interest for the purpose of splitting a super interest under the commonwealth's Family Law Act 1975. The commonwealth rules for determining the value of an accrued benefit or super at a particular date are inconsistent with the state rules, and the commonwealth law prevails, so simply what is proposed here is to repeal those laws that are inconsistent with the commonwealth laws. The opposition supports that proposal.

Proposal 3 seeks to make several amendments to the Southern State Superannuation Act 2009, which contains the Triple S Superannuation Scheme for public sector workers. The Australian Tax Office has issued an interpretive ruling in relation to allowances and over-award payments, and payments made in lieu of leave to be considered as ordinary time earnings. As such, the bill proposes an amendment to the definition of 'salary' to ensure that super benefits under the Triple S scheme are based on ordinary time earnings as properly defined. The opposition supports that principle.

Proposal 4 is a series of amendments to the Superannuation Act 1988. One of the amendments deals with a situation where a contributor has suffered a reduction in salary, which is neither a reduction resulting from disciplinary action taken against the contributor nor a reduction in hours worked. The current arrangement has the effect of disadvantaging the contributor over the long term. As such the bill seeks to amend the current provisions to avoid this disadvantage.

Another proposed amendment is to expand eligibility to vote in elections for a member representative on the Super SA Board and the Funds SA Board of Directors. This bill seeks to change the current arrangement and provide a right to vote for the spouse and for persons who have invested in Super SA flexible roll-over or Super SA income stream products.

An amendment is also being sought to the regulation-making powers contained in the Superannuation Act. The regulation-making powers are proposed to be expanded to enable the making of regulations that will allow the Electoral Commission to withhold sending ballot papers for board elections where the Super SA Board consider the member was a lost member. At the last election held in 2009 about 20,000 ballot papers were undeliverable for this reason.

The last component of the amendments being sought deals with the Electricity Industry Superannuation Scheme. This is the area where there is some conjecture from those people covered by the scheme as to how this particular scheme was set up. I have met with Dr Ray Hickman, Mr Richard Vear, Mr Clive Brooks and others in relation to this matter. I have written letters to the minister outlining a series of questions that the industry groups have put to me regarding this particular matter. The letters were dated 19 January 2012, 24 May 2012 and 25 May 2012, and they go for some pages and I do not intend to read all the questions into *Hansard.* I thank the minister for his office contacting me and saying that he has prepared answers to the questions (I dare say through his loyal advisers) and that he intends to table the answers so that they can be inserted into *Hansard.*

I will consider those answers between houses because it is a highly complex matter and even if the minister read the answers in I would be no better informed until I could go and get advice on the answers. In fairness to the house, I am not going to hold the house up long on that particular matter, but I do appreciate the minister's office preparing those answers, and I certainly appreciate the departmental officers preparing them at relatively short notice and also for the information provided in the briefing.

The Electricity Industry Superannuation Scheme members came to see me, and I asked them to outline their concerns about the Electricity Industry Superannuation Scheme. They have had these concerns for many years, and they see this as an opportunity to have some of these issues resolved. The following comments I make are provided to me by the Electricity Industry Superannuation Scheme members and also by Dr Ray Hickman, who speaks for the South Australian Superannuants. These are their comments, not necessarily my comments, because it is a complex matter and they want to put on the record their concerns so that the minister can, hopefully, deal with this issue through an independent review. Their comments, which have been provided to me in writing, are as follows:

> The provisions in this Bill dealing with the Electricity Industry Superannuation Scheme (EISS) have been the subject of representations from Dr Ray Hickman who speaks for the organisation, S.A. Superannuants, and from an individual EISS member Mr Richard Vear. I have met with representatives of S.A. Superannuants and Mr Vear and much of what I have to say in this speech relies on what they have put to me in writing after that meeting. What Mr Vear and S.A. Superannuants are seeking is a review of the method, and administrative decisions associated with the authorisation of the method, that EISS uses to calculate the taxed-source pensions that the provisions in this Bill will allow to be transferred to Super SA. They have suggested that the review be conducted by the Ombudsman—

although there may be some issue with that given that, I think, part of this was a ministerial decision and the Ombudsman does not have power to review ministerial decisions, so they seek an independent review—

...but would be pleased to see a review by another competent authority that is independent of the Department of Treasury and Finance, the EISS Board and Super SA Board. S.A. Superannuants and Mr Vear have both written to me saying that if an independent review is carried out then they will accept its findings regardless of what the findings are on the basis that the government accept its findings regardless of what the findings are.

On this basis, the opposition is prepared to put on the record its concerns so that the minister can properly deal with the matter and their concerns be given a fair hearing. In what follows I will refer to Mr Vear and the SA Superannuants as 'the petitioners'.

The petitioners say that the superannuation provisions of the Electricity Corporations Act 1994, as modified by the Electricity Corporations (Restructuring and Disposal) Act 1999, are sound and there is nothing to be gained by EISS members who transfer to the proposed Administered Electricity Industry Superannuation Scheme unless the Government is going to provide its own guarantee for the security of their pensions, on top of the guarantee that their current employers are providing. Even if this is the case it would be a very inefficient way of providing extra security. The Government would do better to simply guarantee the pensions where they are currently located. If the EISS provisions in this bill become law the result will be as follows:

1. The EISS Board will decide whether or not it is interested in making use of the legislation.

2. If the EISS Board decides it is interested it will have to find out from its members, getting taxed-source pensions, if they are interested in transferring to the Administered Electricity Industry Superannuation Scheme.

3. Unless there is substantial interest among members in transferring there will be no point in the EISS Board proceeding because transfers are to be voluntary for each member. The petitioners say the level of interest in transferring among EISS pension division members needed to be established prior to the legislation being prepared.

4. Assuming there is an interest in transferring the EISS Board will have to approach the Super SA Board to have prepared a trust deed and set of rules.

5. Once the EISS Board and the Super SA Board have agreed on the trust deed and the rules these will have to be provided to all EISS members interested in transferring.

6. For each member who transfers, the EISS Board will transfer funds equal to the sum of the actuarial value of that person's pension and an amount sufficient to meet Super SA's costs of administering the new scheme. The effect will be that the EISS will see its investment pool of assets backing pensions reduced and it will be paying Super SA to administer the transferred pensions as it continues to bear the cost of administering the pensions that remain with it.

The petitioners say this is a highly implausible scenario. They say the EISS Board would not be acting in the best interests of the pension division members collectively, or their employers, if it allowed the splitting of the pension division.

The petitioners say a more likely reason for the EISS Board to want to move its taxed-source pensions to Super SA is to improve its chances of effecting a merger with other superannuation funds. It is a small fund by current standards (assets of $740 million as at 30 June 2011) with relatively few members (3,192 as at 30/6/2011). At first glance the EISS should be an attractive merger partner. But its potential merger partners will all be funds operating under the Commonwealth's Superannuation Industry (Supervision) Act 1993 (SIS). The rule EISS is using for the calculation of taxed-source pensions would certainly be recognised by any potential partner in a merger as being of dubious legality. This would make the rule a severe obstacle for EISS in merger negotiations. It will not do EISS much good to tell potential partners that the South Australian Crown Law Office has assessed the rule as lawful because the facts pointing to the opposite conclusion are far too persuasive.

The petitioners are adamant that the EISS taxed-source pensions have been calculated by a method that was designed to reduce employer costs for pensions compared to what the cost would be if the pensions continued as an untaxed-source pension. They say that this is forbidden by the Electricity Corporations Act 1994 which provides that rules for reducing benefits must be related to the tax costs associated with the change in tax status of EISS and may go no further than to avoid or reduce an increase in the associated employer costs. They point to clause 11, Part F of Schedule 1 Superannuation of the Electricity Corporations Act 1994. It states:

11—Treasurer may vary rules in relation to the taxation

(1) The Treasurer may, after consultation with the trustee of the Scheme, insert into the Rules a rule or rules relating to changes in benefits for members and employer costs in relation to those benefits, following the Scheme's loss of constitutional protection.

(2) A rule inserted by the Treasurer may—

(a) prescribe a decrease in the level of gross benefits; or

(b) require benefits to be paid on an untaxed basis or partly on an untaxed basis; or

(c) make provisions of the kind referred to in both paragraphs (a) and (b),

in order to avoid or reduce an increase in employer costs caused by changes in the incidence of taxation as a result of the Scheme's loss of constitutional protection.

(3) Subject to subclause (4), the change in benefits effected by a rule made under this clause must not result in the level of net benefits to which a member, or a person in respect of a member, is entitled being less than the level of net benefits to which he or she would have been entitled if the Scheme had not lost constitutional protection.

Subclause 11(1) requires that there be a relationship between the change in employer costs and the rule or rules for changes to benefits. This did not happen with pensions, where the rule introduced used only personal income tax rates to calculate the taxed-source pension value. The change in employer costs associated with the pension being paid as a taxed-source pension was ignored.

Subclause (11)(2) requires that the rules must not reduce employer costs and are restricted to just avoiding an increase in those costs or keeping any increase to a minimum. The petitioners say that (11)(2) place an obligation on the Treasurer and the EISS Board to be very confident that the rule changes were not going to reduce employer costs and, in that way, pass to employers a tax advantage that otherwise would have gone to its members.

The petitioners accept that subclause (11)(3) was being complied with until 2007. Then the EISS Trustees made a rule change in response to the federal government's 'Better Super' policy of 2007. The new 10 per cent rebate applied to untaxed source pensions for members over 60 years was excluded from the EISS taxed source pension calculation with the effect that the taxed source NET pension was no longer equal to the untaxed sourced net pension. The petitioners say that the net benefit of (11)(3), whichever way it is defined, is merely a 'no-detriment' provision that sets the floor below which no pension may be reduced. It is not an authority to reduce every pension to that level. They reject the position being taken by both the EISS Board and the Government that as long as (11)(3) is being complied with the EISS method for calculating taxed-source pensions is valid.

The petitioners have said to me, without my looking for them to do so, that they are satisfied that the previous Liberal government did not intend to authorise EISS to use the method it is now using to calculate taxed-source pensions. They say, if the previous government had intended to do this, section 11 would have looked something like this:

11—Treasurer may vary Rules in relation to taxation

(1) The Treasurer may, after consultation with the trustee of the Scheme, insert into the Rules a rule or rules relating to changes in benefits for members following the Scheme's loss of constitutional protection.

(2) A rule inserted by the Treasurer may—

(a) prescribe a decrease in the level of gross benefits; or

(b) require benefits to be paid on an untaxed basis or partly on an untaxed basis; or

(c) make provisions of the kind referred to in both paragraphs (a) and (b); and

(3) A rule inserted by the Treasurer must have the effect of ensuring that, subject to subclause (4), the level of net benefits to which a member, or person in respect of a member, is entitled is equal to the level of net benefits to which he or she would have been entitled if the Scheme had not lost constitutional protection.

The petitioners say that the EISS members have sought, but never been given, a good explanation of why the percentage reductions of EISS lump sum benefits, obtained by commutation of pensions, are typically about 10 per cent less than reductions made to pensions.

The experience of one EISS member, Mr Barry Foster, illustrates this point. Mr Foster had 41 years of service in the electricity industry and retired at the of 2002. He was among the first EISS members to feel the effect of its new rules. If Mr Foster had commuted 100 per cent of his

untaxed-source pension the tax payable on the lump sum would have reduced it by 5.7 per cent. He did not want to commute his pension and was told that the only alternative then was to have his untaxed-source pension entitlement paid as a taxed-source pension, which would be 17.1 per cent less in its gross amount than the untaxed-source pension. He did not want to take his pension in this form and would have preferred to take the original untaxed-source pension. He is adamant that the person outlining his options made it clear that he could not opt for the untaxed-source pension. This person was an actuary and the same person who had developed the rules for changes to EISS benefits.

The petitioners claim that the percentage reduction in Mr Foster's pension that would have been sufficient to avoid an increase in employer costs would have been close to 5.7 per cent and nowhere near the 17.1 per cent by which it was actually reduced. The difference of 11.4 per cent measures the advantage that Mr Foster's employers gained. The written materials that Mr Foster was given, in February 2003, outlining his entitlements at retirement included a sheet headed 'Benefit Reduction' on which it was explained that benefits were subject to reduction as a consequence of the change in tax status of EISS. The explanation included the sentence 'This reduction is intended to represent the amount of the tax that the scheme will become liable to pay in respect of your benefit.'

Late in 2005 Mr Foster became aware that SA Superannuants was investigating the possibility of a change in taxation status for the State Pension Scheme and, after talking with Dr Ray Hickman, who was then president of the organisation, he set about trying to find out more about why his pension had been reduced by such a large amount. On 25 March 2006 he wrote to EISS asking to be told the amount of tax that the scheme had paid in respect of his benefit. In a letter dated 2 May 2006 he got the answer:

> The amount of tax paid by the scheme in respect of your pension is almost impossible to determine.

On 18 May 2006 he wrote again to ask if his pension had been reduced by an amount greater than that needed to avoid an increase in employer costs. In a letter dated 28 September 2006 he got the answer:

> The Board is required to adjust your pension in accordance with the rules inserted by the Treasurer, and has done so accordingly.

In response to his pointing out that the commuted lump sum was reduced by tax by a much smaller percentage than was his pension, he got the statement:

> You raise the issue of the difference between the adjustments to lump sums and pension benefits. The adjustment is very different because the taxation is very different.

The petitioners say this is incorrect. They say the tax payable on contributions and earnings in a taxed superannuation fund are the same whether that fund pays benefits as lump sums or as pensions. They say, for a particular person in an untaxed fund, the tax payable on a lump sum that the person elects to take from the fund by commutation of a pension is calculated by the same method, and using the same tax rate of 15 per cent, as is used to calculate the tax payable on the sum that the fund retains to pay the pension that has not been commuted and is to be converted to a taxed-source pension. This can be confirmed by reference to the Explanatory Memorandum to the Taxation Laws Amendment Bill (No.5) 2001—Chapter 2—Changes in status of constitutionally protected superannuation funds.

In the letter of 28 September 2006, that told him lump sums and pensions had to be adjusted differently, Mr Foster was also told that he could have opted for his untaxed-source pension rather than the taxed-source pension. He rejects this and has a clear recollection that he was led to believe that a commutation, or a taxed-source pension, were his only options. The written statement he was given about his entitlement in February 2003 contained information about commutation and a taxed-source pension only. It said nothing about him being able to opt for the untaxed-source pension. In the letter of 2 May 2006, that told him the tax payable in respect of his pension is almost impossible to determine, EISS admitted that the availability of the untaxed-source option was not made explicit for all members until 2005. The petitioners say it is simply not believable that this delay was an oversight on the part of EISS. They say that the untaxed-source option only became available from December 2005 and then only because of the mounting pressure from Mr Vear and other members.

It was not until April 2006 that the EISS made available to all members the method of calculating the benefit reduction to their pensions. This came about as a result of the intervention of

the commercial manager at Torrens Island Power Station to address employees' complaints. The experience of Richard Vear is consistent with that of Barry Foster.

Richard has made a very strenuous attempt to get a clear answer to the same question about his pension but with no more success. In Richard's case, the reduction to his pension would have been 17.6 per cent if none of the pension had been commuted and, had he commuted all of his pension, only 7.9 per cent of the resulting lump sum would have been lost as tax. He actually commuted half of his pension and paid 7.9 per cent of that lump sum in tax; the remaining half he took as a pension was reduced by 15.3 per cent.

This illustrates another feature of the EISS method that is a good indicator of the method being one that reduces pensions by more than the tax cost associated with paying them from a taxed source. As the value of an untaxed-source pension increases, the reduction made to it by the EISS method gets larger but the rate of tax paid on the lump sum back into the pension is still only 15 per cent.

The petitioners have anticipated that members listening to this account might think, 'Why are they coming to parliament with this story? Why don't they go to a tribunal, a regulator or a court?' The Electricity Corporations Act 1994 intended for the EISS to operate under the commonwealth Superannuation Industry (Supervision) Act 1993 (the SIS Act) which would have seen it regulated by APRA and its members having access to the Superannuation Complaints Tribunal (the SCT).

Years went by without the provisions of the act that were intended to achieve this becoming law. Even today the EISS remains outside the SIS arrangements and regulation by APRA. So, it sits outside of that arrangement. Access to the SCT is now available but only since June 2008. Richard Vear attempted to get a hearing at the SCT but was told it could only deal with matters originating after the EISS entered its jurisdiction in June 2008.

There is a court system but the costs and risks associated with legal action are daunting. The petitioners believe it is reasonable in the circumstances to them to see this parliament as the regulator for the EISS. I ask that the parliament arrange for the matter to be settled once and for all by a competent, independent authority. It is not just the large difference between the reductions made to pensions and the lump sums obtained by the commutation of the pensions; it indicates that the EISS method of calculating its taxed-source pensions is designed to favour employers.

The petitioners point to two authoritative documents held by the Department of Treasury and Finance. One is the study of the taxation status of the South Australian government superannuation funds dated January 1998. This is a Mercer report and it outlines and method that could be applied to untaxed-source pensions of the State Pension Scheme to convert them to taxed-source pensions. The method it proposes is essentially the same as EISS is using it taxed-source pensions. The report estimated savings for the government in the range of $300 million to $540 million—that is in 1998 dollars—if the method was applied to the State Pension Scheme. Referring specifically to the reduction of the state pensions in the 1998 Mercer report, on page 63 it states:

> The Government may need to cope with the demands from members of the pension scheme that they, as well as the Government, should share in the gains achieved. An important part of the response would be that these people are still members of schemes which have been closed because of their generosity, and yet their benefits have been continued. Thus they should have little to complain about if the advantage of applying the PJFC (pre-July 1988 Funding Credit) is not passed through to them, so long as they are not detrimentally affected. A critical point is that the benefit reductions should be such as to remove the windfall gains, but not to the extent of causing detriment to any members.

The petitioners say that the detailed explanation provided in the report of where employer gains will come from is arithmetically correct, but the gains have to be achieved by diverting the tax advantage inherent in the taxed superannuation environment from members to employers. This is what section (11)(2) of part F of schedule 1 of the Electricity Corporations Act 1994 is designed to prevent. The petitioners point also to the heads of government agreement on superannuation, which says in the first paragraph:

> The Commonwealth and the State and Territory Governments recognise the need to apply national standards to certain aspects of superannuation without distinguishing between employees of the public and private sector. For example, it is important that members' accrued entitlements are securely protected, and that there is consistency of taxation outcomes for members' superannuation benefits.

According to the petitioners, the authors of the 1998 Mercer report have things the wrong way around when they say that a gain by members from a change to a taxed-source pension would be

a 'windfall gain'. It is not a windfall gain because tax rules intend for members to make this gain. The gain would only be a windfall if it passes to employers, as the 1998 report recommends should happen.

The other review that the petitioners raise is the Review of Taxation Status of the SA Government Superannuation Funds dated 23 December 2004. This is another Mercer report and a follow-up to the 1998 report. On page 7, this report states:

> In the Lump Sum Scheme/Pension Scheme there is a net tax advantage in moving from an untaxed environment to a taxed environment. These advantages could be used to increase members' benefits and/or reduce employer costs. If members' benefits are maintained at current levels (after allowing for tax effects), then savings of the order of $450 million are estimated for the employer.

This is consistent with the 1998 report. However, on page 9 of this 2004 report, it is said that in other states it was not members' benefits that were held constant to produce savings for employers, but the employer costs were held constant to increase the members' benefits. The formula used in these other states to ensure that employer costs stayed the same is set out in the 2004 report.

The petitioners say that this formula, or something very similar, was required to ensure compliance with the Electricity Corporations Act 1994 when the EISS was authorised to begin paying taxed-source pensions. The formula provides a lawful method for converting the pensions because it connects the pension reductions with the tax payable by the scheme. This connection is through the formula's inclusion of 15 per cent (0.15) tax rate applicable to the employer-financed contributions. The preamble to the formula and the formula itself are described in the report as follows:

> To ensure that the employer contributions remain the same (before and after the fund becomes taxable) other superannuation funds have adjusted benefits (other than death benefits and the insured component of disability benefits) to the following level:
>
> Current(untaxed benefit) x (1-0.15 B/C x P)—

and the house will be pleased to know I did not come up with that formula—

> Where B=the period in days of contributory service that began on 1 July 1988
>
> C=the period in days of contributive service
>
> P=the proportion of the benefit deemed to be employer financed

The petitioners say, when this formula is applied to the pensions of Barry Foster and Richard Vear, it produces the result that their pensions would be reduced by about the same amount as the lump sums obtained by commuting their pensions and not by the much larger amount resulting from the use of the EISS method. The petitioners say that this fact reinforces the validity of the formula set out in the 2004 Mercer report.

There is another Mercer document that the Department of Treasury and Finance holds that deals directly with the EISS rules for benefit reductions. It is the explanatory memorandum dated 27 June 2002. This document has the following interesting features:

1. It was written by the actuary (regrettably, now deceased) who developed the rules being used by EISS, including the rule for calculation of taxed-source pensions.

2. This actuary was a co-author of the 1998 Mercer report, but in his 2002 explanatory memorandum he says that 'employer costs are not expected to change as a result of the tax changes', which is a direct contradiction of the 1998 report.

3. The date of the explanatory memorandum is one day before the EISS rules took effect.

4. The explanatory memorandum contains nothing that would allow a person to assess if the claim it makes about employer costs has a sound basis.

The petitioners say that if this explanatory memorandum is taken at face value, one must conclude there is no advantage for anyone in moving an untaxed pension fund into the taxed superannuation environment. They say: if this was the case, why would the large pension funds of New South Wales and Victoria be operating in the taxed environment, and what was the point of moving EISS to that environment?

