HOUSE OF ASSEMBLY

Wednesday, 6 August 2014

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

Motions

RIVERBANK AUTHORITY REGULATIONS

Private Members Business, Committees and Subordinate Legislation, Notices of Motion, No. 2: Ms Redmond to move:

That regulations made under the Housing and Urban Development (Administrative Arrangements) Act 1995 entitled Riverbank Authority, made on 13 February 2014 and laid on the Table of this House on 6 May 2014 be disallowed.

Ms REDMOND (Heysen) (11:02): Mr Speaker, I wish to withdraw motion No. 2; it will not be proceeding, sir. And similarly, I understand, with motion No. 3, which is in identical terms.

Notice of motion withdrawn.

RIVERBANK AUTHORITY REGULATIONS

Private Members Business, Committees and Subordinate Legislation, Notices of Motion, No. 3: Mr Odenwalder to move:

That regulations made under the Housing and Urban Development (Administrative Arrangements) Act 1995 entitled Riverbank Authority, made on 13 February 2014 and laid on the Table of this House on 6 May 2014 be disallowed.

The SPEAKER: Member for Little Para? Indeed the member for Heysen is correct?

Mr ODENWALDER (Little Para) (11:03): Yes.

The SPEAKER: The member for Little Para's 'Yes' is consent to it being discharged from the *Notice Paper.*

Mr ODENWALDER: Absolutely, Mr Speaker, it is, yes.

Notice of motion withdrawn.

REGIONAL IMPACT ASSESSMENT STATEMENTS

Mr GRIFFITHS (Goyder) (11:03): I move:

That this house—

(a) supports the referral to the Economic and Finance Committee of all regional impact assessment statements, with the ability to call witnesses, and

(b) urges the Minister for Regional Development to ensure the state government—

(i) guarantees full compliance by all state government departments, agencies and statutory authorities of the regional impact assessment statement policy and process to ensure the government undertakes effective consultation with regional communities before decisions which impact community services and standards are implemented; and

(ii) makes public the results of all regional impact assessment statements undertaken prior to any change to a service or services in regional South Australia.

This is an important one, actually. It is a real issue of principle, for the reason I actually sought the opportunity to be in parliament, namely, to represent regional communities, and also to ensure that information flows, which has to be a prime focus when decisions are made.

In doing some research on the regional impact assessment statements, I am, at some level, impressed by the fact that a policy has been in place since 2003 that applies to all state governments, agencies and statutory authorities. The purpose of the policy is to ensure that the state government

undertakes effective consultation with regional communities before decisions—that is a clear issue for me here—which significantly impact upon community services and standards are implemented.

Part of the reason why I have moved this is because of the fact that I have asked the Minister for Regional Development questions in the chamber, and it was not apparent to me that the minister understood this process. I recognise, though, that the minister has, as part of estimates, talked quite strongly about a review that is being undertaken of the regional impact assessment statement process, but my desire here is to ensure that it goes beyond what is currently the case where it is part of a cabinet consideration, and is referred to the Economic and Finance Committee of the parliament—a standing committee of the parliament—which has the ability to call witnesses and, therefore, review information and make that information part of the public knowledge.

There will be some who will probably argue that there is a need to not necessarily fully disclose all information to the community. I come from the belief that communities need to be engaged. They need to be aware of reasons for actions to potentially be taken and the reasons as to why an eventual decision has been made. This is an important measure, I believe, in allowing the disclosure to occur within a standing committee of the parliament and for the review to be undertaken.

The guidelines for the regional impact assessment statement reflect that the implementing agency's assessment and consultation with the affected community in relation to the planned changes is to be completed before implementation of that change. There have been, I believe, five examples on the website of post-2010 areas in which a regional impact assessment statement has been undertaken, and I might just list those: Berri General Hospital, ForestrySA in the South-East region of South Australia, the Whyalla Cancer Centre redevelopment project, the Poochera police station and the Narrung police station.

I think it is fair to say that, from our side of the chamber, there would be many instances of decisions where either proposals have been made for significant changes in regional communities, or actions have been taken to implement changes in regional communities, and a regional impact assessment statement has not been undertaken. I am flabbergasted that, while a policy has been in place since 2003, and the government, in its form since 2002, has had a Minister for Regional Development in all that time, from the variety of people who have held those ministerial positions for regional development there has not been a demand to ensure that, in the examples I am about to quote—and they are just some of them—a regional impact assessment statement has been undertaken.

A great example was when the state government announced its decision to cut the Cadell ferry service in 2012. There was a significant backlash, public meetings involving hundreds and hundreds of people from that area who were impacted by that, and a change in policy.

There was the closure of the centre for community and business services in Berri, and the restructure of country courts and the regional court circuit. I believe, Mr Speaker, you were the Attorney at the time of that being implemented, when decisions were made to reduce the hours of operation and the available public hours of access to those facilities across four centres in South Australia, with one in Kadina being in my own electorate.

There were the speed limit reductions on regional roads. This is subject to another motion and has been talked about regularly. There were significant changes in 2005 and significant changes from late 2011, so there have been two stages of this process where it would appear as though a regional impact assessment statement has not been undertaken.

Again, something that is very close and dear to my heart are the funding cuts to the Moonta, Keith and Ardrossan hospitals from several years ago. These are community-based, admittedly private hospitals, but they are driven solely by the need to service the community. The withdrawal of the funding decision—about $1.08 million, I believe—placed an enormous pressure on the future of those facilities, that have done some great work, in association with support provided by SA Health, to actually give themselves a business plan.

The concern it created in the community continues to this day—I myself spoke at a rally in Moonta on Friday afternoon that included a thousand people—and goes to show that there needs to be accurate information. We cannot afford to just make decisions in isolation; we need to ensure that

consideration is given to the impact upon regional communities and that a level of discussion and dialogue is occurring.

There is a great concern that the regional impact assessment statements have not been undertaken as they should have been. Since 2003 I think it is a grand total of 21. Beyond the ones that are publicly available on the website post 2010, and based on a freedom of information request that I lodged, there are none; there are no others that actually exist. Yet we know that decisions have been made.