The petitioners are adamant that, at the time the EISS pensions became payable from the taxed environment, there was a large tax advantage obtained through the move and it went to

employers not to members. In 2007, the tax advantage of doing this was substantially reduced through the availability of a 10 per cent tax offset on untaxed-source pensions, but when this happened, EISS changed its rules to allow the 10 per cent tax offset to be ignored. In this way, it continues to offer taxed-source pensions that deliver an advantage to employers.

Of great concern to the petitioners is the fact that the government has a crown law opinion stating that all of the EISS rules are fully compliant with the Electricity Corporations Act 1994. This opinion was obtained in 2008, or thereabouts, but the petitioners say it is not credible for these reasons:

1. The exact question put to the Crown Solicitor is not known; and

2. The content of the briefing given to the Solicitor was inadequate.

Much of what the petitioners have to base their views on has been obtained through the freedom of information mechanism. This has been effective largely because SA Superannuants has had the benefit of the knowledge and experience of Mr Clive Brooks, its vice-president. Mr Brooks is retired as a senior solicitor from the crown law office and so is not inclined to denigrate its work, but the full set of facts about EISS taxed-source pensions do not appear to allow the possibility that the method for calculating them is compliant with the Electricity Corporations Act 1994.

This led Mr Brooks to persist with attempts to establish what documents had been provided to the Crown Solicitor. He has recently established, through the involvement of the Ombudsman's office, that the only document provided to the Crown Solicitor was the explanatory memorandum—nothing else. This accounts for the opinion given by the Solicitor. Confirmation that the Crown Solicitor was given only the explanatory memorandum is in the form of a letter from Mr Brett Rowse, principal officer, which had a copy of the explanatory memorandum enclosed with it and which refers to this as 'the document' forwarded to the Crown Solicitor.

In the view of the petitioners, the documentation needed for the Crown Solicitor to reach a reliable opinion about EISS taxed-source pensions had to include, at a minimum, the Mercer reports of 1998 and 2004 and the arguments put to the Treasurer by people who believed that the method for calculating them was simply not valid. The petitioners say that the only way to settle this matter now is to go outside the South Australian Public Service to an independent and qualified authority who can:

1. Rule on the question of whether or not the method used to calculated EISS taxed-source pensions is designed to reduce employer costs for those pensions compared to what the cost would be if the pensions continued as untaxed-source pensions; and

2. If it is a method designed to reduce employer costs, rule on the questions of:

   (a) whether or not the EISS board and Department of Treasury and Finance knew this, or ought to have known this, at the time the rule was authorised for use; and

   (b) whether or not, since the time of the rule's authorisation, the EISS board and the Department of Treasury and Finance have dealt properly with the representations being made to them about the validity of the rule; and

   (c) whether or not it is a method that complies with the Electricity Corporations Act 1994 and the heads of government agreement on superannuation.

3. If the method does not comply with the Electricity Corporations Act 1994, recommend a method for calculating taxed-source pensions that does comply with the act and with the Heads of Government Agreement on Superannuation.

I thank the house for its indulgence in letting me put that on the record. As I made clear at the start of the contribution in relation to the EISS scheme, it is a highly complex matter, and that is why I asked the members of the scheme to write that component of the speech: so that their argument was put before the house. I hope the minister will agree to send it to a competent independent authority so that we can resolve this matter once and for all. Subject to the minister's answers between the houses, the opposition in principle supports the bill.

Mr GRIFFITHS (Goyder) (12:11): I wish to make a brief contribution and confirm my personal support for the position put by the member for Davenport as the lead speaker. Superannuation is a bit of an interest for me, so I have read the briefing paper supplied by the shadow minister in some detail. I do have some questions, if I may. My questions actually relate to

part 7 of the bill—amendment of Superannuation Act—and specifically to clause 10, where it talks about the ability to contribute a rate reflective of some level of salary change and, indeed, notional salary determinations being made.

When we go into committee I will ask some questions about this, but I just seek a bit of an explanation. On my first read, I presume that it relates to a person who suffers some form of reclassification into a role with a lesser degree of responsibility and therefore a lower pay rate. They are probably towards the end of their working life and want to preserve their superannuation payout. I am guessing that it is based on a defined membership scheme benefit. I can respect how that occurs, but that is where my questions really lie.

I understand that superannuation is a key issue for all people. I suffer a level of frustration because of the vast amount of financial illiteracy that actually exists in the community, where people do not respect how important it is and do not ask questions about their super schemes to ensure that they are getting the best benefits.

I recognise that it has taken some time for this issue to be brought to the house. In a different role, I met with Mr Ray Hickman—to whom the member for Davenport has referred—probably about four years ago, and he put some concerns to me. I am quite pleased that the shadow minister and the minister, as I understand it, have already had discussions and that some position has been reached about the level of investigation that might occur.

It was appropriate that the member for Davenport put a very large amount of information provided by the superannuants association before the chamber because this matter affects real people, and these people have based their decisions about retirement dates, opportunities, what they might choose to do and their quality of life upon what they believe their superannuation benefits to be. So, when a change occurs that is beyond their immediate area of control, naturally they intend to lobby about it. This has been an ongoing activity from that group for some years, and it is one that has merit, so I am indeed pleased that the minister has had discussions with the shadow minister about reaching a conclusion on that. I look forward to the committee consideration of the clauses.

The Hon. R.B. SUCH (Fisher) (12:13): I will be extremely brief. I believe that the member for Davenport has adequately canvassed some of the concerns that have been expressed to him, and likewise to me; the same people basically have been in contact. I strongly support the notion of having an independent review.

There are many people out in the community—people who have served their state and their community—who feel that the current arrangements and propositions are not fair and reasonable, and I think it is appropriate, as the member for Davenport has indicated, that there be an independent review. With those words, I support the general thrust of the bill but ask the minister to take on board the notion of an independent review.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (12:14): I have minor confusion. My initial understanding was that the member for Davenport did not want to go into committee. However, the member for Goyder has a couple of matters that he wants some explanation on.

In closing the debate, let me say that the member for Davenport agrees with the content of the bill but seeks an independent review. The review is also independent to the passage of the act; it will not be an impediment. The review will consider the matters raised in relation to the EISS in the letters of 24 and 25 May (that I have supplied him with, that he will consider between houses and that I also table) and the matters just raised in considerable detail by the member for Davenport in this house. I will ensure that an independent review is undertaken and I will determine the terms of reference for that review on the basis of the matters raised by the member for Davenport, both in his letters and in the course of debate this morning.

Bill read a second time.

In committee.

Clause 1.

The Hon. I.F. EVANS: In relation to the minister's answer in his second reading contribution about committing to an independent review, I thank the minister for committing to that because it will give clarity to the issue one way or the other in finality. I am sure that the petitioners

would want me to ask whether you will consult them about the appointment of the reviewer and the terms of reference prior to the reviewer being appointed and the terms of reference being set.

The Hon. M.F. O'BRIEN: I certainly will, member for Davenport, because I think we would both like this matter resolved.

Clauses 2 to 17 passed.

Clause 18.

Mr GRIFFITHS: I have an inquisitive mind sometimes and I reviewed the shadow minister's briefing paper on this. I have had a closer look at the clause and I am a bit intrigued as to how it works. Upon reviewing clause 10, I presume it is a case (as I outlined briefly in my second reading contribution) whereby a person has suffered a financial loss as a result of either a reclassification or taking on a role that provides them with smaller remuneration; that is, I presume, someone towards the end of their career. If it is defined benefits I think a percentage of the final average salary is what their superannuation benefit is calculated on. It states that they can make a contribution based on a notional salary. A notional salary is above what their total remuneration might be at a figure that they determine based on the contributions they are making.

It is linked to what their previous role would have been paying; but I am a bit intrigued about the financial implications attached to this. I can only guess that it comes at some cost. I would be interested to know how many people this might catch up. It talks about the fact that some might have already made the declaration or are yet to make a declaration. I am just interested in some of the Treasury work that has been done on what the implications might be.

The Hon. M.F. O'BRIEN: Member for Goyder, the intent of this particular provision is to ensure that we move from the regime that is currently in place, where adjustments are in line with CPI, to adjustments in line with salary movements in that particular employment category. It applies to between five and six individuals. If they wish to take up the improved benefit, the cost to government—not to them—for the five to six individuals will be between $300,000 and $500,000. It is a measure of fairness, if you like, and a substantial improvement in their position on retirement.

Mr GRIFFITHS: Is the $300,000 to $500,000 a whole-of-life cost on the basis of their projected life, how long they will live, and what the implications might be? The minister nods his head in agreement with that, so I do not need an answer to that. Are these people who have held CEO of department positions or quite important roles? I can only imagine, because we are talking about a fair quantum. Can you give the committee any outline of the types of roles these people have held?

The Hon. M.F. O'BRIEN: We believe that the majority if not all of the five to six individuals would have held middle level positions. The advice that I have just received indicates that nobody at a senior management position is caught up.

Mr GRIFFITHS: My final question, therefore, is: having some awareness of the long-term advocacy role that the superannuants association has taken for some changes to reflect a better level of benefit to their members, is this a long-running issue within discussions about a superannuation review for amendments to take place to benefit these five or six people, or is it a position reached just recently after only a short-term level of advocacy?

The Hon. M.F. O'BRIEN: The advice that I have been given (and I think it is quite colourfully described as having festered for the last four or five years) is that these are individuals who have been employed at a reduced position for 10 to 15 years and are now beginning to consider what the impact will be, so over the last four to five years they have raised it as a matter of some concern.

Clause passed.

Remaining clauses (19 to 34), schedules and title passed.

Bill reported without amendment.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (12:27): I move:

That this bill be now read a third time.

The Hon. I.F. EVANS (Davenport) (12:27): I just want to place on record my thanks to the minister, particularly for agreeing to set up the inquiry, and also to the officers who gave me a

very good briefing about some rather complex matters in simple terms that I could understand. My thanks to the officers.

Bill read a third time and passed.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION BILL

In committee.

(Continued from 29 May 2012.)

Clause 42.

Mrs REDMOND: I think we left yesterday at the point where I had asked a question on clause 42 of the bill and the Attorney had indicated that he wanted to give me a more profound answer on that than the time available would allow.

The CHAIR: I think it is a more in-depth and more detailed response.

Mrs REDMOND: Rather than profound? You don't accuse the Attorney-General of profundity?

The CHAIR: No, it could be both. Attorney, would you like to respond in your profound manner?

The Hon. J.R. RAU: Again, I would not claim profundity. This raises an important issue which I think was touched upon both by the Leader of the Opposition and by the member for Bragg, which is really the scope of the concept of a public authority. I just wanted to put a few things before the parliament about that topic, because I think it is important and it might help people understand what is going on. I think the leader, in her remarks yesterday, said that if, for example, we were to go to Hong Kong, there they draw the demarcation point between the jurisdiction of their anti-corruption bodies at a different place than we do, and I think the point that the leader was making was that, in Hong Kong, private sector outfits are included. There is always, therefore, a jurisdictional boundary for these types of organisations, and I guess as, again, the leader said yesterday, if you go for the Hong Kong model, you do not have a boundary problem because it does not have a boundary.

But I do not think anybody in Australia has gone down that track and nobody has suggested seriously that we should, and so that leaves us with this boundary question as to where exactly the dividing line might be drawn between the jurisdiction of this body to exercise powers and it not being able to exercise its powers. It is in that context that we have come to the position where we are talking about public authorities, and we are saying here that our boundary line is the Public Service and public authorities.

I guess what I am about to say is not so much for the benefit of the Leader of the Opposition because I am sure she is completely au fait with this, but the flurry of activity that has occurred over the last day or so has been largely the product of a public authority that does not want to be a public authority, and the member for Bragg made the point yesterday that she was wondering whether we had been a bit too careful in drawing the boundaries a bit close.

Let me say this, and place this on the record, there is a thing called the Local Government Act. The Local Government Act establishes a number of public authorities. Some of those, most of those, are things that we would recognise as local government in the sense of being a council, and nobody in this room seriously would debate that they should be excluded from the purview of the operation of this legislation. Indeed, anecdotally, and I emphasise only anecdotally, I think it has been made clear to me by members of the public that they have the view that the most likely place to find the sort of corruption we are trying to get to is, in fact, at that level, for a whole bunch of reasons.

The argument that has been stirred up by the LGA really comes down to this: under the Ombudsman Act 1972, there is a reference in terms of an administrative unit to an agency to which the act applies, and that in turn includes in the definition, the agency to which it applies in (d)(i) 'established for a public purpose by an Act'. If we then go to the Local Government Act, the current version says in Part 1—Local Government Association, '(2)(a)...continues to be a body corporate', and in subsection (3), 'The LGA is constituted as a public authority for the purpose of promoting and advancing the interests of local government...' etc., etc.

So let us make it pretty clear here, right now, that the LGA is now and has for many, many years been a creature of statute, exactly the same statute that created the local government

entities to which we have no problem attaching the scrutiny of anticorruption bodies. Not only was it created by statute and discharge a statutory function but it has the capacity—if it acts inappropriately—to potentially put an impost on either rate payers or the state Treasury through the various entities through which it operates. This has been the case since 1975, when the former association, incorporated under the Associations Incorporations Act, was dissolved by the Local Government Amendment Act 1975.

The point of all that is to make it very clear that in my view the LGA is, and has been since 1975, a public authority and therefore has been, and should have been, subject to the scrutiny appropriate to a public authority. Yesterday, I understand with the authority of at least the President of the LGA, if not broader support, the executive director of the LGA put out a piece of paper which the Leader of the Opposition drew—

Mrs Redmond interjecting:

The Hon. J.R. RAU: No, indeed; but certainly it was sent to the Leader of the Opposition, to Mr Goldsworthy, to Mr Brock, to Dr Such, to Mr Pegler, to the Premier, to me and to minister Wortley. This piece of paper calls upon those people to whom it is addressed to delay the passage of this legislation through this house. I would like that on the record.

There is one organisation in South Australia, just one, that does not want this legislation to pass speedily and effectively through the parliament. We know the parliamentary timetable, we know that if it does not get through here it will not, in any reasonable time, get to the other place and be dealt with. If there is one organisation that stands out there like a sore thumb, it is the LGA. Why, I wonder?

According to the piece of paper, the bill has been introduced without consultation with the LGA. Wrong: it has been the subject of consultation with the LGA for well over a year, and the provisions in the original draft discussion paper, inasmuch as they refer to local government, are substantially the same as the ones in the current bill. The wording is interesting though. It says:

> The bill has been introduced without consultation with the LGA and our usual process of consultation with councils is well under way and due to be completed shortly after 7 June.

I have personally consulted with the LGA about this bill on a number of occasions. I do not know what I was doing, apparently, on those numerous occasions—was I reading the racing form or doing a crossword? No, I was not—

Mrs Redmond interjecting:

The Hon. J.R. RAU: I was actually consulting, I was actually talking to them and discussing issues—but apparently that did not occur, according to the LGA. I can also tell the house that my parliamentary colleague, the Hon .Russell Wortley in another place, has had a discussion paper out and has been in vigorous discussion with them about a particular detail of this legislation, namely, the codes of conduct that would apply to elected members of councils and to the staff of councils. That is being moved on apace, and I assume that might be what is going to be completed on 7 June.

In any event, 'The bill has significant implications for the local government sector.' Yes, of course, and we have been talking about that for 18 months. They then refer to a document that was signed after the events occurred, so I am not sure what the significance of that is. Then we get to the crux of it. The document states that I:

> ...provided the LGA with provisions related to changes to Part 12 of the Local Government Act prior to its introduction—

There was consultation—

> ...[but did not] flag the proposed amendments impacting on the LGA itself.

Let us deconstruct that and get down to what it means. What it means is that councils are okay about this. They know what is going on; they have known what is going on for 18 months. What this piece of paper calls upon members of this house to do is to delay the passage of this bill because the LGA itself, in its own capacity, has reservations about the legislation. That is what it is about.

It is nothing to do with councils: it is to do with the LGA. Why do they have reservations? Because they do not like the idea that the Ombudsman might actually have a look at them if the Ombudsman decided that there was sufficient cause to do so. That is what they do not like. What makes them so special? Why is it okay for them to have these massive funds under their control

(indemnity funds and I could go through all the things they are involved in) and each one of their constituent members can have the Ombudsman march in there at any time (and they are quite happy about that, by the way; none of them are complaining about it) but not them, in the context of them having been, in my opinion anyway, legally in that position since 1975?

What they are complaining about is a reference to them in this legislation that makes it clear beyond doubt that they are a public authority just like everybody else. They want the state of South Australia, this parliament, to hold up the passage of this legislation—which we are trying to get through in a swift but appropriate way—so that they can stir up trouble with the councils, so that all the councils feel sorry for them and they can come out and complain about this.

As far as I am concerned, the LGA can comment on this in their own good time. They have been at the table several times in discussions about this with local government. It may well be, and probably is, that this particular point was not the subject of discussion but everything else was. I just want to make it clear that, as far as I am concerned, if they have an issue about being subjected to scrutiny as a public authority, let them stand up and say what they mean.

Do not hide under the petticoats of all the councils. Do not throw rocks from underneath there at everybody else. Come out and actually say who you are, what you are and what you have got a problem with. I can tell you who they are—they are the LGA; what they are—for reasons obscure to me, they are worried about being scrutinised by the Ombudsman; and at the same time, they are a public authority.

We are either fair dinkum about this or we are not. If we are going to do this, we have to do it properly, and it might be inconvenient for them for some reason that is obscure to me, but I get back to my earlier point: in the public mind, rightly or wrongly, the perception is that the most likely place you will find corrupt behaviour is in local government or at that level. The only people we have standing up protesting about this are the LGA, not even the councils.

I absolutely defend the notion that public authorities should be drawn in terms of the definitions that I have just gone through and that, if you have people who are established by statute, particularly when they either have access to public funds or have the capacity to draw down through guarantees on public funds, it is not unreasonable that the Ombudsman in particular—but, if necessary, the ICAC commissioner—should have the capacity to examine what they are doing, because if they start going off the rails, the guarantees that the state government and the state Treasury have wrapped up in their activities will impact on all of us.

I am very concerned and I appreciate the discussion that I have had with the Leader of the Opposition. I am not saying any of this directed at the Leader of the Opposition because she had no notice of this any more than I did yesterday. She has not indicated any wish to hold up the bill and I appreciate that and I thank her for that. But the idea that this utterly self-serving and, frankly, perplexing concern on the part of the LGA should be advanced, wrapped up in some elaborate costume which has got 68 councils dangling off it, when it has got nothing to do with them, just so as to slow this bill down, I find extraordinary, absolutely extraordinary. Anyway, I think that is my comment on clause 42.

Mrs REDMOND: Mr Chairman, I did actually ask a specific question on clause 42 that I do not think the Attorney got to.

The CHAIR: Would you like to refresh his memory?

Mrs REDMOND: The question was actually about what happens if a commissioner or a deputy commissioner or an examiner or an investigator imposes some requirements on a public officer, of whatever nature, and that person thinks, 'I am not sure about whether I should do this,' and wants to get legal advice. What is the consequence?

Do they have to bear their own costs as a public officer in seeking legal advice as to whether or not they have to comply or do they just have to say, 'It is being directed by a commissioner or a deputy commissioner or other person from the ICAC and therefore I just have to comply with whatever has been directed without taking legal advice,' or meet the cost themselves?

The Hon. J.R. RAU: I thank the leader for that question. I think the answer lies in this respect: it would depend upon whether they were entitled to an indemnity under the usual rules applying to public servants or public officers. That would depend, I think, on the nature of the inquiry and the complaint.

I think the leader might notice that we did turn our minds to this a bit because it does create some potential issues in terms of the secrecy provisions. Elsewhere in the legislation, we provided that, if it is necessary—

Mrs Redmond interjecting:

The Hon. J.R. RAU: Pardon?

Mrs Redmond: This provision about if you are bound by secrecy provisions.

The Hon. J.R. RAU: You can still seek legal advice and that contemplated also seeking indemnity. So, we did contemplate that. We did not want a person to be in a horrible position where they want to seek legal advice, but they go to the law and they cannot tell them anything because they are under a secrecy situation. So, we have contemplated that.

It has been pointed out, quite rightly too, that subsection (1) says that a public authority must assist public officers. Again, I think that goes back to the indemnity point, but it was contemplated that these people, in many cases, would be entitled to an indemnity because they would be acting, in effect, in the course of their public office and they would not necessarily be there as a potential target of an investigation. They might simply be cooperating and they might need to know what their rights and responsibilities were in the context of that, which is why we have that there and why we also have that other provision about the obtaining of legal assistance or indemnity.

Mrs REDMOND: Lastly, on this clause, could I then ask the Attorney to put it on the record that his interpretation of that provision in subsection (1) of clause 42 about the assisting with compliance would be interpreted broadly enough to allow an officer, of whatever organisation, to have some sort of preliminary legal advice as to their obligation to comply or not, so that compliance, in its normal sense, would be simply doing whatever has been asked. What I am asking you to put on the record is that it is within your contemplation that that would be interpreted in reality as being broad enough to at least get some preliminary indication as to what their obligation is and whether or not they have to comply.

The Hon. J.R. RAU: I think I have to say that I cannot give that assurance in a blanket form. What I can say is that I perhaps could answer it by way of an analogy. When you have police officers who are called before a coronial inquiry, if it turns out that the police officer has been broadly acting within the scope of their duty, then they are entitled to receive and do receive an indemnity for their legal representation costs.

If it turns out that that person has been right off the scale and been misbehaving, and maybe even guilty of a criminal offence, then they are on their own. My understanding of this provision would be it would operate in a similar fashion.

Clause passed.

Clause 43.

Mr HAMILTON-SMITH: This might be the appropriate point, by agreement of both sides, that I be given a bit of latitude to address the issue more broadly, having by agreement forgone my right to make a contribution at the second reading stage. So, I will adopt that approach.

The CHAIR: You have 10 minutes.

Mr HAMILTON-SMITH: I want to indicate my full support for the bill. I will have some questions, but I have a particular interest in the measure because I was leader of the opposition at the time this first launched into public profile, and it was a treasured goal of mine as opposition leader at the time to reach this day. I fulsomely acknowledge the support of the Liberal Party room at the time of the view that we needed an ICAC.

I remind the house—and I know this has been done by earlier speakers—that it was on 23 August 2007 that the state Liberals called for this ICAC to be formed. I announced that preferred model, stating that it would be based on New South Wales, and on 5 April we released a preferred draft model for an anticorruption body for consultation with stakeholders in more detail. A bill was then introduced by the leader, the member for Heysen and shadow attorney-general at the time, on 27 November 2008 as a result of that consultation.

I remind the house of the way in which it was received. I commend *The Advertiser* in particular for its editorial support for the measure because it front-paged the announcement on the 23rd, with this announcement:

An independent commission to tackle corruption at all levels in South Australia is planned by the Liberal Party in a major policy shift.

It went on:

The bill, aimed at giving SA its first independent anti-corruption body, will be introduced to the parliament in the new year. This will also be a central plank of the Liberal's election policy in 2010.

And it was. They quoted me as saying that 'we would introduce the corruption policy today, making the Liberals the first major state political party to propose the idea'.

I make that point because I do not think we would be here today if the state Liberals had not taken the stand they did. We went on and talked about the various models that were in existence around the country at the time, and I note that the following day the then leader of the Labor Party came out and criticised the idea, describing it as a carnival of lawyers in an article in *The Advertiser* on page 8 in the all-round country edition.

I have noted, too, the contributions made about the measure by the Hon. Bernard Finnigan in the upper house on 15 October 2008 and by the attorney himself on 18 October 2008, when words were guarded, shall we say, because I think deep down the attorney and a lot on that side realised that this was an idea whose time had come, but they were coming up against the brick wall of their then premier and then attorney in terms of making it a reality.

What we have before us today is a model that is some distance from what was originally proposed by the state Liberals but one that is still welcome. I acknowledge and give full credit to the Leader of the Opposition who then, as shadow attorney, put a lot of work into this measure. I also acknowledge the efforts of the Hon. Rob Lawson, who was then assisting her in the upper house, and of the whole of the Legal Affairs Portfolio Committee, which I know put in enormous effort on this.

I can tell the minister that, when I first took this to the Liberal Party room it did hit some resistance, and we need to freely acknowledge that, and a lot of the criticisms the government made at the time were debated in our party room, that is true. There were discussions about what might be the impact of this, whether it would be abused, whether it would be used as some sort of star chamber and innocent people would have their reputations hatcheted unfairly, etc. But, to the great credit of the Liberal Party room at the time, back in 2007 we resolved that we would go forward with a model, irrespective of those concerns and one that dealt with those concerns, and we would stick with the policy. That was in the face of considerable opposition from the government but, of course, you were opposing us at the time on our plans for the hospital, our plans for a city stadium, our plans for reinvigorating the city. It seemed that everything that we came up with was a squint, not a vision, yet you have now gone on to adopt most of those polices, and this is one of them.

I am just making the point that this is an example of a case where an opposition can lead from opposition and can get results for the people of South Australia. Were it not for the state Liberals I do not think we would be here today debating this measure. It is a credit to everyone on the Liberal team that we got to this point and I am very pleased that we are debating it. That is not to say that this is not going to have some difficulties and some teething problems. I know the Attorney has recognised what they might be.

There are concerns about public hearings and concerns that people's reputations may still be trashed with what are essentially unsubstantiated accusations—and we are seeing a bit of that in politics at the moment around the country and it is a real concern. There are also real concerns that I have about the issue of costs. I think my honourable friend the leader raised this a moment ago. I am thinking of the case of Dr John Knight who was accused of all sorts of things by one or two in the medical profession and by the Minister for Health in the parliament and who was arraigned before the Coroner's Court, having to defend his reputation about accusations that he made some mistakes during an operation, and incurring costs with QCs and lawyers that I understand have run into the hundreds of thousands of dollars.

This was essentially not a criminal hearing but a Coroner's Court hearing, but it was pivotal to what might subsequently follow in terms of any criminal litigation or civil litigation and critical to the future of his business and his professional reputation. So you are drawn into situations where you must defend yourself and you must engage solicitors and QCs to assist you with the hearing—and now it will be so with the ICAC model set up by this bill—even though you are not necessarily guilty of anything but you are simply protecting your reputation.

I am particularly concerned in that regard for the reputation of members of parliament and their legal standing, because if it is a civil servant who is arraigned before the ICAC they will be arguably covered by the Crown; if it is a minister I am sure they will be covered by the Crown. What happens to a member of parliament who is not a minister or a member of executive, whether they are a government backbencher or whether they are an opposition frontbencher, are they going to be left out on their own to meet their own legal costs during some sort of a hearing, whether it is open and closed? Can the minister guarantee that that will be dealt with by the measure?

I do not intend to go on; I will leave it with that question. However, I did want to make my earlier points regarding this being a significant example of an opposition taking the lead on an issue and ultimately bringing the government to the house with a solution under the weight of public opinion. I think it is a credit to all, but particularly to *The Advertiser,* frankly, and others in the media who were very supportive of that campaign. I will ask the minister to answer my question regarding the costs issue.

The Hon. J.R. RAU: I thank the member for Waite for his contribution and I do acknowledge his longstanding commitment, along with the Leader of the Opposition's longstanding public commitment to this type of outcome. Whilst, no doubt, any piece of new legislation will involve some teething issues—and this will unless we have it absolutely perfect—

Mrs Redmond: The first time ever.

The Hon. J.R. RAU: The first time ever, but that is why we have the annual reporting arrangements so that the commissioner can get back to everybody and invite the parliament to make changes. On the particular point about costs the honourable member raises, I think it is a good point and I will be happy to have discussions with the honourable member about that in more detail between here and the other place.

There is no overall provision of costs here. I was answering the leader's questions more directly in respect of public officials but I do acknowledge that ordinary members of parliament stand outside of that assembly of people. I am more than happy to have a discussion with the honourable member about what might be done to accommodate that.

Progress reported; committee to sit again.

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

CHAMBER SECURITY

The SPEAKER: Members, before we start the day, I advise that I found some people walking through the corridor at the back of the chamber. Can members remind staffers that, if strangers are in the building, they are not to use the corridor at the back. It seems to be getting a bit lax lately. I have seen three or four wandering through there at various times. I think that it is just ignorance; people do not understand. If members can explain to their staffers that they are not to take people through that corridor, particularly when the bells are ringing. It is very difficult.

VISITORS

The SPEAKER: I draw members' attention to the presence in the gallery of a group of students from Navigator College on Eyre Peninsula, who are guests of the member for Flinders. I presume they are from Port Lincoln, is that right? It is nice to see you here. I hope you enjoy your time here; you have come a long way.

PAPERS

The following papers were laid on the table:

By the Minister for Health and Ageing (Hon. J.D. Hill)—

Health Advisory Council—
Ceduna District Health Services Annual Report 2010-11
Coorong Health Services Annual Report 2010-11
Eudunda Kapunda Annual Report 2010-11
Loxton and Districts Annual Report 2010-11
Mallee Health Services Annual Report 2010-11
Mannum District Hospital Annual Report 2010-11
Mid North Annual Report 2010-11

Renmark Paringa District Annual Report 2010-11
Waikerie and Districts Annual Report 2010-11
Health Service—Central Northern Adelaide Annual Report 2009-10
Review of Country Health Advisory Councils' Governance Arrangements—Report by Health Performance Council—Response by Minister for Health and Ageing

By the Minister for Education and Child Development (Hon. G. Portolesi)—

Education and Child Development, Department of—Annual Report 2011
SACE Board of SA—Annual Report 2011

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:03): I bring up the ninth report of the committee.

Report received.

QUESTION TIME

MURRAY-DARLING BASIN PLAN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:04): My question is to the Premier. Is the reason the government failed to receive modelling undertaken by the Murray-Darling Basin Authority because the government never asked for it? In relation to the amount of water returned to the river for environmental use, the Premier told the media yesterday:

> We need access to the authority's own modelling to determine what the precise number is. Politely making representations doesn't seem to be making any difference to the authority.

However, the Premier's office said that no request had been made for the modelling.

The SPEAKER: Do you choose to answer that question, Premier?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:04): Yes, with gratitude, actually, Madam Speaker. This is the difficulty you get into when your research strategy involves reading the paper and then coming up here and telling people what it means.

Members interjecting:

The Hon. J.W. WEATHERILL: Well, you are about—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —to be embarrassed.

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Madam Speaker, on 16 April we in fact lodged on the public record a 163-page submission to the Murray-Darling Basin Authority. One of the central recommendations that we made to the Murray-Darling Basin Authority was, in fact, to undertake that very modelling that has not been undertaken—that very modelling.

Mrs Redmond interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Recommendation 5 calls for the urgent modelling of extra water returns, including 3,200 gigalitres—

Mrs Redmond interjecting:

The SPEAKER: Order! The Leader of the Opposition asked the question; she will listen in quiet.

The Hon. J.W. WEATHERILL: To assist those opposite to understand the way in which this works, the actual process which is undertaken and which assisted us to undertake the modelling at 2,750 gigalitres requires the cooperation of the authority. What we could not persuade it to do was to model the higher numbers, so we requested explicitly in a document that was posted

on the website—hidden in full view on the website of the Murray-Darling Basin Authority on 16 April. The request for the modelling was repeated in a letter to Tony Burke on 16 May.

Under the Water Act—and this has been our consistent point—the authority is obliged to undertake its deliberations based on the best scientific knowledge. What we have consistently had was a number plucked out of the air. There is absolutely no person who can tell you—or prepared to tell you with their hand on their heart, at least—where that number of 2,750 gigalitres has come from. It has not emerged out of—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: This is precisely what we have done. We have sought to find what the basis is for that number of 2,750 gigalitres. It is not a scientific basis. It sounds like the sort of number that someone has plucked out of the air because it is the sort of number—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —that the irrigators upstream are prepared to cop, and it is not what we are prepared to cop here in South Australia.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Now, look, this is a pretty simple matter, Madam Speaker. It is a question of whether you are prepared to stand up and fight for South Australia or whether you are prepared to capitulate to the interests of the upstream states. That is the choice that is faced by those opposite—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —and they are going to fail that test.

Members interjecting:

The SPEAKER: Order!

Mr Whetstone interjecting:

The SPEAKER: Order! The member for Chaffey will be quiet or he will leave the chamber. Order! The member for Little Para.

THINKERS IN RESIDENCE

Mr ODENWALDER (Little Para) (14:07): My question is also to the Premier. Can the Premier inform the house what is happening with the Adelaide Thinkers in Residence program and the Integrated Design Commission?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:07): Thank you, Madam Speaker.

Members interjecting:

The SPEAKER: Order! Premier, can you sit down for a moment until we have some order from the other side. It is not appropriate to shout across the chamber. The Premier, thank you.

The Hon. J.W. WEATHERILL: Thank you, Madam Speaker. The government has announced today that we will wind up the Adelaide Thinkers in Residence program and the Integrated Design Commission. Given decreased revenues, the government has had to rationalise programs and we have taken—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —the decision not to invest further in funding these programs. Since their inception, though, in 2003 the Adelaide Thinkers in Residence program has brought a range of new ideas into the state and helped turn them into practical solutions which

improve the lives of South Australians. In particular, Fraser Mustard has sparked our world-renowned children centres; Fred Hanson, who now leads the Urban Renewal Authority, was crucial in changing our thinking in how we planned our neighbourhoods to be more people focused; Rosanne Haggerty's work has led to common ground housing for homeless people; and recently Göran Roos has informed our advanced manufacturing strategy.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: These outcomes are concrete, and it is clear to me that the legacy of our thinkers will continue to reap benefits for many years to come. However, we needed to make sensible economies—

Members interjecting:

The SPEAKER: Order! There will be order on my left. I cannot hear the Premier.

The Hon. J.W. WEATHERILL: We needed to make some sensible economies, and the government-funded initiative, the Thinkers in Residence program, will conclude in the 2012-13 financial year, once the current contracted Thinkers in Residence complete their residencies.

The program has evolved from an entirely state-funded program to one where industry and non-government investment provide an important source of funding. Therefore, we are hopeful that partners willing to continue this approach outside of government will be found. We will explore this possibility during 2012-13 with the private and non-government sectors.

This is also the case for the Integrated Design Commission, for which funding will cease at the end of 2012. Over the past two years, the commission has worked on a range of projects, including mapping South Australia's design sector, exploring how to strengthen design capability in our advanced manufacturing industry, and the flagship integrated design strategy for the city and surrounds known as 5000+. 5000+ has brought together the federal, state and local government design industry and thousands of South Australians to consider how our city will be shaped into the future, and is due for completion in June. Although the Integrated Design Commissioner's contract was due to end in June, I have asked him to stay on until the end of the year to complete his work and to ensure that we embed the lessons of 5000+ and the integrated design approaches across government.

An important change brought about by the IDC will continue through the role of the South Australian Government Architect, and the design review has now been embedded in our planning system, most significantly in the work of the Adelaide City Council's new development plan. The IDC has played a key role in promoting innovation across design, planning and development, and I thank Commissioner Tim Horton for his leadership and hard work.

The SPEAKER: The Leader of the Opposition.

Mrs REDMOND: I am a bit tempted to ask why it is that government members get answers to budget questions before budget day, but I won't.

The Hon. J.J. Snelling interjecting:

Mrs REDMOND: And you will say you are the government and you will tell us what you want. I will ask a question of the Premier instead.

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

Members interjecting:

The SPEAKER: Order!

Mr Williams interjecting:

The SPEAKER: Order! The member for MacKillop will be quiet or leave the chamber.

The Hon. P.F. CONLON: For the benefit of the member for MacKillop, the standing order that covers questions is 97. It does not allow musings about what you might do in a different world.

The SPEAKER: Thank you, minister for transport. I refer the member back to the question.

MURRAY-DARLING BASIN PLAN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:12): My question is to the Premier. Why did the Premier mislead the public by suggesting that modelling undertaken—

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

The SPEAKER: Point of order. I anticipate your point of order, and it is entirely out of order to make a statement like 'mislead the public'. You will reword your question or it will not be allowed.

Mrs REDMOND: I will reword the question. My question is still to the Premier. Why did the Premier suggest that modelling undertaken by the Murray-Darling Basin Authority was being kept from the government when the government had not even asked for it?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:12): The opposition leader suffers from this deficiency: she cannot condition her second question to my first answer. I have told her we have, in fact—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Not only have I told her that we, in fact, did ask for this modelling, it is on the—

Mrs Redmond interjecting:

The SPEAKER: Order! The Leader of the Opposition will be quiet or leave the chamber.

The Hon. J.W. WEATHERILL: I think the point now is that, because I suggested further modelling should be done, that somehow is materially different from requesting further modelling. I am afraid that is a distinction which is too fine for my somewhat poor legal mind.

The Hon. P.F. Conlon interjecting:

The Hon. J.W. WEATHERILL: That's right, one of those intelligent questions. Madam Speaker, this is just arrant nonsense. We have, on the public record on 16 April—and, indeed, in all of my public remarks—the contention that what the authority needed to do was to get rid of this nonsense, this excuse that somehow they were constrained from modelling the sorts of numbers that are needed to return this river to its health. Somehow they were constrained from doing that. We simply asked them to carry out their task. What is at stake here is a pretty simple matter—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: What is at stake here is the future health of this river, which is vital to South Australia's interests. Instead of actually deciding to join with us and maximising our leverage on the commonwealth decision-making process, those opposite have chosen, for some unknown reason, to score some cheap political points and some debating point. This is the extent of the research: you read the paper in the morning and you tell us all what it means. Well, one, you get it wrong; and, two, where does that fit into your responsibilities—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Where does that fit into your responsibilities to stand up for South Australia? There is only one thing at stake here: that is the unity of this state in standing up for the state interest. Why don't you stand up for our state's interests?

TEACHING QUALITY

Ms BEDFORD (Florey) (14:15): My question is to the Minister for Education and Child Development. Can the minister inform the house about the results for South Australia on the Smarter Schools, Improving Teacher Quality national partnership?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:15): I thank the member for Florey for this important question. Members who regularly visit our schools will be well aware of the outstanding contribution that teachers make in improving the learning and the achievements of our students. That view is certainly backed up by research and

the evidence that shows that quality teaching is the single biggest factor in schools that influences the level of student engagement and achievement.

The Hon. C.C. Fox interjecting:

The Hon. G. PORTOLESI: Yes, I would like to acknowledge my colleague here sitting next to me, a former teacher. In fact, I read somewhere on the weekend that our teachers are our killer apps, and that is absolutely true.

An honourable member interjecting:

The Hon. G. PORTOLESI: Killer apps, as in applications on computers. That is why we are actively working with the federal government and our school communities to support and strengthen quality teaching in our schools. In fact, today's report from the COAG Reform Council confirms that we are achieving this. Our federal and state national partnership on improving teacher quality is aimed at driving and rewarding reforms that improve the quality of teaching and leadership in South Australian schools.

This national partnership has invested $6.87 million in facilitation funding to our state since 2008-09, and it may also provide around a further $25.58 million to reward the achievement of reform milestones. I am very pleased to advise the house that South Australia has achieved all 55 milestones in the first round of reward funding and we will receive the full amount of $12.789 million of reward funding available for this round.

There are practical outcomes that will support the profession and the standards of teaching across all school sectors. They include statewide consultations and professional development for teachers on the National Professional Standards for Teachers, the development by my department of a new performance and development policy, the facilitation of a leadership program for 130 aspiring leaders, the provision of 43 country teaching scholarship programs, school centres for excellence that promote high-quality extended teaching experiences, and mentoring for final year pre-service teachers in difficult-to-staff locations. Further, new training courses and skill sets have been offered to school service officers and Aboriginal community education officers to support their work.

I am pleased, too, that our own South Australian Public Teaching Awards are providing an opportunity for the wider community to acknowledge and honour our outstanding teachers, school and preschool leaders, and support staff, because it is important that we recognise the value of quality teaching and the difference that that makes to every chance for every child in our community.

MURRAY-DARLING BASIN PLAN

Mrs REDMOND (Heysen—Leader of the Opposition) (14:18): My question is once again to the Premier. If the government wanted access to the modelling underpinning the proposed basin plan, why didn't it take up the offer to have a representative on the Murray-Darling Basin Authority?

The Hon. P.F. Conlon interjecting:

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:18): That's right. It does not matter how many different ways you ask this question, it proceeds from the fundamental deficit, and that is that we did request the modelling. We requested that the authority model higher numbers. The resources—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: To suggest that somehow in a bureaucracy of over 3,000 or something—

The Hon. P. Caica interjecting:

The Hon. J.W. WEATHERILL: How many?

The Hon. P. Caica interjecting:

The Hon. J.W. WEATHERILL: Over 300 people—that we sending a few public servants into that process, when we wanted them here in South Australia drafting—

Mr Marshall: Other states did.

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: Actually, apparently you are wrong about that. Do you want to repeat that again?

Members interjecting:

The Hon. J.W. WEATHERILL: Another helpful driving hint from the shadow minister over there suggesting that the other states had sent people when in fact they had not. But, to send another—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: But to send a few people over when we were actually in the process of drafting our own submission, wanting to make sure that it was the best submission possible, and somehow suggesting that an authority which—I mean, let's look at the pantomime that was performed here in relation to the authority about why we may not have wanted to participate in this. We had a guide that was published that said 3,500 gigalitres to 4,000 gigalitres were what was necessary for the health of the river. All of a sudden, inexplicably, after a small event that involves some fire and some books, we see the chairperson and the chief executive of the authority resign, and then we get a former New South Wales water minister appointed to head up the authority. Wonder of wonders, what happens then? Instead of talk about the science they say, 'Don't worry about the science. Science, schmience.'

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: The next thing we hear is, 'Let's not talk about getting an historic plan that will restore this river to life. Let's have a good start.' Then, when we assert our rights on behalf of the South Australian people we are accused of squabbling, we are just involved in politics. There is only one piece of politics involved here and that is this: if you don't fight you get nothing!

Members interjecting:

The SPEAKER: Order!

NATIONAL TOBACCO SCOREBOARD

Mr PICCOLO (Light) (14:21): My question is to the Minister for Health and Ageing. Can the minister inform the house about the results of the 2012 National Tobacco Scoreboard?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:22): I thank the member for Light (an appropriately named electorate given the topic I am about to discuss) for his question. I am very pleased to inform the house that South Australia has taken out top honours on the Australian Medical Association's National Tobacco Scoreboard for its tobacco control legislation investment in reducing smoking-related harm. I thank the opposition which supported the legislation as it went through the house.

In 2009-10 this state received the Dirty Ashtray Award, which means we came bottom of the pack, if I can use that expression. I said to my department when I took over that part of the agency, 'What can we do to turn this around?' I said, 'It would be good to get to number one, but if we can get close to that it would be good.' I would like to thank DASSA, the part of the agency that looks after this, for the huge efforts and great advice they gave which has made sure that we are number one in terms of control of tobacco in Australia.