It does go to show that, regarding the words of the Minister for Regional Development in estimates when he talked about a review of that process, one would hope that, coming from a regional community, he would ensure it would be a very strident review that ensures the policy in place since 2002 is abided by, and that this work is undertaken and will flow through to a level of support for our proposal for it to be referred to the Economic and Finance Committee of the parliament.

All of us—and there will be other members in this chamber who will stand up and talk about this—do so not (from my point of view anyway, I don't know from the others) from a political pointscoring opportunity but to ensure that information flow is there and that people's concerns are being addressed. As a member of this house, every day people are contacting us either personally or through our electorate offices, and we are being involved in issues where there is an impact upon the community. It is suburban, outer metropolitan, CBD, and regional.

That is where government information flow, and ensuring that the policy, which is quite often determined at a higher level by the government but fully implemented by the bureaucracy, is fully understood in terms of what the implications of it are. It is only through that actual planning process that you can give consideration to the practical aspects of its implementation, be it positive or negative, and what the impacts of it will actually be.

It is for that reason we have submitted this. I hope that the member for Frome, the Minister for Regional Development, on the basis of this going to a vote, will indicate his support for it. I believe it is an extension of what his statements have been. To me it enforces the frustration of having a Minister for Regional Development for so long that there has been a failing of the system; for a minister to hold such a responsible position for the over 300,000 people who live in regional South Australia not to have ensured that some of the decisions made in recent years have considered this process. It is a valid process and one which, if we ever get to sit on the other side in my time in this place, I will ensure is used as stridently and as often as humanly possible, because the information flow is there. It does need to occur.

I think it was in mid June that I asked the Minister for Regional Development a question about it. I was not trying to be smart; I was trying to find out what knowledge he had, after being in that role for about three months, what he understood of the process. The question was posed quite seriously, and I do not believe I am misrepresenting the minister when I say that he had a bit of a shocked look on his face regarding what I was actually talking about. In that time frame he has certainly upskilled himself; he has expanded upon it during the estimates period, the intention for the review to be undertaken.

However, it was emphasised to me, when I asked the question in mid June, that the minister himself did not answer it. It was specifically directed to him because of the key input that he will have and the opportunity for it to work properly. It was the Treasurer who actually answered it—and I do not believe he gave a very successful attempt to answer that—but the member for Frome looked at me and, if I remember correctly, I think there was a little shake of the head as if to indicate 'I'm not exactly sure what you are talking about.'

This is an opportunity for all of us to move forward. It is an opportunity for, firstly, the bureaucracy to do the work to ensure the information is there for those who make the decisions, and there is an opportunity for a good committee of the parliament of seven members, made up of both sides of the chamber, to review this and look at it, I think, in a very bipartisan way to ensure that the review they undertake has an opportunity also to guide.

There is a collection of good minds associated with the Economic and Finance Committee. I have confidence in the way that it is run, based on my own personal experience of sitting on that committee several times, and in the fact that they do look at what is the greater good for the community; there is absolutely no doubt about that.

I think this is a great chance for the referral to take place, for that committee to have the authority to consider the issues associated with it, within fairly tight time frames, though, and to have the opportunity to call witnesses who can be relied upon to expand upon some comments that might be included in the regional impact assessment statement and to ensure that outcomes come from it.

There will be a feedback opportunity and there will be a chance for that committee to determine a report, which will have to go back via the minister and then back into the cabinet process but which is available for public scrutiny because there will be a record of it, and even those not on the committee will be able to review the issues. Those not on the committee will have the opportunity to feed in issues and, if it is localised to their electorate or to the region, suburb or metropolitan electorate they come from, to feed issues through to one of its members to ensure that the appropriate questions are asked, and when good questions are asked I think you get better outcomes.

This is a positive step forward. I know that the Liberal Party will be supporting it, and I hope that the government sees this as a step forward and as an opportunity to improve a process to ensure public scrutiny, and that we get the outcomes we are all here for, that is, positive outcomes for the wider community at large. I hope that the house decides to support this motion for referral.

The SPEAKER: The member for Goyder is still a young man. He may be on the government benches sometime soon.

Mr KNOLL (Schubert) (11:17): Mr Speaker, you grace us this morning with your presence, not that you do not often. I want to say first of all that as much as I believe the Adelaide Crows are the team for all South Australians, indeed I believe that the state government of South Australia should be the government for all South Australians.

I think those two things hold true and I think those two things hold together but, alas, in this state Labor government's case I believe that there is some serious deficiency. The regional impact assessment statement policy that was put in place by this Labor government is a recognition of the fact that they have failed to do that on many levels when it comes to looking after the interests of regional South Australia.

This is a government that has on so many occasions shown itself up to be a very city-centric, very North Terrace-focused government; indeed, they implemented this policy as a direct acknowledgement of their own failure to think beyond the city mile. Can I say from the outset that I applaud them for bringing in this policy. It is good honest government, and this policy, as it was intended, is a great way for the government to be able to consider the needs of all South Australia.

It is very important that this state Labor government implements this policy because they do not have the level of regional representation that we on this side of the house have. I think that that is a fact, and it has been a fact for a long period of time and, again, I think that this policy acknowledges that fact. What I find as a country member, and what many of my side who share regional South Australia as part of their electorates would find quite amusing, is that as a local member I live the regional impact assessment statement policy every single day. I deal with the impacts of government policy on regional South Australia every single day, and this policy would be a great way, if implemented properly, for us to have our voices heard.

On the point of this Labor government being city-centric, it was extremely explicit in the 2014 election campaign and confirmed as much during the Address in Reply speeches given by members opposite following the 2014 election. I refer quite specifically to the speeches by the member for Newland and the member for Colton, who in this place, in response to speeches by members on this side of the house in regard to this government having failed regional South Australia, laughed at an election strategy that tried to win votes across this entire state. In fact, they were quite joyful and delighted by the fact that we chose, as a mainstream political party, to try to govern and put together a policy for all South Australians.