AMA President, Dr Steve Hambleton, said South Australia has made outstanding progress in recent years and merits high commendation for improvements in tobacco control legislation and investment. He further said that the South Australian government deserves praise for its commitment to tobacco control and for following up its words with action. Yet another AMA president praising the South Australia government; I just love it.

The government continues to work hard to further reduce smoking rates and to introduce more smoke-free environments. New measures taking effect from tomorrow, World No Tobacco

Day, will protect people from exposure to tobacco smoke under all covered public transport waiting areas and within 10 metres of children's playground equipment. The latter will protect children and also help to reduce the likelihood that children will perceive smoking as a normal activity. We hope this will mean that fewer young people will take up smoking.

Local councils and other incorporated bodies will be able to apply to have outdoor areas or events declared smoke-free from tomorrow. Already the Royal Agricultural and Horticultural Society of this state has applied to declare this year's Royal Adelaide Show smoke-free which is an extraordinary request. I am delighted they have done that given the number of people who go through the show. There has been interest from a number of local councils and other organisations about introducing smoke-free areas and events. So right across the community people are taking up this initiative.

I am also delighted that other organisations are taking it upon themselves to encourage smoke-free environments. This morning I awarded Harbour Town Adelaide a Smoke-Free Air Award for excellence in leadership and innovation for creating the first smoke-free outdoor shopping precinct in Adelaide. They did that of their own initiative, and I praise them.

The Hon. A. Koutsantonis: A West Torrens first.

The Hon. J.D. HILL: A West Torrens first. I also awarded the Adelaide City Council the Smoke-Free Air Award for Excellence in the Provision of a Smoke-Free Environment for its incentive of 50 per cent reduction in fees for outdoor dining permits when businesses make their outdoor dining areas smoke free. I understand that 60 businesses have taken that up, and I was pleased to pass the award to the Lord Mayor this morning. The enthusiasm for creating a healthier smoke-free South Australia adds to my great pleasure that the government's work to reduce the harm caused by smoking has been recognised as being the best in the country over the past year.

Ms Chapman: Why are they still smoking at Glenside, then?

The SPEAKER: Order!

MURRAY-DARLING BASIN PLAN

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (14:25): My question is to the Minister for Water and the River Murray. Was the minister aware that the government had not asked for access to the modelling undertaken by the Murray-Darling Basin Authority, and can he explain why no-one in government ever sought the modelling underpinning the proposed plan? The Premier has stated to the media that the MDBA Chairman, Craig Knowles, has been playing footsies with the other states and had given its modelling to Victoria while denying access to the same data for South Australia.

Mrs Redmond: Which is totally untrue.

The SPEAKER: Order!

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:26): No; it is the same. The first half of the answer gets the same answer that I have given previously, but I do want to take up the second part of the answer because it is important. What we were provided with was a copy of the report that was produced by the Victorian government, which modelled the number of 2,100 gigalitres. What a surprise that turns up in the week before the authority is about to release their report.

What does it say, fully attributed, on the bottom of that report? Provided with the cooperation, essentially (I am paraphrasing) with the Murray-Darling Basin Authority—their modelling, their files and data assisted in the creation of that document. Apparently the authority says that that is an incorrect attribution. Well, that's a surprise. That is a surprise that the Victorian government would be producing a report that provides a complete acknowledgement of their corporation that somehow that becomes false.

This is a very serious matter and it deserves, I think, the bipartisan support of this parliament. This has been the consistent position of this parliament over a number of decades now. Both Labor and Liberal have always adopted a bipartisan position in relation to the River Murray up until this point. I call upon them to join with me in advocating for the interests of South Australia.

Members interjecting:

The SPEAKER: Order!

OPERATION NORTHERN STRIKE

Dr CLOSE (Port Adelaide) (14:28): My question is to the Minister for Transport Services. Can the minister inform the house about the emergency response exercise, Operation Northern Strike, being held at the Dry Creek Railcar Depot today?

The Hon. C.C. FOX (Bright—Minister for Transport Services) (14:28): I thank the member for Port Adelaide for her question. The Department of Planning, Transport and Infrastructure's Public Transport Services Division today ran its biggest emergency response exercise to date with Operation Northern Strike at the Dry Creek Railcar Depot. As DPTI moves to consolidate public transport operations to the Dry Creek facility, Northern Strike is focusing on a preparedness and response to a terrorism incident centred on the state's public transport infrastructure.

Northern Strike incorporated bus, train, tram and taxi operations, along with involvement from private firms Bombardier and Wilson Security. Today I had the pleasure of launching this exercise with South Australia Police Deputy Commissioner Gary Burns, along with representatives from other participating agencies, including the South Australian Ambulance Service, the South Australian Metropolitan Fire Service, the State Emergency Service, Country Fire Service, Bombardier Transport Australia and Wilson Security.

This was a field exercise which consisted of two scenarios. The first involved a train crash and the second involved a hostage and siege situation. As the Dry Creek rail facility has only been in operation for less than 12 months, today's exercise provided an unique opportunity to test the site and its security measures. Operation Northern Strike tested the individual performance of agencies and assessed the communication and collaboration between agencies.

Funding was secured through the National Counter-Terrorism Committee and it is a program which is happening Australia-wide. Operation Northern Strike is a very important exercise to ensure that our public transport network can respond to any potential incidents effectively and to ensure the safety of our commuters. I would like to thank everyone involved and I commend their hard work and efforts in organising and carrying out this extremely important exercise.

EMERGENCY DEPARTMENTS

Mr HAMILTON-SMITH (Waite) (14:30): My question is to the Minister for Health and Ageing. What action has he taken in regard to the Coroner's 3 June 2010 report into the death of Ms Aileen Promnitz? In recent weeks, doctors have raised serious concerns about overcrowding in emergency departments across Adelaide hospitals. In this report, the Coroner determined that 79-year-old Ms Aileen Promnitz was found to be deceased in the waiting area of The Queen Elizabeth Hospital emergency department after being left for six hours without being seen by a doctor. The Coroner found that a bed was not available and that Ms Promnitz was placed on a waiting room trolley at 8pm, where she remained until her death to be found by a member of the public at 2am.

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:31): I thank the member for the question and, obviously, the loss of any life under the circumstances that have been described is a tragedy for the family involved. Can I say, generally, that our emergency departments in South Australia are now working at a very high level indeed and, in fact, the improvements that are being seen in our emergency departments, and their capacity to treat patients and deal with patients, continues to improve. For example, to April this year, for 50 per cent of people, the median wait time for attention in emergency departments was 16 minutes and, at the 90th percentile mark, it was 104 minutes. That is the very best in Australia. We have the very best performance in emergency departments in terms of seeing people, according to those stats. So, 76 per cent of people, for example, to April, have been seen in time.

What we are doing in response to that is improving our emergency departments. We are making sure there are more resources and there is more capacity to deal with people, and that is why we have just recently refurbished and expanded the Flinders Medical Centre. We have done work at Lyell McEwin, we are doing work at all of our major hospitals to expand our capacity. There is an issue in relation to emergency departments, and I raised this yesterday, I think, in answer to another question. There is an issue in transferring patients out of the emergency department into a bed in the rest of the hospital, and that requires a great deal of reform.

We are working on that, and one of the stumbling blocks to that is the difficulty in getting the medical association, the union that represents doctors, to agree to having senior doctors put on duty around the clock. They do not want to be on duty over the later hours in the night. We want them to do that and we are in long discussion with them in terms of the current enterprise bargaining agreement. We want the senior doctors to be available on duty across the calendar so that they are able to make decisions about which patients can be put into which places. That is one of the problems that we have.

We also want to change the way in which patients can be discharged. At the moment only doctors can discharge patients. Sometimes doctors do not come in to do the rounds until later on in the day, which means patients can be sitting in beds for many hours waiting to be discharged when they are ready to be discharged. What we would like to do is to move to a protocol-based discharge system, so once the patient has reached the appropriate level of readiness, a nurse can discharge the patient. So, there is a whole range of reforms that we are working on.

It is in my view, and in the view of my department, that we have sufficient beds to manage this if we can get those cultural changes in the workforce, and that is what we are focusing on, member for Waite, trying to change the way we run our hospitals so that we can transfer patients through. It is easy, I guess, to point to a particular case and then try to dramatise it, and say that that is an indication of something going wrong.

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: And it is easy for oppositions—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: —and it is always something that oppositions want to do, to make politics out of particular cases. What I am saying—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: If they want to ask more—

Members interjecting:

The SPEAKER: Order!

The Hon. J.D. HILL: Making a loud noise is not the same as making sense, Madam Speaker, that is all I'd say. What I am saying to the opposition, what I am saying to the public: we recognise that from time to time things don't go the way we'd like, and I apologise and I always say sorry to the families who have not got the service that they want. However, what we are doing is building a very strong hospital service. We have the best performing emergency departments in Australia. We have the best performing hospitals, in my view, in Australia. We have a world-class health system in our state. The other side continues to knock it because that is the only policy that they have.

EMERGENCY DEPARTMENTS

Mr HAMILTON-SMITH (Waite) (14:35): I have a supplementary, Madam Speaker. Has the minister read the Coroner's report into the death of Ms Promnitz, and what action has he taken about her death? Have you read it? Have you taken the time?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:36): I cannot recall particularly that Coroner's report. I see a number of Coroner's reports. I do read them and I do take action. My department takes the action that is required at the recommendations that are made. I have just pointed out to the house that we have made huge investments to make our emergency departments work. The level of activity in our emergency departments, despite it going up, we have greater activity yet we have better turnaround times in terms of patients being dealt with.

The incident that the member identified is deeply regrettable, and I am sure all of the staff in the hospital are saddened by it. I can say, in particular in relation to The Queen Elizabeth Hospital, that it is having remarkable improvements in its processes in the emergency department

this very year. It is working at a much higher rate than it has in the past, and I congratulate them for it.

ADVANCED MANUFACTURING STRATEGY

Mr SIBBONS (Mitchell) (14:37): My question is to the Minister for Manufacturing, Innovation and Trade. Can the minister inform the house about how the South Australian government is assisting the manufacturing sector 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) (14:37): I thank the member for Mitchell for his keen interest in manufacturing. The manufacturing sector represents about 10 per cent of our total employment, and that is why the state government is committed to ensuring that manufacturing continues to provide sustainable jobs and remains a productive part of our economy.

The past six months have seen the release of Professor Göran Roos' report 'Manufacturing into the future' as well as the state government's Manufacturing Green Paper designed to stimulate industry and community discussion about how to best support the sector. The manufacturing strategy seeks to answer the question about how manufacturing survives in a high-cost, high Australian dollar environment. Much of the answer to that question will focus on how firms compete on innovation and quality instead of competing on cost alone.

The green paper's consultation period has now closed and the government is carefully considering the contributions made on the final form of the strategy. While the strategy is not yet finalised, it is clear that the government must work hand in hand with manufacturers to ensure that they prosper as the economy grows on the back of the mining, defence and agricultural sectors. That is why we are investing $8.3 million over four years to support the Advanced Manufacturing Strategy that will assist in the development of local industry capability and capacity to capture emerging opportunities and accelerate the transition of traditional manufacturing to new areas of high-value manufacturing.

A suite of measures will be put in place to assist the growth of the manufacturing sector. Some of these measures include the creation of the Mining Industry Participation Office (MIPO). It will be a one-stop shop to ensure that existing and potential new suppliers have a full understanding of the opportunities within the mining sector and have every chance to win their fair share of contracts.

It will also include a new initiative called the PACE Manufacturing Fund which will help build a cluster of approximately 150 internationally competitive mining related manufacturing and services companies by 2020. Also included will be industry intelligence and capability mapping to deliver strategic information about the South Australian manufacturing landscape, identify value chain opportunities and emerging industries. Another measure is the further development of the Advanced Manufacturing Task Force and improving the links between research institutions and industry to drive innovation.

Once the Advanced Manufacturing Strategy is finalised, we will work further with the industry and research institutions to develop programs to further develop our state's advanced manufacturing base. The government accepts that the decisions and actions of our manufacturing enterprises will ultimately determine whether we will succeed as a modern, globally competitive and prosperous economy with a vibrant and sustainable manufacturing sector. However, with the right level of government support and favourable policy settings, the manufacturing sector in this state can enter a new era of prosperity.

This government wants to see our manufacturing sector not only service parts of the South Australian and Australian economy but also be considered a global leader in the areas of high-value and niche manufacturing. I think the government is doing all it can to ensure that manufacturing can survive into the future under very different circumstances from the last 30 years.

RAIL ELECTRIFICATION PROJECT

The Hon. I.F. EVANS (Davenport) (14:40): My question is to the Minister for Transport and Infrastructure. Has any of the work originally awarded to Laing O'Rourke as part of the rail electrification project been taken over by the department and given to other contractors? If so, why, what components are impacted and will there be increased cost or delay to the project?

The SPEAKER: Minister for Transport and Infrastructure, did you hear that question?

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (14:41): I understand the question: has work from Laing O'Rourke been taken over?

The Hon. I.F. Evans interjecting:

The Hon. P.F. CONLON: Awarded? I am not aware of that. I am quite happy to ask Rod Hook about it. All I can do is check the details and bring them back for you.

EMERGENCY SERVICES FUNDING

Mr BIGNELL (Mawson) (14:41): My question is to the Minister for Emergency Services. Can the minister inform the house about any new investments to support our emergency services, our volunteers and to enhance community safety?

The SPEAKER: The Minister for Police.

Ms Chapman: You should have a volunteer bus service.

The SPEAKER: Order!

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) (14:41): I hope the leader enjoyed her three-minute trip on the bus from Paradise to Klemzig the other day. Three minutes, all told.

Ms Chapman interjecting:

The Hon. J.M. RANKINE: I have been on it lots of time.

Members interjecting:

The SPEAKER: Order!

The Hon. I.F. EVANS: Point of order, Madam Speaker. It would be nice if the minister got somewhere near the question with her answer.

The SPEAKER: Thank you; sit down. Minister, can you get back to the substance of the question? Thank you.

The Hon. J.M. RANKINE: Thank you, Madam Speaker. It would be nice—

Members interjecting:

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

Members interjecting:

The SPEAKER: Order!

An honourable member interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: It would be nice to be able to have some silence to answer a question. I thank the member for Mawson for the question. With an electorate made up of both urban and rural areas, he has done a great job in keeping his constituents informed about the risks faced in what is a very beautiful yet potentially hazardous part of South Australia.

Members interjecting:

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order! Members on my left will behave. Order!

The Hon. J.M. RANKINE: I was pleased to join the Treasurer this morning to announce an additional $8.3 million over four years for our emergency services. This includes the provision of two new inland rescue boats and a new sea rescue boat for the SES; $1.5 million for new breathing apparatus for the CFS volunteers; $2.6 million for extra training to assist both our SES and CFS volunteers; $1.7 million towards our commitment to upgrade to the national mobile emergency alert warning system; and $2 million extra for MFS capital projects. This takes next year's financial

budget to $227 million compared with just $104 million when the Liberals were last in office. I am sure the member—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: I am sure that the member for MacKillop will be delighted that one of the three new SES vessels will be based in Kingston. The existing craft is more than 25 years old and has reached the end of its operational life. Two other new inland boats will be used for search and rescue operations, assist boats in distress and tow broken-down vessels back to safety on our river.

The government is indebted to the work of our emergency services volunteers and will recruit six extra frontline training staff to provide both the CFS and SES with vital training so that they are better placed to respond to emergencies. The funding comes on top of the current training budget across the sector, which I am advised is around $10 million each financial year. Our CFS brigades will also receive funding to replace around 1,200 sets of breathing apparatus. These new sets will help our volunteers save lives and property under hazardous conditions. They will also be lighter and will hold a larger capacity to provide air over longer periods.

The MFS will receive an extra $2 million on capital upgrades. It will take its capital budget to $7.4 million next financial year and be used to upgrade equipment—

The Hon. I.F. Evans interjecting:

The SPEAKER: The member for Davenport, order!

The Hon. J.M. RANKINE: —and stations. Across the entire emergency services sector $26.8 million will be spent on capital projects. The 2012-13 state budget also includes $1.7 million for South Australia—

An honourable member interjecting:

The Hon. J.M. RANKINE: —I announced it today—to access the National Emergency Alert location-based solution system. This allows an emergency warning message to be sent to mobile phones based on a phone's physical location. Whilst this system has proven invaluable to warn of bushfires, floods and other emergencies, it was limited to only being able to send mobile phone warnings based on a customer's registered billing address. It meant that, in an emergency, someone could be out of a danger area and unnecessarily be warned, whereas others could have travelled into the zone and not—

Mr PISONI: Madam Speaker—

The SPEAKER: Order!

Mr PISONI: —I have got four minutes and 30 seconds so far.

The SPEAKER: No; there are two seconds left on the clock here.

Mr PISONI: Okay, well sit down, Jennifer.

The SPEAKER: Order!

The Hon. J.M. RANKINE: —receive any notification through their mobile. The extra $8.3 million reflects our commitment to ensure that we bolster our commitment—

Members interjecting:

The SPEAKER: Order!

The Hon. J.M. RANKINE: —to a safer South Australia.

The SPEAKER: Thank you, minister. The member for Unley.

LITERACY AND NUMERACY

Mr PISONI (Unley) (14:46): My question is to the Minister for Education and Child Development. Was it a mistake for the Premier to cut $8.1 million in numeracy and literacy funding from his first budget as education minister? Since 2008—

The SPEAKER: Order! Member for Unley, there is a point of order, and I think it is about the wording of the question, again.

The Hon. P.F. CONLON: Madam Speaker, I believe it is an assertion to say that that money was cut from literacy—

Mr Pisoni: It's in the budget, Patrick.

The SPEAKER: Order!

Mr Pisoni: If you let me explain it—

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order!

The Hon. P.F. CONLON: Like questions, just require them to be orderly. I ask whether the question contained argument. I merely point out that it is not open to the opposition to complain about debate if their questions contain argument.

The SPEAKER: Thank you. I will allow the member to continue his explanation.

Mr PISONI: Thank you, Madam Speaker. Since 2008 South Australia has returned worsening NAPLAN results each year, and in the last year did not achieve the national average in any of the 20 categories. The COAG Reform Council report released today (which the minister spoke of earlier) reports that, even with targeted federal funding, South Australia failed to make any improvements—

The SPEAKER: Thank you.

Mr PISONI: —in nine out of 20 targets across all age levels.

The SPEAKER: Member for Unley, you can sit down. I do not see how that explanation covers the question, but the minister may choose to answer the question.

Mr PISONI: You have not let me finish yet. This led to a loss of $8 million in federal funding—

The SPEAKER: Order! Thank you. You will sit down. The minister can answer the question.

Mr PISONI: I seek leave to insert statistical data—

The SPEAKER: Thank you, you can sit down.

Mr PISONI: —to support my explanation.

Members interjecting:

The SPEAKER: Order!

Mr PISONI: I seek leave to insert statistical data to support my explanation.

Members interjecting:

Mr PISONI: So you're rejecting leave, are you? You're withdrawing leave, are you?

The SPEAKER: Order! The member for Unley will sit down.

Members interjecting:

The SPEAKER: Order! The member for Unley can do a grievance debate after this if he wishes, and if he wishes he can include it then. Normally we do not include statistical data in question time. Minister, I think that you need to address that question.

Members interjecting:

The SPEAKER: Order!

The Hon. M.J. Atkinson interjecting:

The SPEAKER: The member for Croydon, order! Minister.

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:48): Madam Speaker, I am very happy to answer this question in whatever form it is delivered because, as I recall, I think that our Premier and the then minister for education's first budget in 2010-11 actually injected an extra $203 million; and, by the way—

Mr Pisoni interjecting:

The Hon. G. PORTOLESI: —I know that you don't like the answer—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —in 2011-12 (and I do not have the material in front of me directly) as I recall it was about an extra $127 million. So, for the last two budgets an extra, close to, $330 million. The Treasurer is nodding. Nonetheless, we are a government that is prepared to put its money where its mouth is when it comes to investing in education. We consider that literacy and numeracy is a priority. The member very conveniently omits the fact that, in fact, South Australia received 100 per cent in the first round of its reward funding, and the two funding rounds put together represent something like—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Something like 73 per cent of total funding available to us was received by us. I should also clarify, if they dare to be quiet for 30 seconds, Madam Speaker, that the figures as reported today represent all three sectors—government, Catholic and independent. We are very grateful for the very close working relationship we have with those other two sectors because we are all committed to ensuring that every student in our system reaches their potential. We are doing a stack of things in relation to addressing literacy and numeracy. We have 264 reading support teacher roles—

An honourable member interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —the TEFL program, our literacy secretariat, the primary maths and science strategy, worth over $50 million, and, of course, the literacy coaches that I spoke about yesterday in this place. We want every student in our system to do the very best that they can. Literacy and numeracy are important. I grant you that in this round we did not do as well as we did in the first round where we received 100 per cent of the funding that was available. This is a reflection of a trial, by its very nature. Some things are going to be successful and some are not. There are 78 schools across the three systems and this is not an indicator of our system in general.

WATER MODELLING

Mrs GERAGHTY (Torrens) (14:51): My question is to the Minister for Water and the River Murray. Can the minister inform the house what action is being taken to improve the state's water modelling capability?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:52): On Monday night I had the pleasure of speaking at the inaugural Goyder Institute for Water Research annual forum. Of course, members would know that the Goyder Institute is a core example of how science and modelling can influence robust policy development. Surface water modelling has played a critical role in ensuring our ongoing water security, especially during the management of the recent drought, as it does in periods of high flows in the River Murray.

In light of this, I am very pleased to advise that the federal Parliamentary Secretary for Sustainability and Urban Water (Hon. Don Farrell) has announced the commencement of a $7.87 million national hydrologic modelling platform. The commonwealth government and the governments of South Australia, New South Wales, Victoria, Queensland, the ACT and the Northern Territory will all participate. The national platform arose from a COAG decision to ensure future water planning and management is informed by best practice modelling, and it will result in the adoption of a new water modelling platform called Source, which was developed by the eWater Cooperative Research Centre.

South Australia will contribute $334,000 over the four-year life of the agreement, which will secure access to current and new water modelling products. This will ensure greater consistency in modelling across jurisdictions and particularly within the Murray-Darling Basin. As part of this agreement, the Mount Lofty Ranges will be used as a focus site to tailor modelling products to local

conditions. It is imperative to ensure that the best possible science informs water management decisions in this region, given how fundamental it is to the social, economic and environmental future of our entire state.

The commencement of a national hydrologic modelling platform agreement is a significant step forward in improving water management both within the state and across the nation. It will support the National Water Initiative by providing an integrated approach to managing surface, ground and environmental water in rural and urban catchments across Australia. This platform underscores the importance of utilising sound science when it comes to making decisions affecting the security, sustainability and health of our water resources, something that the upstream states, the Murray-Darling Basin Authority and those opposite should heed when it comes to developing the basin plan.

Members interjecting:

The SPEAKER: Order!

COOBER PEDY AREA SCHOOL PRINCIPAL

Mr PISONI (Unley) (14:54): My question is to the Premier. Now that the school parent who defamed former Coober Pedy school principal Sue Burtenshaw has agreed to formally apologise, will the Premier also now apologise to Ms Burtenshaw on behalf of the government for the removal of this principal from the school, which was found to be 'unjust and unreasonable'? The Teachers Appeal Board found in relation to this matter, which occurred when the Premier was education minister:

> We would not regard the views of these families as particularly relevant to the decision to transfer Ms Burtenshaw. Indeed, in our view, the CE and the minister's office should have been more supportive of Ms Burtenshaw's action in dealing with these rather difficult parents. This leads us to conclude that, as of 2 July 2010, the CE should not have resolved to permanently transfer Ms Burtenshaw, and that decision to prematurely transfer her was, when it was made, unjust and unreasonable.

The SPEAKER: The member for Unley needs to remember that an explanation should not involve a long speech. There was far too much in that explanation. Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:56): Of course, matters about the disposition of public servants are, as a matter of law, governed by chief executives and not by ministers.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I had the meeting partly, on a number of occasions, at the request of the present Speaker, who is the local member and who is well aware that there was massive community consternation at this school.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I never made a judgement.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I never made a judgement about who was right and who was wrong in this situation. It was not my—

Mr Pisoni interjecting:

The SPEAKER: The member for Unley will be quiet or leave the chamber.

The Hon. J.W. WEATHERILL: I never made a judgement about the fault or otherwise of this situation, but it did seem to be a sensible conclusion that was reached by the chief executive that the situation in relation to this community was untenable. Whoever's fault it was, the situation that had arisen in relation to this community was untenable. We had a principal and we had a school community that was up in arms about that principal. I make no comment about the rights or wrongs of that matter, except to say—

Mr Pisoni interjecting:

The SPEAKER: Order! Member for Unley, leave the chamber for the rest of question time.

The honourable member for Unley having withdrawn from the chamber:

The Hon. J.W. WEATHERILL: My only interest was in fact the education of the children and making sure that that was what we were able to focus on, and the sooner we got back to that the better. Obviously, the relevant teacher has taken access to her industrial rights and she has achieved a certain outcome. I hope that she is now supported in that role, but I have never bought into the local community debate, which has involved the accusations on one part or another, and including obviously some very serious accusations that have been made by members of the community—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —about this teacher. Indeed, some of the supporters of the teacher have made some very serious accusations back to members of the governing council. So, there was a very nasty local dispute here. As I understand it, the relevant chief executive at the time, who is not the present chief executive, attempted to resolve that in the best way possible having regard to what he thought was in the best interests of the students. Now there is a new principal at Coober Pedy high school. I understand—Madam Speaker, you probably know this better than most—that the school is now recovering and I think the present school leadership is proving to be quite successful.

OLYMPIC TRACK CYCLING TEAM

The Hon. M.J. WRIGHT (Lee) (14:58): My question is to the Minister for Recreation and Sport. Can the minister inform the house how many South Australians have been named in the Australian track cycling team for the 2012 London Olympics?

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (14:59): I am very happy to answer this question. I am proud to confirm that seven out of the 14 cyclists chosen to represent Australia—

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: Seven out of 14; it is a good number—for the 2012 London Olympics are from South Australia. It is half the entire team and a truly outstanding result that cements South Australia's reputation as the cycling capital of Australia.

Mr Marshall interjecting:

The Hon. T.R. KENYON: I don't think there's anyone from the Norwood Cycling Club, for the member for Norwood—

Mr Marshall interjecting:

The SPEAKER: Member for Norwood!

The Hon. T.R. KENYON: —but if you listen to the member for Norwood I think the whole club would be in the Olympic team.

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: Current world champions Anna Meares, Glenn O'Shea and Matthew Glaetzer spearhead the seven-strong South Australian contingent in the team, along with Jack Bobridge, Rohan Dennis, and brother and sister combo Alexander and Annette Edmondson. It could get nasty on the camp, ma'am! All these cyclists are serious medal chances in London. Hopefully we will see a continuation of the tradition of Olympic success set by such champions as Mike Turtur, Stuart O'Grady, Luke Roberts and Brett Aitken.

The selection of so many local athletes caps off what has already been a great year for South Australian cycling. Anna Meares and Glen O'Shea both achieved gold at the World Track Cycling Championships in Melbourne this year, as did 19-year-old Matthew Glaetzer who rode the

fastest third wheel time of all time to help Australia win the gold in the men's team sprint. Rohan Dennis is another—

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: —up and coming rider who has made his mark on the national/international cycling scene this year. His recent success in the time trial stage of the Olympia tour in the Netherlands follows on from his winning the King of the Mountain and the Young Rider's jerseys at the Santos Tour Down Under.

Rohan and Annette Edmondson are among a number of South Australian cycling young guns who have been identified and nurtured through the SASI talent search program prior to their rapid rise to success on the world stage. Other SASI cyclists who have made their mark this year include current para world track cycling champions and world record holders, Felicity Johnson and her pilot Stephanie Morton, in the tandem time trial.

Then there is our latest SASI champion, Sam Willoughby, who won the Elite Men's BMX world title last weekend in Birmingham, England. Sam's world title winning performance over the weekend was the seventh cycling world championship for SASI cyclists in 2012, and I am sure all members of the house will agree that this is a significant achievement for South Australian cycling. This is very exciting for South Australian and Australian cycling as we build up to the London Olympics which start in just two months.

Members interjecting:

The SPEAKER: Order!

The Hon. T.R. KENYON: To see such talent emerging from the SASI cycling program, as well as having the Australian Institute of Sport high-performance cycling program based here in Adelaide really bodes well for the future. I congratulate all the cyclists on their selection, along with the coaches and other support staff at SASI who have worked tirelessly behind the scenes to help make all of this happen. As the Olympics rapidly approach I am sure all members, along with all South Australian sports lovers, will be cheering on our sporting stars as they do us proud in London.

OLYMPIC DAM EXPANSION

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:02): My question is to the Minister for Mineral Resources and Energy. Will the minister rule out under any circumstances extending the time for the Olympic Dam indenture validation if BHP does not submit a project notice within the 12-month term of the agreement? The minister told the media on 29 May in relation to approving a time frame extension:

> I will not be granting an extension. If they want to put it on hold they can but they know that the consequence is that they will lose their approvals. I don't bluff.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:03): I want to take the opportunity to support the minister in his remarks which have also been confirmed by a minister in the upper house. It seems that some of those opposite have decided to criticise that position but I think it is the proper decision.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: We entered into this indenture agreement advisedly and it is our intention to maintain that position. The approvals have been granted. We have taken every step necessary to ensure that BHP is in the position to make the decision to give approval to this project. We have taken all of those steps that are consistent with those things within our control to make sure that they have a clear way to make an approval. We have also made representations to affect the decisions of others who may be making decisions that could influence BHP's decision including—

Ms Chapman: 'Hello, Julia'?

The Hon. J.W. WEATHERILL: —the federal government.

Ms Chapman: Yes.

The Hon. J.W. WEATHERILL: Precisely. We made representations about the diesel fuel rebate and the accelerated mining tax and they, of course, did not appear in the recent federal budget. That, of course, is going to be a material consideration in the decision-making process of BHP.

Members interjecting:

The SPEAKER: Order! A supplementary, did you say?

OLYMPIC DAM EXPANSION

The Hon. I.F. EVANS (Davenport) (15:04): Why is it that the Premier says it is the intention of the government to maintain that position but you will not use the words, 'We rule out extending it under any circumstances.' You will simply change your intention, will you not?

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

The SPEAKER: Order! It is the end of question time, and it appears to be another question.

The Hon. P.F. CONLON: You can't use it as an argument.

EMERGENCY DEPARTMENTS

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (15:05): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: Today in question time the member for Waite asked me a question about a Coroner's report dated June 2010. That report was into the death of a patient, a Ms Promnitz, who died in the QEH on 5 March 2006, so now over six years ago. I have further information which I would like to provide to the house.

I am advised that the lady in question was a resident at the time at the St Hilarion Nursing Home at Lockleys. On the evening of 5 March 2006 she was taken by ambulance to the Queen Elizabeth because of dehydration resulting from deterioration in her health. She was placed in the corner of the waiting room at the QEH and was triaged as a category 4, which is a relatively low level, which according to the Australian triage scale means that she should have been seen by a doctor within one hour.

She was not seen by a doctor; however, a nurse did take observations on two occasions and her vital signs were normal. She was found deceased around 2 o'clock in the morning, as the member had said. The Coroner handed down his investigation in 2010. I am advised that he found that she died as a result of sepsis due to a urinary tract infection with group B streptococci. I am also advised that the Coroner did not make any recommendations in relation to the Queen Elizabeth Hospital; however, he expressed concerns regarding the remarks made by Dr Sally Tideman, who was then the director of medical services, who made these remarks during the inquest. I quote Dr Tideman:

> It's deplorable, in my view; absolutely deplorable that we are not in this state able to provide good general practitioner services that don't rely on locum services to our residential aged care. And therefore the acute setting—the acute hospitals, like my hospital—then become the first line for sick elderly patients who do not need to be in a hospital and, in fact, care can become compromised by them coming into hospital.

That was what Dr Tideman said to the Coroner, and the Coroner's only recommendation was in relation to that remark. He directed that the remark be referred to the commonwealth Minister for Health and Ageing. I subsequently wrote to minister Roxon in relation to that remark. The remark essentially makes a very good point that a lot of people end up coming into our hospitals who should not be there, who should be looked after, and this is a particular issue in relation to nursing homes. One of the reasons I asked for the ageing portfolio to be added to my responsibilities of health was so that I could build a better relationship between the health services and nursing homes.

On 3 June the then chief executive of the Central Northern Adelaide Health Service, Martin Turner, put out a press release, a media statement, about the Coroner's report. He expressed his condolences and he made a detailed statement about what actions the Queen Elizabeth Hospital had taken in relation to the events which had happened some four years earlier, now six years ago.

The hospital had gone through what is called a root cause analysis, as they do when any incident like this occurs. As a result of that analysis, he reported on 3 June 2010 that a number of significant improvements to patient monitoring procedures has occurred since that incident. They include the introduction of a dedicated triage nurse assigned solely to observe and maintain contact with patients in the ED waiting room at all times. Also, they have introduced to the hospital a rapid assessment team which can be called upon if a nurses is concerned about the condition of the patient in a waiting room.

A policy has been implemented whereby medical staff are alerted if there is an urgent need to transfer patients from the ED to medical wards, and a new diagnostic planning unit has been included in the hospital where patients can be seen quickly by a consultant. Improvements have been made to the call bell system throughout the ED waiting areas, and an extended care unit designed to cater for patients that may require a longer period of observation is also planned. So, in brief, I could not recall the particular case. It is now six years ago that the matter happened but the hospital has responded, and that was issued in a press release at the time of the Coroner's report. The one request that the Coroner made, which was for us to notify the commonwealth government in relation to this matter, has been complied with.

GRIEVANCE DEBATE

MURRAY-DARLING BASIN PLAN

Mr WILLIAMS (MacKillop—Deputy Leader of the Opposition) (15:10): The Premier has been caught out. He has been playing a very dangerous political game trying to whip up some hysteria in South Australia but he is playing with the livelihoods of many, many South Australians and he is playing with the future of the River Murray. The Premier is playing this game in front of the media and making out that he is working diligently behind the scenes when he is not. There is plenty of evidence to show that the Premier has failed at every turn.

The Premier said in answer to a question today that this matter requires the cooperation of the MDBA. This Premier has done nothing but bag the MDBA, yet he stands in this place and says 'we need cooperation'. That is what the opposition has been arguing for a long time; that is, we should be cooperating, that we should be part of the solution, not part of the problem; and therein lies the problem for South Australia's future because this Premier has decided it is a lot better to be part of the problem than to be part of the solution. He has decided that politically he can gain more by having a fight than being constructive and working constructively and cooperatively.

The MDBA invited South Australia to embed two of our senior water bureaucrats within their organisation to help with the development of the plan. What was South Australia's response? 'No. Thanks, but no.' Why was that? Because we did not want to be part of the solution. This government had decided a long time ago that it did not want to be part of the solution; it wanted to play politics and continue to be part of the problem.

For 120 years the states have been bickering over the River Murray. It was this government that was the architect of the setting up of the Murray Darling Basin Authority and that claimed that it was a historic agreement and how wonderful it would be for South Australia to have an independent authority develop a plan, yet the very day that the draft plan was released the Premier started talking about a High Court challenge. That does not sound like cooperation to me; and ever since, the Premier has been threatening High Court challenges, and has been threatening other states. Now we have the Premier coming out and stating that the MDBA is playing footsies with the other states. Does that sound like cooperation? Does that sound like South Australia wants to be part of the solution? I think not.

The Premier was caught out when he was asked for copies of the correspondence between the MDBA and his office to back up his claims. What we do know is that the Premier has been busy. He has instructed solicitors to put us into a state of readiness for a High Court challenge. He has written to the federal water minister, Tony Burke, expressing his concerns about Mr Knowles, the Chairman of the MDBA and the Victorian modelling, but he has not written to the MDBA asking for access to the data.

He complains that the Victorian government has done some modelling of their own but he has not written and asked for the fundamental data which would allow him and this government to do the same thing here. If he is so desperate to get this information, why doesn't he pick up the phone? It is because he does not want to be part of the solution, he wants to continue to be part of the problem.

The government asked in its recommendations for further modelling to be done. This is what it asked: the MDBA must undertake, as a priority, further modelling including 3,200 gigs, 3,500 gigs and 4,000 gigs water recovered volumes where system constraints are relaxed or removed to determine a water recovery volume that meets key environmental outcomes. Removing system constraints? They are the very constraints that the head of the South Australian water department, Scott Ashby, wrote to the MDBA about only on 30 March this year saying please do not allow more than 60,000 megs of water per day to enter South Australia because it will flood out private property. They are the constraints we are facing; that is the problem we have, and this Premier continues to play politics.

The ACTING SPEAKER (Hon. M.J. Wright): The honourable member's time has expired. The ever popular member for Florey.

NATIONAL RECONCILIATION WEEK

Ms BEDFORD (Florey) (15:15): Only with some people, sir. I acknowledge that we meet on the land of the Kaurna people and the parliament pays its respects to the traditional owners, past and present. This week is National Reconciliation Week, and 2012's catchcry is 'Let's talk recognition'. Beginning with National Sorry Day on 26 May, reconciliation week celebrates the rich culture and ages-old history of the First Australians. It is a time to think about how each of us could help turn around the disadvantage experienced by many Aboriginal and Torres Strait Islander people.

The week spans the 27 May and 3 June, two dates with specific and particular significance to our Indigenous people. On 27 May 1967, a federal government referendum changed the Australian Constitution to recognise Aboriginal and Torres Strait Islander people as citizens with a 90 per cent yes vote. On 3 June 1992, a judgement was handed down by the High Court, known as the Mabo decision, where the Meriam people of the Torres Strait Islands became entitled to possess, occupy and use the lands of the Murray Islands, overturning the concept of terra nullius at the time of colonisation.

On behalf of the Premier I attended the Don Dunstan Foundation's Sixth Lowitja O'Donoghue Oration in her presence and that of the Governor and Mrs Scarce; Shirley Peisley; Don Dunstan's daughter, Bronwyn Dohnt, and her husband, Rodney; and a host of everybody you could think of who has anything to do with reconciliation in South Australia at Adelaide University's Bonython Hall. The packed auditorium heard from Michael Kirby who spoke at length about the importance of the Mabo decision and also the Wik decision in 1996 when the Wik people in Queensland pursued a Native Title decision. Justice Kirby reminded us of how these two decisions may probably not have happened as soon—and that is a moot point when you say 'soon'—or at all without the Koowarta decision in 1982 when in Queensland the purchase of land by Aboriginal people was blocked in contravention of the Racial Discrimination Act.

This year we are all challenged to get involved in reconciliation by looking and listening, eating some tucker, learning about the land and seeing through different eyes by giving our brains a workout and thinking about the lives of Aboriginal and Torres Strait Islander people and how they live between two cultures. We can hug a granny or an elder or engage with Aboriginal and Torres Strait Islander people in our community and praise them for their efforts and help them in their changes for the future.

We are also encouraged to start 'rapping' which refers to the Reconciliation Action Plans. RAPs are about turning good intentions into real actions. A RAP is a business plan that uses a holistic approach to create meaningful relationships and sustainable opportunities for Aboriginal and Torres Strait Islander Australians. Since the launch of the RAP program, some 300 Australian corporations, governments and community organisations have joined the RAP community and display the trademark protected logo signifying that they meet the minimum elements of the program. Now 11 of Australia's top 20 businesses have RAPs.

Locally, Reconciliation SA hosted its annual breakfast at the Intercontinental Hotel attended by the Premier, the Hon. Paul Caica, and again a host of Adelaide's reconciliation supporters with guest speaker, Tom Calma. The Hawke Centre tonight will host a panel discussion with involvement from the Hon. Dr Lynn Arnold (our former colleague) in his Anglicare role, and Reconciliation SA co-chairs Robyn Layton, whose work is well recognised, and Dr Peter Buckskin, an educator who is involved with the University of South Australia.

Last week on behalf of the minister, minister Caica, I helped launch the Kari Munaintya Tram Wrap in the presence of Rod Hook, who was emcee, and Ms Khatija Thomas, the

Commissioner for Aboriginal Engagement, and Mr Paul Herzich, the landscape architect who was the designer of the wrap. The wrap was initiated by the South Australian NAIDOC Committee and facilitated by the then Department of Planning, Transport and Infrastructure Reconciliation Committee.

For the third consecutive year the South Australian government has supported the tram wrap to raise awareness and promote Reconciliation Week and NAIDOC Week celebrations. It acknowledges that Aboriginal peoples in South Australia are descended from and identify with diverse cultures, customs, languages, families and songs. The ceremony celebrated Aboriginal culture and Aboriginal people's relationships with each other and the broader South Australian community.

The Kari Munaintya Tram Wrap is a powerful symbol of Aboriginal people's unique relationship to South Australia's environment, air, land and waters. It is also a symbol of place and belonging, linked to creation stories, travel, trade, ceremonies, family and places held sacred. The tram wrap design recognises and celebrates the diversity of cultures in South Australia by acknowledging all 39 major Aboriginal language groups, whose country is either fully or partially located within this state's borders.

In the spirit of reconciliation, the arrangement of concentric circles symbolises the diversity of the tram stop and meeting places along the Glenelg to Adelaide Entertainment Centre tramline. The first tram wrap was designed in 2010 and had an orange hue as the background to represent the vibrant ochre in the Mount Lofty Ranges. In 2011, a purple background was chosen to represent the Maslin Rainbow Sands from the southern area of the Kaurna country. This year, we are using green to signify the waters significant to the Kaurna people through their main dreaming of Tijibruke.

The ACTING SPEAKER (Hon. M.J. Wright): Thank you. My local member, the hardworking member for Morphett.

ABORIGINAL CONSTITUTIONAL RECOGNITION

Dr McFETRIDGE (Morphett) (15:21): Thank you, Mr Acting Speaker; never were truer words said. I want to first acknowledge the member for Florey, who is a hardworking member in this place and certainly one of the very strong supporters of Aboriginal affairs and reconciliation in this place. I had the pleasure of accompanying the member for Florey and other members to the APY lands last week, but I will talk about that in a few moments.

What I do want to recognise is the fact that this week is Reconciliation Week. On Monday, we heard the announcement by the Premier of proposed changes to the constitution to recognise Aboriginal people. It is good to see that people such as Shirley Peisley, the Hon. John von Doussa, Professor Peter Buckskin, Robyn Layton QC and Ms Khatija Thomas have been appointed to the advisory panel to look at implementing constitutional changes. They will be recommended to this place in a few months' time, I understand.