Indeed, they were quite happy and delighted to tell us that they had a strategy that focused on 10 marginal seats—no more, no less—and that because those marginal seats did not fall within regional South Australia those votes did not matter. I find that disgusting, I find it deplorable. For a government that seeks to be all things to all people, it is a frank admission of the fact that they simply are not, and this policy is another reminder and an acknowledgement by them of that fact.

When I go to the content of the RIAS policy, there are four guiding principles. The first principle is 'community and stakeholder consultation for open, accountable and responsible decision-making'. That sounds pretty good. The second is 'transparency of administration'. I do enjoy the member for Bright's contributions in this place, and I think he has talked a lot about this government's transparency of administration, although I understand it is selective transparency based on your first and last name and where you may work.

The third principle—and this is the one I find the most interesting—is 'reasonable equity in accessing government services and facilities', and I would like to explore that more deeply in a moment. The fourth principle is the 'degree of impact being relative to the population and size of the service delivery area concerned'.

When it comes to principle 3, 'reasonable equity in accessing government services and facilities', I have a number of issues where there is inequity in access to government services, and the first of those is public transport. There was debate in this place yesterday about public transport, and there were some interjections, which I understand are out of order and that it is out of order to respond, Deputy Speaker. But there was an interjection on the other side, 'Instead of driving a car into the city and having to pay the car park tax, why not catch public transport?' Well, in my electorate of Schubert it is extremely difficult to catch decent public transport.

Some officers within my local council did a case study on accessing public transport services from the Barossa to Adelaide. The detail of their experience was that, because of the way the timetable works, a 'day trip' was about an eight-hour round trip. They missed the connection to Gawler and had to wait about an extra 15 to 20 minutes to catch a connecting service. When they got to Adelaide, they were stuck here until the early afternoon before they could catch the first available service back.

They tell me that service cost them around the $30 to $35 mark for the round trip, and all in all they discussed the extreme difficulty that people living in my electorate have when it comes to accessing public transport. This to me seems a clear example of where regional impact assessment statements could give an understanding to this government of some of the difficulties which exist within my electorate.

When it comes to health services, a number of constituents have come to me talking about the difficulty they have in accessing dialysis services. I do applaud the fact that Gawler has received an extra four chairs, and they are to be built in this coming year to service the regional area. I would contend that they would be much better placed by putting those chairs into the Barossa to service a wider country area. Having said that, I think that fight has been had and lost. There is a number of other services, such as chemotherapy and surgery, where the electorate of Schubert simply does not have reasonable equity and access to government services.

The last point I would like to make on that is I have been interacting quite a lot more with my Medicare Local. It covers quite a broad area across the north of the state, and they say most of the time they have spent is setting up Adelaide health services in regional areas where they do not exist. The city region has access to all of these services and the work they have put in has been to create those services because none exists currently. I think that, again, speaks to the inequality in reasonable access to government services.

I believe the RIAS policy is very worthwhile and that it will help this government to see beyond North Terrace. We are going to have a debate maybe later this week in regard to a commissioner for Kangaroo Island, and I believe the proper implementation of this policy would negate the need for a KI commissioner. There is already a policy in place and a framework in place. There is a beautiful flow chart that exists within the policy. It is very straightforward. I think members of the cabinet, when making a cabinet submission, could quite simply read this. It would take maybe 30 seconds to a minute or two minutes, depending on the reading skill.

It is a very simple way to include regional South Australia in this government's decision-making. It is already there and it is already set up. There is no need for extra bureaucracy. Simply implement the policy that you have now and use it to its full extent, and you will actually see the outcomes and understand the issues without having to create more and more government.

I believe that in my community there is a number of sensitive issues, whether it be a proposed dolomite mine at Nain or wind farms at Palmer and Keyneton (one of which is approved and one of which is going through the process), where my community is divided and do not always have access to the best information. The implementation of this policy, in a proper sense, would help to give comfort and information to my community and help this government understand the issues that exist on these topics instead of making blind statements from North Terrace whilst realising they are never going to have to come out and deal with the fallout that their decisions create. With that, I support this motion.

Mr VAN HOLST PELLEKAAN (Stuart) (11:27): It is my pleasure to strongly support the member for Goyder's motion that he has put to parliament today:

That this house—

(a) supports the referral to the Economic and Finance Committee of all regional impact assessment statements, with the ability to call witnesses, and

(b) urges the Minister for Regional Development to ensure the state government—

(i) guarantees full compliance by all state government departments, agencies and statutory authorities of the regional impact assessment statement policy and process to ensure the government undertakes effective consultation with regional communities before decisions which impact community services and standards are implemented; and

(ii) makes public the results of all regional impact assessment statements undertaken prior to any change to a service or services in regional South Australia.

I strongly support this motion on behalf of the people of Stuart, both as a regional MP and as somebody who is proudly fighting for the best results that I can get from the government for the people I represent and also as a member of the Economic and Finance Committee—albeit a new member of the committee. I think this is a very important and worthy suggestion.

It is a tremendous parallel to the fact that significant public works with a value over, I think, $5 million have to be referred to the Public Works Committee, and there is a very important principle there. The work that the government is doing is on behalf of all South Australians, so while, of course, it consults and deals internally with its own departments and makes decisions that go through cabinet, etc., there is a very important principle that when they are going to spend a significant amount of taxpayers' money on significant projects it gives a parliamentary committee the opportunity to oversee that decision and call witnesses to discuss the recommendation that the government has made.

I think that it would show the state government in exceptionally poor light if it were not to apply exactly the same principle to regional impact assessment statements, because that would be saying, ‘If we’re going to spend $5 million, $10 million, $50 million or $100 million on a project, which would typically be in the metropolitan area, we’ll let parliament have a look at it. But if we’re going to do it in a regional area we’re not going to let the parliament look at it.’ I think any fair-minded person would consider that to be quite untenable and indefensible. To me, that is the foundation of my support for the member for Goyder’s very positive motion.