Reconciliation Week started for me on Monday morning. I was out of the state until Sunday afternoon. It started with a breakfast, where the Premier made his announcement, and there were a lot people supporting reconciliation there. On Friday, the member for Kavel and I will be going to the Aboriginal veterans memorial service at the North Terrace War Memorial, and we will be remembering Aboriginal veterans who I do not think in the past have been given the due they well and truly deserve.

Aboriginal affairs in this state has received a lot of notice in the last few days particularly, with issues of abuse on the APY lands, with the comments of Mr Gleeson, the Coordinator General, in *The Advertiser* about sexual abuse in the APY lands. The former minister for Aboriginal affairs (the current Minister for Child Protection) got up in this place and said in this parliament yesterday, when referring to the Mullighan inquiry, that the inquiry uncovered evidence of abuse on the lands and made 46 recommendations and that 'we have accepted 45 out of the 46 of the recommendations' and that they have implemented 26 out of 45.

I want to know which recommendations the government has not accepted and whether they have fully implemented those 26 out of the 45 and what is happening to the other 19: have they been discarded, are they going to be acted on, and are they going to fully implement them? We need to know more than the fact that significant progress is being made, because it is now years since the inquiry was first initiated. It has been going on far too long. As members in this place who are members of the Aboriginal Lands Parliamentary Standing Committee saw first-hand

last week, the needs of the people on the APY lands need to be addressed and need to be addressed now. They cannot continue to wait.

Last Monday, Tuesday and Wednesday, the members of the Aboriginal Lands Parliamentary Standing Committee went to Watarru, Pipalyatjara and Amata. We overnighted at Uluru, which is commonly known as Ayers Rock Resort, and I will mention in a few moments why we did that because there was a real purpose to that. It was not just a fly-in fly-out off the lands.

Watarru has been a community in crisis, and it is a community that is now making some significant progress. The store is closed, the transaction centre is still closed, but the school is working well, though. There were, I think, 25 kids at the school the day we went there. The problems have been in the past, where Aboriginal families do move around the communities. They go across to Western Australia for significant ceremonies, sorry business and other business. So, it has been a problem of one day you might have five people in the community, another day 35 and, if there is a funeral, we might have 1,500, as happened in Fregon, with Mr Peter's funeral not long ago. But Watarru is making progress. I was very disappointed to see the lack of progress with the market garden. The enthusiasm and the drive is palpable over there amongst the kids, the teachers and members of the community but, unfortunately, it is not working out as well as we would all hope.

At Pipalyatjara we visited a number of areas in the community there. We spoke to the community council and we saw some of the great things that are happening. Pipalyatjara for those who do not know is right in the far north-west corner of South Australia. To drive from Adelaide to Pipalyatjara is further than driving from Adelaide to Sydney. It is very remote. Flying in and flying out and spending more time in the communities is how we do it.

At the Ayers Rock Resort, Uluru, we had briefings from Mr Manfred Pieper, the current manager. It is owned by the Indigenous Land Corporation, which is employing Anangu, Aboriginal people, off the APY lands. Total employment in the resort is about 700. Within a few years they hope to have at least half those employees coming off the APY lands. It is a real opportunity for the people on the APY lands, and we look forward to seeing what progress is being made there.

The ACTING SPEAKER (Hon. M.J. Wright): The mouth from the south, the member for Mawson.

SOUTHERN ADELAIDE ECONOMIC DEVELOPMENT PLAN

Mr BIGNELL (Mawson) (15:25): Thank you very much, Mr Acting Speaker, for that warm welcome; and it is, indeed, about the south I rise to speak about today. Last Thursday evening I had the honour of representing minister Hunter at a function to launch the Southern Adelaide Economic Development Plan through to 2021. It was great to be there with so many people who are passionate about the south of Adelaide. The member for Mitchell was there. It was held in the canteen of the former Mitsubishi site at Tonsley Park; and, of course, the member for Mitchell used to work on the production line at Mitsubishi for many years and has a strong feeling for it.

Tom Phillips, who is the chair of the Southern Adelaide Economic Development Plan, of course, was also there, and it was the first time he had been back in that canteen since the day he had to break the news to the workers at Mitsubishi that Mitsubishi was going to close its Adelaide operation. The member for Reynell was also there. Gay Thompson has worked incredibly hard over many years to promote the south and to make sure that we get the very best for the people of the south. I commend the member for Reynell for all her work.

It was great to pick up the paper the next day, too, to see the report on it because sometimes the newspapers can be a little bit negative; but to pick up *The Advertiser* on Friday and see the front-page headline 'Southern Successway' was brilliant, as well as a full two-page coverage on pages 6 and 7 . I would like to commend Cameron England from *The Advertiser*. There is a lot of negativity from time to time in the media, not just in *The Advertiser*, but I always find the business section of *The Advertiser* quite an uplifting read and a place full of positive stories about businesses in South Australia.

I commend Cameron not just for his coverage of the Southern Adelaide Economic Development Plan launch but also the day-to-day coverage that he does in *The Advertiser's* business pages and the way in which he promotes many times not only small business but also some of the mining companies that are doing great things in developing projects here in South Australia.

The plan is for the south to gain an extra 14,000 jobs between now and 2021, and that is a goal that is highly achievable. I want to commend not only Tom Phillips and all the board members but also the two councils—the Onkaparinga council and Marion city council—that have worked on this plan for the past six months. It is really good to see councils getting together rather than sitting in their own council areas and not looking at sharing their knowledge and sharing their dreams and their wishes with their neighbouring councils.

I think that Onkaparinga and Marion have got a terrific relationship going. I chair the Southern Expressway Employment Task Force and I am really happy to have Glen Hinckley and Brigitte Ransom on that committee, because they have such great connections into the local communities, the business associations and the providers of employment. That has been a real success as well. The first figures out on that show that, of the 750 people who have been inducted to work on the site of the Southern Expressway, 52 per cent of them come from southern Adelaide. Our goal was to hit 50 per cent, and I am really pleased to see that, at this early stage in the development of the expressway, we are tracking just ahead of the 50 per cent.

There are also some great figures on the amount of South Australian companies that have been successful in gaining work on the Southern Expressway to date, and that figure is up around 80 per cent. We will keep monitoring the joint venture group, which is Abigroup and Baulderstone, to make sure that they are looking first and foremost to employ people from the south and to engage local contractors from the south, and, if not from the south, then the rest of metropolitan Adelaide or South Australia before they go interstate.

When we talk about the south, manufacturing still accounts for 43 per cent in terms of output; rental, hiring and real estate is 10.9 per cent; construction is 6.2 per cent; retail is 5.9 per cent; and finance and insurance is 5.8 per cent.

We also have the wine industry, which is a very big employer in the south, and again I want to commend Tom Phillips, the chair, who has suggested we have a big hotel built in McLaren Vale to cater for all the visitors. That is something I have been championing for many years. If we can attract the right developer to town, we have one of the world's greatest wine regions just 45 minutes from an international airport, and we would love to play host to people from all around the world—and your good self, Mr Acting Speaker.

The ACTING SPEAKER (Hon. M.J. Wright): Thank you. The member for Morialta.

NATIONAL YOUTH WEEK

Mr GARDNER (Morialta) (15:30): On Friday 13 April, young people across Australia celebrated the start of National Youth Week. The theme for this year's National Youth Week was 'Imagine. Create. Inspire.' Around 160 events were held around South Australia, hosted by 69 different organisations, and I want to place on the record my experiences of some of those events this afternoon. I note the support of staff at the Office for Youth in liaising with the many host organisations in bringing everything together.

In South Australia, the official opening was held at Old Mount Gambier Gaol. Unfortunately, I was unable to go down to Mount Gambier because it clashed with local celebrations for National Youth Week in my own electorate so, instead, Chelsey and I were pleased to attend the Frame IT Visual Arts Exhibition launch at the Campbelltown Library, an initiative of the Campbelltown Youth Advisory Committee. I was impressed by the range of stunning artworks created by some very talented and passionate young people in the Campbelltown area, and am glad to have the opportunity to acknowledge the winners in this forum.

Category 1 for people aged 12 to 15 years was won by Lilian MacIntosh, with Lauren Sullivan coming second. Category 2 for people from 16 to 18 was won by Alexandra Beckinsale, with Jenna La Dru in second. Category 3 for 19 to 25 year olds was won by Sarah Heatly and second prize went to Alexander Carletti.

On Sunday 15 April, Chelsey and I were thrilled to participate in the CanDo4Kids open day at Townsend House. CanDo4Kids do fantastic work for young people with sensory impairment in South Australia, and their families, and my congratulations go to Judy Curran and her extremely impressive team for all their magnificent work. I should point out that the patron of CanDo4Kids, Governor Kevin Scarce, was at many of these events—it felt sometimes like we were following each other around—and he does terrific work, as is often acknowledged in this place, for many charitable organisations in South Australia.

Those members of parliament who have walked along North Terrace about 100 metres east of here in recent weeks would have noticed the eye-catching 'project tag' mural around the Tuxedo Cat site which was launched on National Youth Homelessness Matters Day, which fell on the Wednesday of National Youth Week. Architecture students John Pagnozzi and Ellen Buttrose won a competition to design the project. They liaised with local artists and young people who have experienced homelessness to create an installation that is engaging and raises awareness of youth homelessness.

Sarah Nelson, a young person who has experienced homelessness, gave an inspiring speech at the launch, and I quote from her. She said:

> Youth homelessness is often stigmatised as a thing or rebellion or a kid asking for change on the street, but it's not about that. It's about not being safe; it's about thinking about nothing but survival. Not knowing where your next meal is coming from or where you're going to sleep.

The project was supported by SYC and HYPA Housing and I would like to congratulate Paul Edgington and his team for their vision and hard work, and their tireless engagement with young people in need.

Also engaged with the needs and aspirations of young people in South Australia are, of course, the Leader of the Opposition and the member for Unley, who launched the first tranche of the Liberal education policy for the 2014 election campaign on Thursday 19 April during National Youth Week. I was pleased to be there in a room full of about 100 principals, teachers and education experts who warmly welcomed the Liberal Party's commitment to local school autonomy, with the decisions being made by people affected rather than Flinders Street head office. I note that at the time the government could not decide whether to attack our policy or claim that they were already doing it themselves, which is often a sign that we as an opposition are on the right track.

On Friday 20 April, along with the member for Ramsay, I attended the Look Listen Talk @ Salisbury North Spectacular. I witnessed some amazing talent participating in the skate, BMX and scooter competitions. The bravery shown by 12 year olds doing backflips on scooters continues to astound me. Olympic gold medallist Rachael Sporn launched two healthy living projects for the Salisbury council and encouraged all young people to live active lives and get involved in sport, and it was appreciated by all those present.

Finally, on Saturday 21 April Carclew Youth Arts Centre celebrated its 40th birthday with a surreal, artistic and entertaining garden party. All things considered, it is a shame that it was raining quite heavily on the day, but it was still enjoyable to those present. The history and the celebrations were enjoyed by all, including the member for Kaurna, who I know was invited to speak during the official proceedings.

National Youth Week also reminds us that our community continues to have a serious underlying problem that we need to talk about. How do we ensure that South Australia is an attractive and prosperous state that young people from other states want to come to and that our young people want to come home to, even if they travel and experience new things for a while first? Young people that I speak to about why they are planning to leave or why they have left South Australia often reply that they see more opportunity for career fulfilment and better short term and long-term career opportunities interstate. That is why we have a critical obligation to our young people to create the environment for businesses to grow and prosper in South Australia, and the career opportunities will follow.

We need to work hard to make South Australia vibrant and stimulating so that our young people can continue to be excited about it. They are passionate, intelligent and driven. We must listen to and respect their views and opinions and encourage them to build their futures here in South Australia. After all, they will be running the show one day and down the track—sooner rather than later for some members—we are going to need them to look after us.

TAYLOR EMERGENCY SERVICES HUBS

Mrs VLAHOS (Taylor) (15:36): I would like to speak today with pride about the local emergency services hubs in Taylor. The emergency services hubs in Taylor form more than a set of disaster response centres for our community. They are part of the community and they define the volunteering tradition in the north. Among these fantastic volunteers is the committed State Emergency Service team at Edinburgh.

The SES Edinburgh unit manage a large northern area, including the suburbs of Elizabeth, Paralowie, Gawler, Burton, Two Wells, Virginia, Salisbury, Andrews Farm and One Tree Hill. The

Edinburgh unit currently has around 35 volunteer members, with Mr John Lawrence, the unit manager, stressing that there is always a continuing need for new members to join the team there. They are always happy to train new members and their families, including sons and daughters, mothers and fathers.

The typical SES assists in severe weather conditions, such as storms, floods and heatwaves. For example, the SES assists with removing fallen trees and branches from roads that are a risk to residents. The SES helps with temporary repairs to buildings and homes affected by wild weather, replacing roof tiles and covering roof holes. Volunteers can expect to be called in by the SA police force to assist in search and rescue, or help with stabilising buildings that have been affected by motor vehicle accidents.

New recruits can expect to receive SES training courses, involving induction and basic skills, first aid, basic rescue, equipment handling and land search, with certificates available. All training is free of charge and is scheduled outside normal working hours to allow people to participate. My office has been assisting our local SES unit with grant applications and representations to our government, as well as encouraging potential new volunteers to give it a go and help our community. We always need new local people who are willing to join up and serve one or two nights a week, with the occasional weekend, for our community.

I was very lucky to accompany the Minister for Emergency Services, the Hon. Jennifer Rankine, recently on a visit to the SES Edinburgh unit a few weeks ago. While meeting volunteers and coordinators at the unit, minister Rankine presented a ministerial commendation to Mr Bob Allert for his extraordinary service to the state SES. Mr Allert has served with the SES for an average of 2,000 hours a year, and he has been averaging this sort of commitment since the year 2000. This sort of dedicated service instantly caught our attention.

During the minister's visit we were also able to visit the Two Wells brigade of the Country Fire Service, another group which is very committed to our community in the north. Groups like the CFS at Two Wells form more than just a volunteering group, they are the backbone of our communities. They form part of the tradition of community service in a town like Two Wells and I cannot commend their service highly enough. I will continue my engagement with these incredible groups in my area and continue to support them in every way I can as the local member.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION BILL

In committee (resumed on motion).

Clause 43 passed.

Clauses 44 to 53 passed.

Clause 54.

The Hon. J.R. RAU: I move:

Page 35, line 34—After 'Commissioner' insert 'or a court hearing proceedings for an offence against this Act'

This is a brief amendment which is intended to address any possible inconsistency between clause 53 and 54, and I commend it to the house.

Mrs REDMOND: On behalf of the Liberal opposition I will take an executive decision and indicate our concurrence with the clause.

Amendment carried; clause as amended passed.

Clauses 55 to 59 passed.

Schedule 1.

Mrs REDMOND: My question on schedule 1 relates to the comments that the Attorney made in his remarks in response to the question I asked yesterday on clause 43, when he indicated that in his view the Local Government Association (LGA) is covered by the legislation. In particular he referred to the fact that the Ombudsman Act, which I think he said was 1974, deems the LGA to be a public authority.

The LGA, clearly, is not listed in schedule 1, as the public officers, the public authorities and ministers responsible, and so on; there is no direct listing. There is direct listing of people who are elected to the public sector, and the only one that I could find is the fourth item from the bottom

of the schedule on page 40, 'A person to whom a function or power of a public authority or a public officer is delegated,' which was the only one that seemed to me to come within the purview of schedule 1. Even that seems to be a bit of a stretch, so I was wondering if the minister could explain on what basis he asserts that the LGA does in fact come within the ambit of the legislation.

The Hon. J.R. RAU: I thank the leader for her question. If we go to page 39, the item which is the fourth from the top, 'A person who constitutes a statutory authority or who is a statutory office holder.'

Mrs Redmond interjecting:

The Hon. J.R. RAU: Well, I think that's the point: we believe they are.

Mrs REDMOND: Can I ask the Attorney to explain the legal basis on which he asserts that the LGA is, in fact, a statutory authority?

The Hon. J.R. RAU: I think that is what I was running through this morning.

Mrs REDMOND: You said they were deemed to be a public authority but that is different from a statutory authority.

The Hon. J.R. RAU: Indeed, but I—

Mrs REDMOND: Attorney, if I can just turn your mind to the fact that the parliament, for instance, has a committee which is specifically deemed to appoint statutory officers, so the Ombudsman's appointment or the Auditor-General's appointment and so on—those statutory authorities are specifically dealt with by a committee of this parliament, whereas the LGA is clearly not in the same bucket as those people. I suspect that if you want to include the LGA it may be necessary to consider an amendment, because my reading of it is that we do not actually capture them at the moment.

The Hon. J.R. RAU: I am happy to take up that invitation, because I do have an amendment in my pocket which will deal with that. Accordingly, I move:

Page 39, after row 6 of the table—

After the entry relating to a member of a local government body and an officer or employee of a local government body insert:

the Local Government Association of South Australia	the Minister responsible for the administration of the *Local Government Act 1999*	Premier

Mrs REDMOND: Could I suggest that we will deal with it between the houses in any event, because it is not one for which I will take on executive authority. I was merely suggesting that you might have a dilemma if you are asserting—

The Hon. J.R. RAU: I am extremely grateful to the leader for pointing that out. I think we should put it beyond doubt. We will continue to discuss it, if the leader is happy, between here and the other place.

Amendment carried; schedule as amended passed.

Schedule 2.

Mrs REDMOND: I have one question on schedule 2. Part of schedule 2 deals with the conduct of an examination (clause 3 of schedule 2). The clause enables legal representation by a legal practitioner. In the case that a council elected member or a council staff member was seeking such representation would their council be responsible for the associated costs?

The Hon. J.R. RAU: I suspect this is a species of the discussion we were having before. The answer is something that I will look into in more detail between the houses. Again, I think my understanding would be that if they were seeking some advice about their rights or entitlements, and it would be otherwise in accordance to the principles attached to that organisation, they would be indemnified to that extent, and I think we need to make this very plain. If, however, the individual was in fact the target of an investigation and they ultimately wound up being prosecuted, I do not think anybody would reasonably expect the organisation from which they have come to be indemnifying their costs.

The leader has raised this before and the member for Waite has raised this before. I am happy to have some work done on that between the houses. The intention has always been, at

least in my mind, that these people, who are officers of public agencies, would in respect of these matters be treated in a similar way to the conduct, as I indicated before, in relation to police officers, where there is a requirement for separate representation.

Mr PENGILLY: I am not a lawyer and I do not pretend to be a lawyer, but can I understand from the Attorney's response that that would rule out the long-suffering ratepayers picking up the tab in the event that there was some sort of action involving a council staff member?

The Hon. J.R. RAU: There are a couple of things about that. I cannot rule out and would not rule out the possibility of some ratepayers' money ultimately being directed towards legal fees. I know member for Finniss has a background in this area so would know more about it, probably, than me, but one of the things we have elsewhere in this bill is a provision for local government to provide legal assistance to elected members.

After discussions with the LGA, strangely enough, that they cannot perhaps recall, but I do, it was agreed that rather than just leave it as a complete blanket, write your own check-type situation, as far as payment of fees is concerned, there would be further conversations between the government and councils about a set of guidelines which would set out the principles by which people would be able to dip into those funds.

So, in as much as that is what you are talking about, that is a matter of detail which will be established through further consultation, and there will be an agreed set of principles which will apply to everybody. But I emphasise that that will mean, I think, inevitably, that there are some people, in particular those people who are targets of investigations, who will not be indemnified, by anybody, because it would be a bizarre situation if you had a person on a corruption charge who is convicted of corruption who goes back to the council and says, 'What about paying the legal fees?'. That would be completely strange.

Mr PENGILLY: Which I guess is my point, chairman. I understand that. I have five councils in my electorate and I regularly get grumbles from the council or selected members, etc., that their legal costs are going through the roof. So, what I am simply trying to ensure—if somebody is guilty as charged, then it is a different case, but if a staff member or a council elected member is up before the body—is that the ratepayers are not further encumbered by rapidly raising legal costs with the council.

The Hon. J.R. RAU: Perhaps the best thing I can do, further to my earlier remarks, is to direct the honourable member to page 62 of the legislation, in particular, 78A which deals with the obtaining of legal advice, which is something I referred to a little while ago, and subsection (3) of that permits expressly: 'to allow for conditions to be imposed on an approval including a condition limiting the expenditure that may be incurred,' so it is entirely in the hands of the council community to sort out these things.

But I think that it would probably be the case that, if you had a situation where you as an elected member were told that you had been summonsed to turn up and speak to the commissioner, when the commissioner has subversive powers in relation to a matter, it would not be unreasonable for you to be able to get some advice from somebody before you went as to what you did and did not have to do. I think that would more likely be the nature and extent of any advice that would be sought.

So, we are certainly not talking here—and I want to make this clear—I do not anticipate that we are going to have witnesses before this commissioner sitting down there with a phalanx of lawyers. Witnesses may wish to ask for legal advice about where they stand, for example, 'Do I have to answer this sort of question? Do I not have to answer this sort of question?' much as they might before going before the Ombudsman, but that is it. So, I think that probably the best analogy you can find would be whatever happens with the Ombudsman, in as much as a person is not a target in relation to costs, is the sort of space we are in.

Mr PENGILLY: Thank you. You just reminded me that I have the Ombudsman coming in to see me.

Schedule passed.

Schedule 3.

Mrs REDMOND: I am trying to make this as easy as possible in terms of the order in which we do things, and obviously going through the different parts separately is probably the easiest way. I can indicate to the committee that I have a series of questions on clauses but no

amendments to move until clause 50 of Schedule 3, and then there is one question after that clause. The first question is at clause 13 of Schedule 3, so we can deal with the first 12.

The CHAIR: We will take the schedule as a whole.

Mrs REDMOND: In that case, Attorney, I will have to refer to you to the relevant parts and I will ask the questions. In schedule 3, clause 13, which deals with amendment of the Freedom of Information Act, it is clear that the example cited in the minister's speech on the introduction of the bill is for an indemnity scheme, for example, the Local Government Association Mutual Liability Scheme, and any potential future scheme, and that is to be captured. The question is: is the government aware that this provision captures the workers compensation scheme, which already has responsibilities to the WorkCover Ombudsman; the LGA's asset mutual scheme, which provides insurance for councils, assets and has no public interface; and the income protection scheme, which is for employees of local government; and is it the intention to capture all of these schemes as well?

The Hon. J.R. RAU: I apologise. I appear to be looking at the wrong page. What page number?

Mrs REDMOND: Page 55.

The Hon. J.R. RAU: Mine says to delete Police Complaints Authority and wherever occurring substitute Police Ombudsman. Am I looking at the wrong thing?

Mrs REDMOND: No, but that part as a whole deals with the Freedom of Information Act and so the amendment of the Freedom of Information Act.

The Hon. J.R. RAU: I am not sure I understand the question.

The ACTING CHAIR (Hon. M.J. Wright): Would you like the question repeated?

Mrs REDMOND: I think he understands the question; he is just not sure how it fits into the clause.

The Hon. J.R. RAU: I do not see how it is relevant to this. If I can see exactly what the question is directed at, I can—but it is—

The ACTING CHAIR (Hon. M.J. Wright): Page 55 of the bill, down the bottom.

Mrs REDMOND: I think the Attorney's dilemma is that the actual section, although it refers to amendment of the Freedom of Information Act, the question was more broadly based than the amendment gives rise to.

The Hon. J.R. RAU: Are we talking really about page 56, amendment 14? Is that what we are talking about?

Mrs REDMOND: Yes, I think that is probably the case, minister, that that is really where the reference would be. It comes under the same area of Freedom of Information Act amendment and, in essence, the question is in capturing the LGA's mutual liability scheme (that is an indemnity scheme) that provision captures apparently the workers compensation scheme, which already has responsibilities to the WorkCover Ombudsman, the LGA's asset mutual scheme, which provides insurance to the councils' assets, and the income protection scheme for the protection of employees of council.

The Hon. J.R. RAU: I believe the answer to that question is that the effect of this is to continue the exemption from the application of FOI that currently exists in relation to those matters.

Mrs REDMOND: Since it is not a matter of going them clause by clause, clause 31 of the schedule which is the part dealing with amendment of the Local Government Act, and the question is simply: could the minister outline his intentions to ensure the LGA is consulted on the preparation of the regulations?

The Hon. J.R. RAU: Yes, look, again, harkening back to the fact that the bill has been introduced without consultation with the LGA, the LGA has actually been in consultation with the Hon. Russell Wortley, along with local government in a broader sense, for some time as I understand it. There has been a discussion paper that has been circulated. It has been made clear to them personally by me, and I am sure repeatedly by minister Wortley, that the conversations about the code of conduct leading up to the preparation of the regulations would occur with the local government sector.

My understanding is that the closing time for submissions in relation to that code of conduct has either just been reached or is very shortly about to be reached and we will be moving as quickly as possible to get regulations drafted based on that consultation.

Mrs REDMOND: Before I ask a further question, can I seek an assurance that I am going to be able to ask all the questions because if I have to deal with the whole of the schedule on the normal basis—

The Hon. J.R. RAU: No, just keep going—subject to your ruling, Mr Acting Chair.

The ACTING CHAIR (Hon. M.J. Wright): No, I am happy with that. That is what I was going to say.

Mrs REDMOND: On clause 33, which is a little further down, and it inserts 78A on the obtaining of legal advice, does the minister consider that the scheme established under 78A is a scheme similar to that of the LGA's mutual liability scheme? Could the minister outline the likely types of legal advice that an elected member may wish to obtain in regard to that legal advice?

The Hon. J.R. RAU: Whether or not it is similar to the mutual liability scheme I do not think I am equipped to answer, but I can indicate exactly what sort of things were in contemplation when this provision was being prepared. Let's say, for example, that there is a circumstance where hypothetically the CE of a particular council had a falling out with some or all of the elected members, and the CE decided that the CE would use their position to be able to instruct lawyers so as to secure advice advantageous to the CE with which they could intimidate and threaten the elected members into doing things that they did not believe were appropriate, or did not wish to do, in their capacity as elected people on the council.

This would enable those elected members to have the capacity to go off to a lawyer, within reasonable bounds, and get their own independent advice because they could be being bamboozled by fancy-sounding legal terms or, in effect, the CE who is holding all the cards and they hold none. Obviously, that would be unsatisfactory and it would be contrary to the proper functioning of the council that those people could not obtain that advice so as to make a decision about what they should be doing.

There may be other circumstances where a member of council, or a clique within council, is being supported by the CE and, every time they want something, they get favourable advice but the people either have to go off and spend their own money or they can whistle. Again, within reasonable bounds—and I emphasise 'reasonable bounds'—and within an agreed set of parameters, those people should be entitled to obtain enough advice to enable them to discharge their function properly as an elected member.

Mrs REDMOND: That leads me on to the next question, which relates to clause 37, at page 63. What happens at that clause is that a couple of new clauses are inserted. In particular, I want to refer the Attorney to the insertion of new section 263B. In order to ask the question, I think I need to go quickly through what that inserts. It states:

> The recommendations that may be made by the Ombudsman under the Ombudsman Act...on the completion of an investigation of the complaint include that the council—
>
> (a) reprimand the member (including by means of a public statement); or
>
> (b) require the member to attend a specified course of training or instruction, to issue an apology in a particular form or to take other steps; or
>
> (c) require the member to reimburse the council a specified amount; or
>
> (d) ensure that a complaint is lodged against the member in the District Court.

If the member fails to comply with that, the member will be taken to a fail to comply with chapter 5 part 4 and the council is to ensure that the complaint is lodged against a member in the District Court.

Can the minister outline why it is considered more appropriate for a council to impose penalties recommended by the Ombudsman, rather than the Ombudsman simply imposing the penalties himself and then seek the court's enforcement? Why not just delete the council from it? If the Ombudsman has done the investigation, why does the Ombudsman not simply impose the penalty and, if it is not imposed, they go to the court, rather than going via the section under which the council have to do what the Ombudsman has told them to do and, if the person fails to respond to their direction, it is the council's responsibility to take it to the District Court?

The Hon. J.R. RAU: I thank the leader for her question, and I think it is a very good question. I am looking over here to be corrected by people wiser on this topic than I am, but I think there are a couple of points to be made. The first one is that it is inconsistent with the general spread of the functions of the Ombudsman for the Ombudsman to be imposing any sort of penalty as such on anybody. I am not sure that the constitutional problems that apply at a national level apply at state level; nonetheless, it is inconsistent with the functioning of an Ombudsman, and it would be anomalous within the context of the other responsibilities the Ombudsman has for the Ombudsman in this particular circumstance to be imposing a penalty.

Second, the Ombudsman has no capacity to enforce a penalty because the Ombudsman cannot make court orders or anything of that sort, not being a court. They are two issues. The third issue is that I think it probably needs to be borne in mind that at least (a), (b) and (c) of that description in new section 263B are, in the scheme of things, at the more minor end of misbehaviour, bad conduct or something. It was considered that it would be more helpful for that to be dealt with in-house, if possible, rather than being put elsewhere.

I think, from our point of view, it was not so much that we did not really have the choice of saying, 'Well, will the Ombudsman deal with these bits and, if not, it goes to court?' It was more a matter of, 'To be consistent with the other things that the Ombudsman does, the Ombudsman should not really be dealing with any of them in terms of enforcement or that sort of obligation.' Of course, the council could ignore the Ombudsman, and what happens then? I think distilling all that down, the main point is that the Ombudsman is an investigating person who makes reports, not a determiner of facts and imposer of penalties, or whatever.

Mrs REDMOND: I thank the Attorney for the answer, but I guess that the problem then is that neither is the council a determining authority which imposes penalties, and so on. The problem becomes: what if you have an elected member who does not enjoy a favourable relationship with their fellow elected members, or if there is some impediment by which the council may decide either to proceed or not proceed?

It seems to me that it may be an area where we need to give further consideration, because, whilst I accept the Attorney's statement that these are at the more minor end, I would question a power to require a member to reimburse to a council a specified amount of money—I frankly cannot imagine that having happened when I was an elected member of council many years ago—or being directed by the council to attend a course on how to be a good member of local government (and the LGA used to run excellent courses on that) or, equally anger management classes, or whatever it might be.

I think that they are quite compelling sections, but it does seem a little odd still to me that you have a situation where the Ombudsman makes a finding and directs that the council direct, and then says, 'Well, if the person still hasn't responded, we're directing you to then file a complaint.' That still seems not only cumbersome but also could potentially lead to some unfair outcomes if councillors are not necessarily singing from the same song sheet as their other fellow councillors, but I will leave the comment at that.

The Hon. J.R. RAU: I understand the points being made. Can I just say very briefly in response that, under the Local Government Act, council is defined as the whole lot, not just the elected body. The elected body is part of the unit called 'council'. If you look at it from that point of view it is an internal issue in the sense that council as defined in the act has been the subject of a review. The review has determined that there has been conduct that is unsatisfactory for whatever reason, and the recommendation is given to council by the Ombudsman, 'You sort out what's going on inside your outfit.' All that means then practically is that the council, upon receipt of the Ombudsman's recommendation, which might be, for example, a reprimand, is simply that the CE would say, 'Look, you are reprimanded pursuant to the recommendation of the Ombudsman.' Full stop, end of story, easily done.

If the Ombudsman recommended that you go off and do a course about how to be a bit more polite to people at meetings, then there would be that recommendation and that would be all. In the end, if the member refused, which the member might, then the remedy lies within the District Court where you can get enforceable orders. The council is not being cast in the role of enforcing: the council is fully being cast in the role of transmitting, in effect, the recommendation to the member and then taking responsibility if the member fails to comply with the transmitted recommendation of notifying the District Court that they have failed to comply.

Mrs REDMOND: I have two more questions on the schedule and I think that, since I am at large on schedule 3, I will ask all the questions and then move the amendments. My question relates to clause 43, which is under part 13—Amendment of Ombudsman Act. We have already had a bit of discussion about that, of course, and the Attorney has indicated a willingness to have a look at the first schedule as to whether they are completely captured. The question is really based on the fact that the government appears to intend at least to include the LGA, and I can understand that there are arguments in favour of that given that they are financed out of, effectively, ratepayers' money, and so on.

I can understand that, but it then, because of that, would capture the mutual liability scheme that they administer. The difficulty then becomes councils are not required to use that mutual liability scheme and they can go to seek insurance in the private sector. The question obviously becomes: it is still the same public money, if that is your argument for including the LGA, and if they are going to then go outside to the private sector, to what extent is it the intention of the act to capture the private sector insurance within the ambit of the act?

The Hon. J.R. RAU: There is none. I think it is important to remember that the mutual liability scheme is a scheme, in effect, administered and controlled—and, might I say, to the best of my knowledge, quite well—by the LGA, which is itself a creature of statute. If some of the other creatures of that statute, namely, council X, Y or Z, decide to opt out (if, indeed, they are capable of doing that, and I am not sure if they are but if the leader says they are that may be the case, but let us assume they can) of the mutual liability scheme in order to obtain their insurance cover, which I think probably would be unlikely but possible, they would then be dealing with a completely private sector body and the same concern about the administration of the fund would not apply, nor would the coverage.

Mrs REDMOND: I have one more question before I go on to moving the amendment standing in my name and that relates to clause 60. I think the Attorney-General may well have to take it on notice. The question is: in which other states do the equivalents of the Public Finance and Audit Act apply to organisations such as the LGA mutual liability scheme?

The Hon. J.R. RAU: I think you are correct: I will have to take it on notice. Can I say, in general terms, the principles are reasonably clear. We have a creature of statute, we have a statutory scheme, the scheme has implications for ratepayers and state taxpayers and, potentially, the state Treasury and, in those circumstances, it is not, in a sense, an independent fund and, therefore, in principle, I do not see why there should be any objection to that; but I will take the question on notice.

The ACTING CHAIR (Hon. M.J. Wright): Before the leader moves her first amendment, it is my understanding that some of these are consequential.

Mrs REDMOND: I thought of that, Mr Acting Chairman, and I can tell you what they are. I can indicate that, in moving amendment No. 1, and I will speak to it, if that falls (which I have a suspicion it could do), we will then have dealt with Nos 1, 2, 8, 9 and 11. Maybe I will just go through them as we get to them, but those five are all connected so I will speak to the one, if I may.

The ACTING CHAIR (Hon. M.J. Wright): Yes, please. You are in order.

Mrs REDMOND: I move:

Clause 50, page 69, line 7 [Schedule 3, clause 50, inserted Part 5F hearing]—Delete 'Policy'

The amendments that I will be moving propose to enhance the committee which is proposed. This section deals with the Parliamentary Conduct Committee, and we are trying to come to some, we think, better position and we are trying to do it so that it is more than just a book club for reading the reports commissioned by the Police Act, the Serious and Organised Crime (Control) Act, the Serious and Organised Crime (Unexplained Wealth) Act, and the ICAC Commissioner, the Police Commissioner and the Police Ombudsman reports. The amendments will significantly expand the scope of the committee and ensure that it can truly exercise effective oversight of the ICAC.

The particular amendment that I have moved is the first of five amendments that proposes to remove the word 'Policy' from the name of the Crime and Corruption Policy Review Committee, so it will just be the Crime and Corruption Review Committee. The reason for this is not simply superficial. As the Liberal opposition has raised previously, both in this place and in the media, we recognise the need for strong, effective oversight and, indeed, it was part of what we had planned in the original bill that I introduced.

At the time the recent organised crime bills were being debated, the opposition proposed amendments to one of the bills to create an oversight committee to monitor the use and effectiveness of those particular laws. Being an advocate of efficiency, the opposition proposed that the same committee that would oversee the organised crime laws could also oversee the ICAC. In the midst of the debate, the Attorney-General requested that we withdraw our amendments dealing with the parliamentary committee to that bill so that they could be considered through the ICAC Bill. I see that the Attorney is nodding his acknowledgement that that was indeed the conversation that occurred.

However, the committee proposed by the Attorney-General is basically limited to considering annual reports. We consider that that is not really oversight and that it is warranted of draconian organised crime laws and significant new anticorruption powers. In our view, by removing the word 'Policy'—and, of course, it is part of a package—what we hope to do is actually make this committee a broader committee so that it can look into more than simply the annual reports of those organisations. What we are wanting, simply, is more accountability. As I said, the Attorney did previously indicate that he wanted us to withdraw our amendments under the serious and organised crime legislation on the basis that it could be reconsidered through the ICAC Bill. If the Attorney is not minded to agree with us today, I would invite his further consideration of this proposition between the houses.

The Hon. J.R. RAU: I am grateful to the leader for her indication about this. I think I substantially understand what all the amendments are seeking to do. Quite frankly, there are some issues there and I will be very brief about this, because this is not a matter that I have been able to reflect on at any great length. My quick reading of it suggests that, firstly, it goes from being a joint house committee based in the House of Assembly to being a joint house committee of equal numbers based in the Legislative Council. Secondly, the scope of the committee's operating purview is substantially changed.

Thirdly, the two provisions in the existing clauses, which are subclauses (2) and (3), which, in effect, prevent that committee becoming the leaking point for all the information we are trying to keep confidential through every other means, as I understand it, are being deleted. On the way it is framed at present, we have gone to this elaborate exercise of protecting the information, for very good reasons, because we do not want people slandered or ridiculed in public on the basis that they might have merely been called as a witness, yet the provisions in the existing bill which stop the committee going off and doing exactly that—under privilege mind you as well, even worse—have been removed. I think that is a serious concern. We might as well ignore all the rest of the provisions here.

I will have discussions with the leader over the weeks to come about this, but on my first reading of it I think we risk setting up a kangaroo court, armed with parliamentary privilege, and unable to be quarantined from rummaging through anything it wants that the commission might hold. That would be extremely dangerous for everybody concerned, and goes way beyond what any responsible person would consider to be oversight.

I may have misread that, and if I have I am happy to be persuaded that I have, but I am very concerned. We need to talk about the detail, but the big picture is that the removal of subclauses (2) and (3) raises a very serious question as to whether this might turn into a monster.

Amendment negatived.

Mrs REDMOND: I am not proceeding with amendment No. 2. I move:

Clause 50, page 69, line 14 [Schedule 3, clause 50, inserted section 15Q(1)]—Delete '7' and substitute '6'

The ACTING CHAIR (Hon. M.J. Wright): Do you agree that amendment No. 4 is consequential to amendment No. 3?

Mrs REDMOND: Yes, I agree that amendment No. 4 is consequential to amendment No. 3. We have now dealt with amendments Nos 1, 2, 8, 9 and 11 and we will now deal with amendments Nos 3 and 4.

The ACTING CHAIR (Hon. M.J. Wright): Yes.

Mrs REDMOND: This amendment which is simply to delete 7 and substitute 6 seeks to reduce the overall number of members appointed to the committee so that, as the consequential amendment proposes, each house of parliament has equal representation. The problem—and I would invite the Attorney to consider this because one day the Attorney will be in opposition instead

of in government—is that the committees proposed are at the moment entirely government dominated and we think that in fact you get more openness and accountability if you can say, 'This isn't dominated by either side.' In our view the reality is that government dominance will always ensure a predetermined outcome.

Under joint standing orders the Presiding Officer has both a deliberative and a casting vote so government dominance will be unequivocal. This committee is proposed to inquire into reports of government departments and government appointments. As it stands, that means the government is investigating the government because the government is going to dominate that committee and the government is the people who are making the appointment. As the government in waiting we are proposing standards that, basically, we are prepared to stand by and that is that there be much more equal representation on the committee. Our argument is simply that for the sake of openness, accountability and transparency in our view it is appropriate to have an equal number of people on that committee.

The Hon. J.R. RAU: I understand the leader's point. What they are doing is creating places for three people from each chamber. Pro rata I think that is a bit out of whack, we should have five from here and two or three from there, but never mind. I understand that point but not only are we having three from each chamber but we are saying the chair must come from the other place and, as the leader quite rightly points out, the chair would have a deliberative and a casting vote.

So it is an upper house controlled committee. I take the leader's point; that in and of itself is not necessarily a problem to me, but what it does—there has to be a trade-off and a balance struck between the autonomy of the government of the day (which I understand is the point that the leader is making) on the one hand and what the committee's powers might be, particularly when they become intrusive and might conceivably involve witch-hunts being conducted, perversely, against the leaders concerned. An opposition in control of this committee might decide that they are going to start rummaging through all the records held by the ICAC and ask questions like, 'Has this member of the government been before the committee? What were they there for?'

Mrs Redmond interjecting:

The Hon. J.R. RAU: Indeed; all under privilege, with absolutely no recourse for anybody. It is sort of like the threat to civil liberties or the protection of people's rights and privacy that would be posed by having public hearings. If you reckon that is a problem—and I think we all do and we have all basically embraced the idea of closing this thing to the public until there is a prosecution—you are raising it to the power of 100 by allowing a parliamentary committee, with the protection of privilege, to be able to rummage through there and do as it likes. That, I think, is a problem.

We will have further talks about this. I do not want to waste the committee's time arguing it in any detail. I certainly understand what the leader is trying to do and, as I said, I am not dismissing it as being without merit but I do think we need to get some perspective here as to what the consequences might be if there are not appropriate constraints on what that committee can do.

Amendment negatived.

Mrs REDMOND: I move:

Clause 50, page 69, after line 24 [Schedule 3, clause 50, inserted section 15Q]—After subsection (1) insert:

(1a) A minister of the Crown is not eligible for appointment to the Committee.

The amendment basically proposes that ministers should not be eligible for appointment to the committee, and that is consistent with the membership restrictions for numerous other committees of the parliament. The Economic and Finance Committee, the Environment, Resources and Development Committee, the Legislative Review Committee, the Public Works Committee, the Social Development Committee, and the one I referred to earlier, the Statutory Authorities Review Committee, all have that restriction that ministers are not members.

Under section 19 of the Parliamentary Committees Act, a committee may make a recommendation to its appointing house. If the report contains a recommendation it has to be referred to the minister responsible, so, for obvious reasons, you do not then have the minister on that committee. This scope of the committee is such that it could consider a wide range of matters across any portfolio, so we believe that this is a logical reform, and I would invite the minister to seriously consider it.

The Hon. J.R. RAU: Can I say to the Leader of the Opposition: this will not stop us coming to an agreement.

Amendment negatived.

The ACTING CHAIR (Hon. M.J. Wright): I will just check with the leader: No. 7 is consequential to 6?

Mrs REDMOND: Correct. I move:

Clause 50, page 69, lines 27 and 28 [Schedule 3, clause 50, inserted section 15Q[3]—Delete 'House of Assembly' and substitute 'Legislative Council'

Amendment No. 6 basically substitutes 'Legislative Council'. I have a sneaking suspicion of how the Attorney might feel about this, but it would require the presiding officer of the committee to be elected from the appointed members of the Legislative Council. Again, it is about ensuring that the committee is one step removed from the government and can provide effective oversight on the matters within its scope. I expect that the Attorney will repeat the comments; he could just insert them.