Let me also just share some information that the member for Goyder has provided. The state government’s regional impact assessment policy came into operation on 1 July 2003 and it applies to all state government departments, agencies and statutory authorities. However, only five regional impact assessment statements have been completed since 2010 by all government departments, agencies and statutory authorities, and no regional impact assessment statements were prepared during the 2013-14 financial year.

What that says to me is that there is a rule in place that the government has set for itself. The government said that it would follow this process, but in fact it is actually not following the process, or it is not undertaking any projects in regional South Australia which should fall under the process. It must be one or the other. Either the government is not pursuing projects, which we would

all hope would benefit regional South Australia, or, if it is actually going to be a detriment, it has thoroughly considered what that detriment might be.

Or, if that is not the case, then the government is just not bringing the statements forward. It is not doing the statements as it said it would and it is not providing the thorough analysis of the impact, which the government said it would actually do.

I will give you a very well known and very important example, and that is of the government's intention to remove the Cadell Ferry. The government said that it would remove the Cadell Ferry; it just made an announcement one day. It did not consult locally, it did not consult with the community that relies on the ferry. It did not consult with anybody. It did not do a regional impact statement and, very unfortunately for the government, this decision was made near estimates. I asked minister after minister, 'Will you consider it?' And the answers were continually no. So not only did the government not undertake a regional impact assessment study, it had not even consulted internally, because each minister, one after the other, said, 'Well, actually, no, nobody spoke to me,' etc.

I am not sure whether this is to the government's credit or whether the government thought it had absolutely no choice, but let me be as kind as possible: to the government's credit, the government reversed that decision. However, I know, without any shadow of doubt whatsoever, that if the local community at Cadell and the communities up and down the Murray River that supported them and the communities even in Adelaide had not stood up so strongly and so sternly and made it so clear what a dreadful decision the government had made, the government would not have reversed its decision.

This is a shining example of why the member for Goyder's motion is so positive. If the government had followed its own rules, the rules it had set for itself, and if the government had undertaken a regional impact assessment statement, it could have avoided all of that pain. The government could have avoided all of the pain and angst that it brought upon itself and, even more importantly, on the local communities: the local CFS, the local Meals on Wheels people, the local families who used the ferry to get their kids to school, the local growers who used the ferry to get their agricultural machinery back and forth across the river. All of the supportive communities would not have had to go through the angst and the heartache and the effort that they went through to force the government to change its mind if the government had just followed its own rules.

The member for Goyder's suggestion is very sensible: every time the government wants to undertake a project like this, or any project that would have an impact on regional South Australia, it must complete a regional impact assessment statement, and the very important part of this proposal is that it must give the parliament's Economic and Finance Committee the opportunity to review that study.

This motion does two things: first, it strongly encourages the government to actually do the study because it knows it is going to be asked some questions; and, secondly, it gives a bipartisan cross-chamber economic and finance standing committee the opportunity to review that study. Let me hope that that would encourage the government—perhaps force the government—to follow their own rules properly and to do a thorough and valid regional impact assessment statement, and to know that it is going to be looked at seriously by good people from both sides of this chamber on the Economic and Finance Committee.

The government will know that the project is going to be investigated and that witnesses could be called, so hopefully then the work is done properly from the ground up. The government could avoid an enormous amount of angst for itself, because if you know the scrutiny is coming then you do the job properly to start with. That is what is behind the member for Goyder's very positive suggestion and that is why I support it so wholeheartedly.

Mr PEDERICK (Hammond) (11:36): I rise to support the motion by the member for Goyder:

That this house—

(a) supports the referral to the Economic and Finance Committee of all regional impact assessment statements, with the ability to call witnesses, and

(b) urges the Minister for Regional Development to ensure the state government—

(i) guarantees full compliance by all state government departments, agencies and statutory authorities of the regional impact assessment statement policy and process to ensure the government undertakes effective consultation with regional communities before decisions which impact community services and standards are implemented; and

(ii) makes public the results of all regional impact assessment statements undertaken prior to any change to a service or services in regional South Australia.

I commend all members who have spoken before me regarding this motion. Obviously on this side of the house we have a very deep feel for the regions. The regions are the core of our state and the production hub for a lot of our exports, and a production hub for a lot of the materials that are used internally in this state. However, sadly, the Labor government continues to neglect the regions.

I have mentioned in this house before how the new regional development minister, minister Brock, only asked the Premier for $39 million in his trade-off for giving Labor government. I am sure that he could have asked for the $139 million of regional development policies that we had in our policies coming into the 2014 state election this year, that he would have been made that promise as well and our regions would have been far better off. However, sadly, the member for Frome was too focused on his own electorate and his own desire to be a minister that he did not even return the phone calls to our leader, the member for Dunstan.

I will give a little bit of history of where things have been neglected regarding consultation. I think the biggest one for me was, in the year I was elected in 2006, in regard to the budget that was announced that year. On the front page of *The Advertiser* on budget day there was a big story about a proposed major expansion at the Mobilong Prison just on the outskirts of Murray Bridge. It was going to be a $411 million expansion: a 760-cell men's prison and a 150-cell women's prison.

From what I understand, this was to replace Yatala, which is obviously ageing. I would be interested to visit Yatala one day, voluntarily of course. I have been through Mobilong several times as a medium security prison, voluntarily of course.

Mr Pengilly: At this stage.

Mr PEDERICK: At this stage—enough of you!

From what I am told by people who have been out there on parliamentary business, it probably has not got that much of a life left, and I am assuming that is why the government came up with this idea of building a high-security prison complex at Mobilong. The sad thing is the first time my community heard about this project was when the paper came out that morning. I was on my way in here to sit for budget day and I get a call from the local mayor, Mayor Allan Arbon, and he is wondering what was going on. I said, 'Well, you tell me. All I know is what's in the paper.' That was the level of consultation.

The day of the budget announcement, we get an article in *The Advertiser* about an infrastructure issue that was going to have a huge impact on my community in Murray Bridge and surrounding districts. It is not just Murray Bridge that is being impacted; it would be the surrounding districts and it certainly impacted on the union members of the Public Service Association. I went to several meetings that they had down there. They obviously had not been consulted before it had been put in the budget. They did not want to work at a prison at Murray Bridge, so they had not been consulted.

Sadly, the local council had not been consulted and the local community had not been consulted about the various needs of transport and the various health requirements that would have been needed in the area. I have talked in this place many times about the lack of Metro-ticketed public transport to Murray Bridge. If this ever came up again in negotiations—and I am a realist and I know the land is still there, so I know that one day a government may put up this proposal again—we do need full Metro-ticketed public transport to Murray Bridge and we do need infrastructure upgrades on the road, like Bremer Road, to access Mobilong Prison if ever this idea was mooted again.

We also need an upgrade to our local health facilities, because as we know, prisoners in our prisons are getting older and older and prisons are essentially having to have their own aged-care facilities. I appreciate that, potentially, with this building that was proposed in 2006, there would have been an infirmary, but it would not have been enough. It would not have been enough. This was

going to be a massive influx of population of nearly 1,000 people—by the time you take the staff into account, it would have been over 1,000 people—to a rural city that only has a population of about 20,000.

This is one of the stumbling blocks, and it is not just this project, but I am highlighting this project today that this government has. It has been an 'announce and defend' policy and let's see how we go with this one. It is just a matter of seeing who can stand up and fight for their community to get the best outcome. As with all things, because there was not an appropriate consultation done and the work was not done before we had an announcement on budget day, the whole thing fell over. The whole project fell over, and I am not too unhappy about that, I must say.

Sadly, because of the lack of business acumen by the Labor government of this state, it cost this state $10 million in taxpayer money, and it is taxpayer money, not government money; it is money that everyone who pays taxes in this state has to come up with—

Mr Griffiths: From people's pockets.

Mr PEDERICK: Yes. It was paid to the three consortiums that put in bids. This is just really poor planning—well, it is no planning—and it is just crazy stuff when projects are not taken out to the community so that people can see how they will affect them. I refer to the comments by the member for Stuart about the Cadell ferry. A proposal has been spinning around local government circles for a while about the replacement of five ageing ferries right up and down the river. This is vital infrastructure that the government should just be funding—

The Hon. S.C. Mullighan: We are.

Mr PEDERICK: —because these are roads. Not all of them; you are doing three. So, the councils are put under all this pressure with all this consultation because the government, again, want to get away from their responsibilities in regards to funding the road work, which is a vital service in all our regional communities. What the government does not realise, and they soon learnt with the Cadell ferry debacle, is that not just regional people use these ferries.

I look at the Wellington ferry on a public holiday. I know that, on certain days and at certain times, there is no point. I am better off heading to Murray Bridge and going across the Swanport Bridge because of the amount of people using that ferry.

I would love to know the amount of money that the government transport department has spent on all this discussion they forced on the local government sector in regards to them finding a way to fund these ferries. It is just disgraceful. It should be par for the course for a government to fund our road network. It is certainly a lot cheaper than building bridges and, at most of these crossings, bridges would be impossible anyway.

In the broader sphere, whether it affects our education facilities, our health facilities, our corrections facilities, our ferries or our roads, we should have the opportunity for the regional impact assessment statement to be taken to the Economic and Finance Committee, so that people can ask questions, locals can ask questions and we can get the right outcomes for our regional communities.

Mr BELL (Mount Gambier) (11:46): It is my privilege to stand here and support the motion by the member for Goyder. It is such a novel idea, I just cannot even believe we are discussing it: to engage with the community. Unbelievable! They said it would be groundbreaking stuff in here, and I am a new MP, so I guess I am learning as I go that engaging with the community is certainly something we should be doing.

I will give the government credit for their new-found philosophy of embracing the regions—what a wonderful policy adjustment that has been. I feel a bit sorry for the member for Giles being one of the only regional MPs sitting on the Labor benches, and I would encourage the government to find his way into cabinet as soon as possible so that this state has a regional voice that can be heard.

In terms of engaging with the community, I did a little bit of research and will just give a brief rundown of why engagement is so important. I think that, as I read these out, you will see the reverse in terms of lack of consultation and perhaps some of the issues that the government finds itself in

and certainly complains to me in this chamber and privately that they feel from some of the members on this bench over here.

If you consult properly, these are the positive things that will come out. It will guard against less than desired outcomes—yes, that is a very good point. It will reduce confrontation. It decreases the likelihood of opposition. It prevents animosity, mistrust and tension, and also prevents—and this is the clincher—wasted effort and resources.

If that took me two minutes to do a bit of research on, then I am sure the government, who have been there for 12 long years, may have discovered it a little bit earlier in their tenure over this state. Those side-effects, those outcomes, are exactly what have happened to many who live in regional areas. There is mistrust of the government in our community.

There has been wasted effort and taxpayer money in our state and, of course, there has been opposition and confrontation in terms of things that are felt to have been imposed or taken away from regional South Australia, and that is why this motion is so important. In my opinion, it is something that should be just a fait accompli. Anybody on the opposite side who votes against this, if it comes down to a vote, should hang their head in shame because proper consultation for all of South Australia is all that we ask for.

I want to give a few examples from my area where this has not happened, and the result that has occurred. A few years ago we had a potato factory being built by the state government which was to directly duplicate McCains; we had scrimber, which was a $10 million operation to take woodchips and bind them together. Both those projects failed. Each of them cost between $10 million and $15 million. The equipment was sold off and the infrastructure was sold off for around $1 million each. So any way you try to do it, it is not good value for money.

Of course, I do not need to go into reasonable equity in access to government services too much, but the member for Schubert certainly pointed out public transport and the lack of health services. In terms of moving forward with this, I encourage those on the opposite benches, those in government, to support this novel idea of consulting and communicating with regional South Australia.

The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister Assisting the Minister for Planning, Minister Assisting the Minister for Housing and Urban Development) (11:51): I move:

That the debate be adjourned.