The Hon. J.R. RAU: I do.

Amendment negatived.

Mrs REDMOND: I move:

Clause 50, page 70, lines 9 to 13 [Schedule 3, clause 50, inserted section 15R(1)(b) and (c)]—Delete paragraphs (b) and (c) and substitute:

(b) to inquire into and consider, as the Committee thinks fit—

(i) the exercise by the Independent Commissioner Against Corruption and the Office for Public Integrity of their functions; and

(ii) the administration and operation of the relevant legislation, including—

(A) the effectiveness and adequacy of the relevant legislation at achieving its objects; and

(B) the impact of the relevant legislation on persons who are not involved in corruption, misconduct or maladministration in public administration or organised crime; and

(C) the impact of judicial decisions in relation to the relevant legislation; and

(iii) trends and changes in corruption, misconduct and maladministration in public administration and organised crime; and

(iv) practices and methods relating to identifying and dealing with corruption, misconduct and maladministration in public administration and organised crime; and

(c) to report to both Houses on changes that the Committee considers should be made to relevant legislation or to the structure or procedures of law enforcement authorities or any other matter arising in the course of the performance of the Committee's functions that the Committee thinks should be drawn to the attention of both Houses; and

(d) to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

This amendment No. 10 is slightly larger. As I previously raised, the government has designed the committee to be a bit of a book club reading the annual reports of the agencies. We think that true oversight requires more than this, so we have substituted new paragraphs (b) and (c) into the bill and then added various details.

We want oversight of the organised crime laws and related matters. What we are proposing here is that the committee has more latitude than simply what is being reported from events that have passed. The committee should quite rightly have the ability to consider organised crime and corruption more broadly and, indeed, make recommendations about that. It needs to be able to consider the effectiveness of current laws, to investigate possible legislative reform, monitor trends in organised crime and corruption, and make recommendations. It should also oversee the actions taken by the Independent Commissioner Against Corruption and the Office of Public Integrity.

It should oversee the impact on law-abiding South Australians who might inadvertently be caught up in broad ranging powers proposed in both the organised crime legislation and the ICAC proposal. Although I have already heard what the Attorney-General is likely to respond to this, I would urge him to consider that there should be some capacity in that committee to at least do those things that I was just talking about. Obviously I am very supportive of the ICAC, but if it turns out that we do see innocent parties being caught up in it and damaged by it, who better to look at how that has happened and what legislative reform might be necessary to prevent that from happening again than this committee, the parliamentary oversight committee?

Even if he is not minded to go as far as we are in terms of just what he thinks would be a star chamber, I think that there is merit in the Attorney considering that there could be some capacity in this committee not just to look at the specific reports of the specific agencies but to look at the whole system in the broad and analyse whether there are problems with its operation and make recommendations as to how those problems might best be addressed. After all, if we see it in the chamber we are likely to set up a select committee to do that, and it would make sense that the people who are looking at it all the time would be the appropriate ones.

The Hon. J.R. RAU: I am more than happy to have a look at it. I genuinely would like to have further discussions with the leader about these matters between the houses. If the function of the committee was limited to finding people who might be oppressed by misbehaviour by the commissioner—and let's hope that would never occur—and if that is all they did that would be one thing. The trouble is, I fear, to create a committee capable of doing that would also create a committee capable of doing other far more destructive things which would include, perhaps, scapegoating people, etc., as I mentioned before, all out of privilege. Please, let's talk about it, but not today.

Amendment negatived.

Mrs REDMOND: I move:

Clause 50, page 70, lines 20 to 22 [Schedule 3, clause 50, inserted section 15R(2)(c)]—Delete paragraph (c)

Amendment No. 12 simply seeks to remove the proposed section 15R(2)(c) which provides that the committee cannot report on the performance of the functions of the Independent Commissioner Against Corruption, the South Australia Police or the Police Ombudsman, and consistent with what we have already been discussing, the opposition considers that the committee should be looking at the effectiveness of the integrity network. The amendment basically supports that focus by allowing the committee to report on the performance of the function of the key agencies.

The Hon. J.R. RAU: I think I have said enough on that topic.

Amendment negatived.

Mrs REDMOND: I move:

Clause 50, page 70, lines 23 to 29 [Schedule 3, clause 50, inserted section 15R(3)]—Delete subsection (3)

This amendment proposes the deletion of that subsection because it restricts the information which the commissioner can provide to the committee, and clearly the same arguments which we have already been putting and to which the Attorney-General has already been responding apply to this. We appreciate that the commissioner would want to be cautious in the provision of sensitive information to the committee but we would be happy to leave that to the commissioner's discretion.

At the moment, the bill as it stands prohibits the commissioner from providing any information to the committee unless the commissioner could otherwise make a public statement, and that seems to us to be a too narrow discretion for the commissioner. So, again, I invite the Attorney to consider whether there is a way to grant that slightly increased discretion, even if he is not prepared to come all the way to what we are asking for.

Amendment negatived.

Mrs REDMOND: I move:

Clause 50, page 70, after line 29 [Schedule 3, clause 50, inserted section 15R]—After subsection (3) insert:

(4) In this section—

relevant legislation means—

(a) the *Serious and Organised Crime (Control) Act 2008*; or

(b) the *Serious and Organised Crime (Unexplained Wealth) Act 2009*; or

(c) the *Independent Commissioner Against Corruption Act 2012*; or

(d) other legislation dealing with, affecting or otherwise aimed at preventing corruption, misconduct or maladministration in public administration or organised crime.

Again, it is almost consequential but not quite—it goes along the same theme. We are seeking to put in a new subsection to define 'relevant organisations' so that the committee is enhanced by being able to consider relevant legislation of the Serious and Organised Crime (Control) Act, the Serious and Organised Crime (Unexplained Wealth) Act, or the Independent Commissioner Against Corruption Act, or any other legislation dealing with, affecting or otherwise aimed at preventing corruption, misconduct or maladministration in public administration or organised crime. Really, its only purpose is to expand the scope of the committee in accordance with what we have already said, and I anticipate what the Attorney-General's response is likely to be.

Amendment negatived; schedule passed.

Title passed.

Bill reported with amendment.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:35): I move:

That this bill be now read a third time.

In doing so, I thank very much the Leader of the Opposition for her very thoughtful remarks about the matter, and indeed the members for Davenport and Waite. The member for Bragg spent a lot of time bashing me up, so I can't thank her very much for what she did, but I do thank the other two. All of the matters that we have canvassed in the parliament today I have indicated should be the subject of further discussion, and that is a genuine invitation. I invite, in particular, the Leader of the Opposition, the members for Waite and Davenport perhaps to reduce down to some written form basically the points that they wish to discuss further—and we will obviously have a look at the *Hansard* as well.

Mrs Redmond interjecting:

The Hon. J.R. RAU: Yes, but if we got some sort of agenda we can talk around. I think they were good points that were made and, quite frankly, if we get a better bill because of those discussions, that is fine. I know the members opposite have spent a lot of time thinking about this. I have spent a lot of time thinking about it; in fact, I have lived this thing for the last 18 months.

Mrs Redmond: Only 18 months? I've lived it for five years.

The Hon. J.R. RAU: Well, look, we have all spent a lot of time and had a lot of effort gone into this one way or another, and I thank all the speakers for their contributions.

Bill read a third time and passed.

TELECOMMUNICATIONS (INTERCEPTION) BILL

Adjourned debate on second reading.

(Continued from 3 May 2012.)

Mrs REDMOND (Heysen—Leader of the Opposition) (16:38): I indicate that I am the lead speaker on this Telecommunications (Interception) Bill which, as has been mentioned, is really consequential to the ICAC Bill that we have just passed. Our ICAC bill that I introduced some years ago anticipated the need for covert surveillance. Indeed, I think I mentioned in my second reading speech the fact that the now famous Wollongong council investigation had covert surveillance going on for some 18 months and so we recognise the need for the covert surveillance and the need for the Telecommunications (Interception and Access) Act to be complied with.

I thought I would briefly run through it for the sake of having it on the record and for the comfort of those people who may be concerned about the fact that an ICAC will have these powers so that we understand specifically what goes on. It works in this way. The specific legislation is under commonwealth control—that is, the Telecommunications (Interception and Access) Act 1979. I have not printed out the whole thing because it is 257 pages long. It is a very comprehensive act. It starts from the proposition that it is unlawful to intercept communication

passing over a telecommunications system. That is the fundamental position of the law: it is unlawful to tap someone's phone.

Then the act sets out circumstances that are exempted from that act in the sense that they are allowed to do the phone taps and so on. There are certain things which are obviously exempt—the installation and maintenance, where it is authorised for network protection of a computer network to identify or trace a person who has contravened a provision of the criminal code and so on, or if it is authorised under the act by the minister.

Under section 34 of the commonwealth act, the commonwealth minister may, at the request of a premier of a state, declare an eligible authority of that state to be an agency under the commonwealth act, and that will then entitle them to make application for warrants and all that sort of thing. That is where the provision comes in. I know that we have to get this legislation passed, but we cannot, in fact, begin to operate under it until we have made an application—and it has to be the Premier, under this act, who makes the application—to the commonwealth to get the authority of the federal minister to be an agency under the act.

The federal minister can make that declaration only if he is satisfied as to these things. First, that the chief officer of the agency and, in this case, it is the ICAC. The bill deals for us with SAPOL and ICAC, but that is because we already had these powers in place for SAPOL and it is just being updated as far as they are concerned—we are bringing it into the modern usage. They have the powers already, so I will just talk about the ICAC aspect of it.

The chief officer of the agency (that is, the ICAC commissioner) has to promise and agree to comply with sections 80 and 81, which have to do with having to keep documents regarding the issue of the warrants and other records regarding interceptions. The chief officer (in our case, the ICAC commissioner) has to give the relevant state minister (the Attorney-General) a written report within three months of any warrant as to the use made of the warrant and the communication of such information to persons other than officers of the authority. There has to be a report in fairly short order from the commissioner to the Attorney-General about any warrants that are issued and what has been done with them.

In addition to that, there also has to be an annual report to the minister, and then a copy of that report (that is, the report for the state minister by the ICAC commissioner) has to then be passed to the federal minister. There is also a requirement to keep the records in a safe place, to destroy them forthwith if they are not to be used for a permitted purpose. There are requirements requiring regular inspections by a separate independent authority of those records to ensure that there has been compliance with that provision and to ensure that persons exercising authority regarding the granting of a warrant cannot be the same persons as those who are inspecting those records.

Finally, there has to be an agreement that the state will require the state authority that inspects the records to also report to the Attorney-General, including reporting contraventions, and a copy of all of that has to go to the federal minister. There is a far bit of detail in all of the reporting mechanisms to seek to ensure and then inspect the assurance that there will not be misuse of telephone taps and other communications that are intercepted.

The act then sets out the mechanics of how an application for a warrant to intercept communications is to be made. I will quickly refer to the relevant section of the documents, and I think it is in section 39. An agency can apply for a warrant, but it has to be an eligible agency and they have to apply to an eligible judge or a nominated Administrative Appeals Tribunal (AAT) member, and often the nominated member, I suspect, is going to be the judge who constitutes an Administrative Appeals Tribunal.

In the case of a police force of a state, an officer of the police force could be an eligible person. That could be someone who makes an application on behalf of the agency—in that case, SAPOL obviously. Section 39 goes on to say:

> ...in the case of the Independent Commissioner Against Corruption, an officer of that commission;...

But when you read on, it becomes obvious that they are talking about the Independent Commission Against Corruption, and they actually mean the New South Wales one, because that is the only one that has that name. When you read on further, they also refer to other people, such as in the case of the Crime and Misconduct Commission, a person from there and, in the case of the Corruption and Crime Commission, a person from there. Clearly we need to get ourselves as the South Australian Independent Commission Against Corruption inserted into the provisions of that

part of the legislation, and that means an amendment, I think, to the federal legislation as well as the application that needs to be made.

There are then, obviously, further provisions allowing for urgent or telephone applications and there are also provisions allowing for the revocation of warrants. If a warrant was issued and it was decided by whoever had issued it that it had been issued inappropriately or they came to the view that it was being misused, they could revoke the warrant. Those sorts of things are fairly standard—the form and content of the applications and the fact that you need to have an affidavit. That is a pretty straightforward form but an affidavit goes with it setting out the basis upon which you say it is warranted.

I am going through these things, as I said, to comfort those who may be concerned about their misuse because there is provision in this legislation regarding unlawful interception of communications or misuse of lawful interception of communications. Basically the act sets out that you can take one of two paths: you can take a civil action yourself, or, if there is a criminal action brought against someone for breach of their obligations under the act and they are convicted, then you can ask a court to provide you with a remedy, and that could be injunctive relief, it could be a monetary amount, but interestingly it could also be punitive damages.

There is provision that, if there is a misuse and someone is aggrieved by a misuse of the interception, then there could be punitive damages ordered in. For those who are not familiar with the term, punitive damages are awarded by a court. Basically it comes from the same word as 'punish'. There are excessively high damages, usually to punish the perpetrator of the wrong, who is being made to pay.

The bill now before us is to allow two agencies—as I said, South Australia Police and the ICAC—to be declared as agencies under the commonwealth act and thus authorised to apply for warrants under that act. The first point to note is that the authorisation to undertake covert surveillance is not just at large but is specific to individual applications for warrants and subject to all checks and balances which I have detailed and which are set out in the commonwealth legislation.

As a consequence, our state bill is only seven clauses long. It is quite a simple bill and it is largely concerned with ensuring that it states the necessary obligations that the commonwealth act requires it to address. The obligations, for instance, of the chief officer relating to records (which are the ones required by sections 80 and 81 of the commonwealth act) are imposed by clauses 3 and 4 of the bill within the state parliament that is before us now.

The bill details the requirements for inspecting the records. That must be done by the review agency. In the case of South Australia Police, the review agency is under our bill called the Police Ombudsman but that is, in fact, a renaming of the Police Complaints Authority. There will therefore be consequential matters, but the Police Complaints Authority becomes the Police Ombudsman and that becomes the agency that can actually inspect the records regarding covert surveillance in this state, and that is as per the requirement of the commonwealth legislation.

In the case of the ICAC, no-one has been appointed yet but the idea is that an independent person will be appointed by the Governor to do that inspection. Obviously it must be done in the time frame. I have one question, Attorney, on this bill as it comes before us. The bill seems to provide that, in terms of that reporting structure, if there has been noncompliance in the course of the reporting, it says that the person reporting may include details of the noncompliance, and I question why it is only 'may'.

I do not understand why it would not be 'must' include details of the noncompliance, given the seriousness—and I take telephone intercepts very seriously. If you are going to allow telephone intercepts—and I am not suggesting that this does not comply with the federal act—if the person who is going to review the interceptions finds that there has been noncompliance, it seems to me that it would make more sense to say if that person finds noncompliance they must report it.

Certainly, there is then an obligation that they must hand on their report. The report has to go further on. If they decide to include the noncompliance, then they have to notify the chief person of the agency (in our case, the commissioner) of their intention to include a note about the noncompliance and they have to allow the commissioner to then respond to that and include the commissioner's response in the document that goes forward by way of report. What I do not understand is: if there is noncompliance, why would you not make it obligatory to report it?

I can anticipate that the Attorney might say, 'It might be something really just technical and non important,' but it would seem to me to be better to say, 'Okay, you still have to report it and you can say in your report, "I consider this to be technical and not important",' rather than simply leaving it in the discretion of that person if we want openness and accountability. I do not want to go into committee, obviously, on this bill but the Attorney may care to respond to that in his response to my comments. I was puzzled by that and would like a response on that.

The powers of the review agency, which are set out in clause 5, allow for that review agency to enter premises at a reasonable time, gain full and free access to records at a reasonable time, make copies of documents and take extracts of documents, and, indeed, require the handover of information in an officer's possession or to which an officer has access. They can also require an officer to give information in writing and they can require an officer to attend to answer questions. Indeed, it then goes on to provide that a person (that is, an officer of the Independent Commission Against Corruption) is not excused from answering a question or giving access to a document on the ground that it would contravene a law, on the ground that it would be contrary to public interest, or on the ground that it might tend to incriminate them or make them liable to a penalty.

So, clearly, there is a fairly comprehensive power of coercion resting with this review authority which, on the one hand, will give comfort to many people to know that the review authority can compel officers not to do anything. There is a penalty of up to $5,000 and up to one year imprisonment if an officer fails or refuses without reasonable excuse to comply with the requirement that is imposed by the review authority in relation to these records, and so on. Indeed, there is a similar penalty for hindering or giving false or misleading information.

One other thing the Attorney might comment on is the definition of 'hindering', which I would take to be broad enough to include if an officer, for instance, deleted records, or something like that, before actually being asked to provide them. I can see some difficulties with enforcement in some circumstances but I will trust that the people who are working at the ICAC will actually be good people who are well-intentioned.

Possibly more important is the penalty in this legislation for misusing information that has been obtained. This is the information obtained under a telephone tap or some other lawful interception but, if someone gets that information—an officer of the ICAC, for instance—and misuses it, then the penalty for that is up to $10,000, in monetary penalty, and imprisonment for two years. I do have a bit of a question about that, too, because, for an individual, that is a significant penalty.

I do not know whether anyone else has been watching the Leveson inquiry in the UK—I am sure some of you have. The whole origin of that inquiry has been that certain newspapers, which have lots and lots of money, have been paying off people to access information that they should not lawfully, I assume, have had access to. I have not looked at the British legislation, but I assume that they would not lawfully have had access to the telephone-intercepted information that they obtained, but they did get it.

It seems to me that the problem, potentially, with a penalty of $10,000 and up to two years' imprisonment may well be that, if someone is offered $100,000 or even more, and you lose 10 per cent of it by way of the penalty, then it is not much of a disincentive. However, what if you cannot get to an individual but it is a corporate thing? I suspect that it might be a good idea to at least think about putting into our legislation some heavier penalty, which we have in other cases. A lot of our environmental law, for instance, says, 'If you are an individual, this is the maximum penalty. If you are a corporation, then a lot more than that is the maximum penalty.'

I would suggest to the minister that he might consider putting a similar provision in here, simply because I can see that there could be some difficulty. I am not proposing to move an amendment and I do not propose that I am the font of all wisdom on this, but I do highlight the Leveson inquiry at the moment and the fact that people can be tempted. I would think there is a relatively outside chance of actual imprisonment for this type of offence, but the fact is that there might not be enough of a disincentive, given the money that could be around, if people are minded to illegally use information that they have obtained.

I think I have just about concluded my comments on this particular bill. As I said, my main aim was to make sure that people understood that we were not just giving this ICAC unlimited powers to go around tapping people's phones without need. This bill in this state has to comply with the federal legislation, which has a lot of checks and balances. Once a warrant is given, there

are checks and balances post the issue of the warrant. I would suggest that we have probably put in place a fair number of safeguards against the misuse of telephone intercepts and other sorts of electronic communication intercepts. I conclude my remarks with those comments.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (16:57): I thank the Leader of the Opposition for her remarks in relation to this matter. There are a couple of things I should probably mention here in this context. Firstly, the process that the Leader of the Opposition referred to whereby the Premier writes to the commonwealth Attorney and so forth is in train, and we have been laying the groundwork for that for some considerable period of time now. I think that is well in train, so that is good.

Secondly, I take on board the remarks that were made about particular sections. In particular, there was the use of the word 'may' in clause 5(2). I understand the point that is being made. To my way of thinking, unless it is terribly burdensome, one can understand why 'must' would be a reasonable word. I think the position I am in presently is this: I am advised that these state pieces of legislation, which are complementary to the federal legislation, are by and large almost a template, so there is a certain consistency amongst them. The extent to which we depart from that might invite some issues with the commonwealth.

However, I undertake that I will have a look at the matters that have been raised. I have a note of that: clause 5(2) with the word 'may' and clause 5(11) with reference to the word 'hinder'. Again, I think that is okay. I do understand the point made about clause 5(13), which is the penalties, but I do not think it is useful for me to say anything more. I am confident that, if the bill passes in this form, the commonwealth will think it is okay. So, if the bill passes in this form and the commonwealth thinks it is okay, we have a functional capacity ready for the ICAC. My inclination is to leave it as it is but I note the comments made by the leader.

I am about to finish because I do not want to take up anyone's time any further on this, but I would like to say to the Leader of the Opposition that it is refreshing to deal in this chamber with issues of substance relating to legislation from my portfolio. It has been a source of frustration, I think, that we do not have the engagement in this chamber that might help to resolve things more quickly. For better or for worse the Hon. Stephen Wade does not join us here but—

Mrs Redmond interjecting:

The Hon. J.R. RAU: Yes. Aside from the fact that she is always cruel to me, that is okay. The thing is that she does not normally have anything to offer us in terms of amendments here so I want to put on the record that it is refreshing from my point of view that the Leader of the Opposition is here and she is putting particular amendments on the record. That means I now have an opportunity between the houses to talk with her and others from her party who have raised concrete matters and, in her case, put them down in words. That gives us an opportunity to do some useful work between the houses.

I would encourage the leader to speak to the Hon. Mr Wade to encourage him to allow this to occur more often. Then we would have less carry-on elsewhere because we could do a lot more work here and get a lot more mutual understanding of what we are trying to achieve. Anyway, I do genuinely appreciate the leader's contribution today. It has been very helpful and I do not think either of us wishes to go into committee or anything else. I think we will go straight through with this, so that concludes my remarks.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (17:02): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 17:04 the house adjourned until Thursday 31 May 2012 at 10:30.