An honourable member: No!

The DEPUTY SPEAKER: I can only go with what I have got. He stood up. I cannot help you. He stood up and he is on my right.

Mr GARDNER: We are entitled to vote against the motion.

The DEPUTY SPEAKER: Okay; you are doing that. The question is that the debate be adjourned.

The house divided on the motion:

Ayes 21
Noes..... 18
Majority..... 3

AYES

Bedford, F.E.	Bettison, Z.L.	Bignell, L.W.K.
Brock, G.G.	Caica, P.	Close, S.E.
Gee, J.P.	Hamilton-Smith, M.L.J.	Hildyard, K.
Kenyon, T.R. (teller)	Key, S.W.	Koutsantonis, A.
Mullighan, S.C.	Odenwalder, L.K.	Piccolo, A.
Picton, C.J.	Rankine, J.M.	Rau, J.R.
Snelling, J.J.	Weatherill, J.W.	Wortley, D.

NOES

Bell, T.S.	Gardner, J.A.W. (teller)	Goldsworthy, R.M.
Griffiths, S.P.	Knoll, S.K.	Marshall, S.S.
McFetridge, D.	Pederick, A.S.	Pengilly, M.R.
Pisoni, D.G.	Redmond, I.M.	Sanderson, R.
Speirs, D.	Tarzia, V.A.	Treloar, P.A.
van Holst Pellekaan, D.C.	Whetstone, T.J.	Wingard, C.

PAIRS

Digance, A.F.C.	Chapman, V.A.	Hughes, E.J.
Evans, I.F.	Vlahos, L.A.	Williams, M.R.

Motion thus carried; debate adjourned.

Bills

STATUTES AMENDMENT (SACAT) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 June 2014.)

Mr MARSHALL (Dunstan—Leader of the Opposition) (12:01): I rise to signal that the Liberal Party will be supporting this bill although I am not the lead speaker; the lead speaker will be the deputy leader, the member for Bragg. But I do indicate that we will be supporting this bill. The government introduced the South Australian Civil and Administrative Tribunal Act to this house last year and, of course, that was passed. Before us today we have the Statutes Amendment (SACAT) Bill which provides the enabling legislation to allow that previous act to start operating.

We have been anticipating this for some time, of course, and we understand that this enabling legislation will essentially be introduced over the next two years in five separate stages. What we have in this bill before the house are stages one and two—stage one comprising transferring the work of the Residential Tenancies Tribunal, the Guardianship Board, the Housing Appeal Panel, as well as the appeals presently lying within those bodies, to the District Court. We understand from the second-reading speech made by the Deputy Premier that this would take effect around September of this year but we have been advised more recently that there is going to be a delay through to October this year.

Stage two of the bill before the house comprises the transfer of work related to the Public Sector Grievance Review Commission and appeals to the Administrative and Disciplinary Division of the District Court under the Freedom of Information Act plus appeals to the Magistrates Court under the First Home and Housing Constructions Grants Act 2000. We understand that these will take effect in early 2015—that is the most up-to-date information that we have, but, as I said, all five separate areas or stages of this transfer of responsibility or jurisdiction will take place between now and the end of 2016.

Quite frankly, this is something we have supported for an extended period of time. There is no doubt that this will provide benefits to those people who are using these tribunals and boards. But we highlight the fact that this could have been done some time ago and, in fact, it could have been hastened last year when the act was originally introduced.

We do have some concerns regarding this act and in particular in relation to the area of valuation dispute resolution—an area that we have spoken about at length, most recently in the lead-up to the 2014 general election here in South Australia. We are disappointed that the government does not have the transfer of this jurisdiction in this bill; it is not going to be in stages one or two. We were originally advised that this would take place in stage 5. More recently, we have

been advised that this is something that will be taken up next. My colleague, the deputy leader, will be moving amendments standing in her name which would hasten the transfer of jurisdiction for valuation dispute resolution to the SACAT.

We think this is extraordinarily important, for a range of reasons. It goes without saying, and I think it is a matter of fact now, that we are the highest taxed jurisdiction in the nation. This is borne out in the budget papers. The Commonwealth Grants Commission does an annual evaluation of tax effort by state. We have been the highest taxed jurisdiction for an extended period of time now. In fact, in the most recently published CGT tables, I think we are just under 10 per cent above the national average tax effort and, as I said, the highest jurisdiction in Australia.

Part of that, of course, is the fact that we have the highest land taxes in the nation. A lot of people say that land tax is just something which is paid by rich landlords but, ultimately, it is paid for by every single South Australian. It is a handbrake on our economy. Land tax is, whether or not we like to admit it, passed through to the small business sector, people who are renting those properties and, of course, ultimately, to consumers and households.

We need to do something about that. In the lead up to the election we were quite adamant that we needed to adjust our land tax regime in South Australia and we took a very positive tax reform agenda to the election, and I was very proud to be leading that. Of course, it involved increasing the threshold for land tax so that it would be payable from $316,000 up to $400,000 and a reduction in the top rate from 3.7 per cent to 3 per cent for taxable land values up to $5 million per year.

Once this was fully implemented in 2016-17, it would have be an annual saving of $53 million per year. We were putting out our tax reform bona fides for all to see. It is disappointing that the government, when they had just brought down their most recent budget, did not take the opportunity to provide tax reform to the people of South Australia. In fact, what they did was increase taxes. They have introduced the car park tax—they have introduced budget measures to enable this transport development levy—and they also, of course, introduced a massive increase to the Emergency Services Levy.

I put it to you, Mr Speaker, that this massive increase really was designed to do nothing more than create a further land tax, this time on the family home. We know that this was something that had been under consideration when the member for Playford was the treasurer. That was two treasurers ago. We have had three treasurers in South Australia in the last 18 months. None of them have been much chop, but one thing we know for a fact is that the member for Playford, when he was the treasurer, was actively considering changing the once-off stamp duty on houses and replacing it with an annual land tax on homes.

He was considering this but he made statements in the lead up to the election that he would not do this without a public conversation and consultation and without taking it to the election. Immediately after the election, of course, we see this massive increase in, essentially, the land tax on the family home, implemented without consultation with the people of South Australia and not taken to the election.

When we look at the increase (and I will give a couple of examples, Mr Speaker, because I know you are fascinated by these things), if you have a home with a capital value of $500,000, under the previous regime the Emergency Services Levy would have cost you $102 per year. Under the new regime it is a staggering $289. That represents a 183 per cent increase in that tax on the family home. I raise these points because I think they are pertinent to this debate. I envisage that, with this massive escalation in the emergency services levy based upon valuations, there will be increased disputation with regard to valuations here in South Australia.

The way this currently works is that people are quite within their rights to dispute their valuation, whether it be a commercial property or a household property, and that is essentially done directly to the Valuer-General's department. There is a review panel which is set up, and we support those two initial stages of any valuation dispute, but here comes the problem. If, after those two stages are exhausted, the property owner is still in dispute, the only current remedy which exists is to take the disputation to the Supreme Court. One may be able to argue—I certainly would not support it—that this is possible for large corporates. It is certainly not an effective remedy for households or small business, and I would argue for any business here in South Australia.

This remedy takes an enormous amount of time, is extraordinarily costly and is, as far as we on this side of the house are concerned, completely inadequate. For these reasons we will be moving amendments to this bill to bring forward the government's own plan. They agree with us rarely but, in this case, they agree with us that we do need an alternative jurisdiction for disputes with the Valuer-General's determinations.

However, the problem is that they have said until recently that this would be in stage 5. We have received advice I think as recently as this morning to say that this will now be done in stage 3 and it could be effective as of 1 April—no pun intended—2015. Forgive me for being sceptical, but this government promises of a lot of start dates. In fact, I think this bill was originally envisaged to take effect from 1 July this year and then, in the second reading speech, it was pushed out to September and now, we are told today, it is going to be pushed out until October.

We cannot see any reason why the government would not agree to our amendment after admitting today in their briefing to us that they are looking forward to a start date of 1 April next year for moving the jurisdiction from the Supreme Court to the SACAT for Valuer-General disputes. We could negotiate with the government. I am sure the deputy leader would agree that we would be happy to potentially change our proposed start date for these amendments rather than having to come back to this place with a new piece of legislation and wasting people's very precious time. We are all here now. Why don't we just get this out of the way? Why don't we just do it today?

I will tell you the reason why: because it will be a signal to the business community and to households that are doing a tough here in South Australia after 12 years of a Labor government that the government is listening to the business sector, they are listening to households that are doing it tough. Yes, it might mean swallowing a bit of pride, the government taking up the Liberal Party's suggestion on this one, but I think that ultimately we are here to do our best—all of us—on behalf of the people of South Australia. There is no doubt in my mind that this would be in the best interests of all South Australians. We will be supporting this bill and we would like the government's support for the amendments which we will be moving later this morning.

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:14): I indicate that I will be the lead speaker for the opposition on this bill, and I am aware that at least one other member wishes to make a contribution to the second reading debate. I speak on the Statutes Amendment (SACAT) Bill 2014 and, as indicated by the Leader of the Opposition, I propose to move amendments dealing with the jurisdiction to be advanced in the program of areas to come under the new SACAT.

This legislation follows last year's legislation to establish a generic civil and administrative tribunal. Ultimately, it is to receive multiple jurisdictions, as have been set out, and currently are provided for in some of our mainstream courts, some in specialty tribunals already and some under powers given to certain boards. This is consistent with what has happened in other jurisdictions, although for us in South Australia, we are the last state to establish a generic civil and administrative tribunal of this nature.

I think it is important to say that the opposition supported last year's legislation—the umbrella legislation—to get things started and to enable the court to be established and, of course, to be able to attract the funding and the like. It is not unique because, historically, I think the judicial determination of disputes in the community has gone in cycles. We seem to have gone from mainstream courts to the establishment of lower courts with limited jurisdictions, to an explosion of tribunals (certainly in my lifetime) of various different specialty jurisdictions. Some have been re-amalgamated and some have been transferred from state to federal jurisdiction, but all have been with the expectation that access would be more available and affordable for the general public, and generally with promises of a streamlined service and quicker access to justice. Some have failed and some have been quite successful.

It is fair to say that last year we did raise our concern in respect of some specialties being absorbed into a generic system, but we were prepared to support the general principle and give it a go. With goodwill on both sides and the very hard work that then needs to be undertaken to establish such an entity and to transfer these jurisdictions, all of that would be working in the same direction.

Before I go to the specifics of this bill, I would like to mention that, notwithstanding this nationwide movement towards central multiskilled tribunals for the purposes of administering these

civil and administrative disputes, I was a little shocked yesterday to hear the Attorney's announcement that, in a world where we are putting everything under one umbrella, we are going to have a new tribunal, namely an industrial tribunal. It seemed to be a little inconsistent with the message from the government that they were wanting to not only have a generic tribunal structure but that those who are appointed with adequate training would be able to accommodate the specialty needs of a number of areas, as diverse as it is anticipated that will be, and yet we have the announcement of the government that we are going to have an industrial tribunal.

This is in a circumstance where we have already a dedicated Industrial Court, which it is fair to say has been stripped of a fair bit of work in recent years, particularly as a result of the determination to have industrial disputes, other than state and local government disputes in that area, transferred to the federal arena—more is the pity. I think that has been a disgraceful example of how disastrous that transfer worked out to be. Nevertheless, we live in hope that the federal government, under their proposed reviews, will ensure that the federal system, which is now operating and which South Australians (unless they work for the government) have to access, is significantly improved.

The Industrial Court here had a fair tranche of work taken out of its hands, so I think it is fair to say that there has been some other work that they have been given, not as a substitute but probably to give them something to do. On some days I am not sure what they all do still, but it is no reflection on any of the individual's capacity who serve in the Industrial Court. When you keep the structure and you take away a whole lot of other jurisdictions, you do wonder how that workload is able to continue with such a reduction in cases coming before them.

Perhaps they are able to advise and give support to industrial law generally in other ways and that is great, but frankly I had expected that, in a circumstance where a whole lot of work had left the Industrial Court, quite possibly those who were in the Industrial Court might have been offered positions in the new SACAT. I suppose it was open for them to apply, but of course, unless there is no loss of transfer benefits, with most of these things they usually do not. However, we now have a situation where the government has established the court hierarchy and that has occurred over the last few months.

Firstly, the new President of the SACAT will be Justice Greg Parker, who is an existing Supreme Court judge. I understand he will continue to do Supreme Court work and SACAT work on about a 50-50 basis, but he is appointed as the new president. The Deputy President will be currently serving District Court Judge Susanne Cole, also experienced in her work I think still in the environment and resources division, and, again, it is expected that Judge Cole will share her time (perhaps 50-50) and continue some of her mainstream duties there in the District Court together with work as the deputy for SACAT. The new registrar Ms Clare Byrt, who has also been appointed, obviously has considerable experience in relation to administrative appeal matters.

I thank each of those for their service to date in the jurisdictions they currently serve and for their forthcoming work, because we do appreciate that the establishment of a new jurisdiction, even though this one is to be on a graduated basis, is expensive in time, effort and money and it is not without a considerable amount of working in coalition with others to transition. I understand there is also a SACAT implementation team comprising of representatives and senior personnel in each of the relative departments, including of course the Attorney-General's Department, and they too have had to work quite hard to bring this together with an expected opening in late October.

Perhaps the leader had been a touch unkind in his concerns about the delay from July to September to October. Please appreciate that on this side of the house we do appreciate that there is considerable effort and the best will in the world will not always provide the expected starting dates. However, I thank them, as I say, and I congratulate them for the appointments that they have been given. I understand further that a number of staff of the existing Residential Tenancies Tribunal and Guardianship Board are entitled to transfer, together with other positions in each of these which have been advertised and which are now in the concluding period of selection and appointment.

One aspect which I would hope has streamlined some of the physical implementation of the new court, is that, I am advised, essentially, the current principal jurisdictions in Guardianship Board work and the Residential Tenancies Tribunal propose to remain in their existing premises in the ABC Building at Collinswood and in Pirie Street, respectively. This assists in being able to have a graduated transition to reach the projected dates of commencement.

Some extra offices have been budgeted for, which I gather are on their way, to accommodate the appointed president and deputy and, hopefully, the registrar. If there is any comparison with the chambers that are available to Supreme Court judges at the moment, I expect Mr Parker will be wanting to spend a fair bit of time in his new office.

In any event, I had an opportunity to meet with him today on another matter and congratulate him on both of his appointments. I reminded him that you usually only get one of these opportunities once in a professional lifetime, so he had better make sure that the redecoration is as he likes because it will be there for a long time.

We are yet to hear as to whether the SACAT may be relocated to a completely new premises. We did hear from the Chief Justice during estimates, who identified certain jurisdictions which are expected to be accommodated in the courts precinct project. SACAT was not one of them, so that was a little bit disappointing to hear.

There will be a dedicated courts building to accommodate our current superior courts except for, I think, the Youth Court. Because of the age of most of the parties who are attending, obviously, it is thought that that should be kept independent. There is a proposal under consideration, as indicated by the Chief Justice, for the development of another courts tower or justice tower, which would include major government departments in the Attorney-General's and Justice area: DPP, Crown Solicitor and the like.

Whilst I am not raising this to indicate that there is any commitment by the government to any of these, there is a general direction that there will be another opportunity in the same development to accommodate state government agencies that would be long-term tenants of the facility. I do not doubt that someone who was currently considering investing, participating or lodging an expression of interest or whatever process the government currently uses for these things—it is not called a PPP anymore, I was told by the Minister for Transport—where someone else comes along with a lot of money, builds something and then makes it available for government, may have an opportunity with this SACAT facility.

If that is the case, I am actually heartened to hear that it will be in the area, or is at least on its way to having a new home somewhere. It seems to me a little defeating of the purpose to have a generic court if it is actually going to be split up in different locations, a bit like the SA Water building that was all going to go into Victoria Square and is now accommodated in about four different areas. I just make the point that, if it is genuinely going to be a place where there will be relatively quick, affordable access to a judicial determination for the public, and all of the aspirational things that are there, then it eventually needs to have a home.

The only rider I raise with is that one of the criticisms I have heard from some people who are now in judicial positions themselves of having tribunals, or even a generic one, is that what happens in the end is they start to try to morph themselves into being a court. They forget that the reason they have been set up is to actually provide for simple administrative processes and not to be overloaded with burdensome and costly procedures, and that, whilst the rules of evidence are to be recognised in a general way, having long voir dires or having long legal argument is not really the focus of these types of judicial determining bodies. All too often what starts out to be a bipartisan and aspirational objective is shattered by the fact that it becomes as heavily burdened and overlapped as what they moved away from.

I make that comment because it is only more recently where concern has been raised about this, remembering here that what we are trying to do is keep something simple and accessible. The government, at least, is keen to save some money and try to not have all these specialty areas, but have it all in one area, and give the public that advantage of quick justice in exchange for the specialty, as I said with a theory of having people who are smart enough, well-trained enough and qualified enough to be able to apply their mind to multiple jurisdictions.

That in itself is not unheard of; there are people already now in the Supreme, District and Magistrates Courts who have to deal with all manner of different types of issues, including of course jumping from civil to criminal and the like. We know we have people out there who can do that, so all the arguments—for the moment at least—about having a specialty jurisdiction, to be able to make

that quicker if you had that specialty, all evaporated, and we are going to sort of work together to try to make the system work.

I had a significantly detailed briefing by Ms Jo Howski, a senior adviser on legal matters in the Attorney-General's Department, and I appreciate her time and effort in that briefing as well as the follow-up material provided. With that I did receive a schedule of the proposed tranches of legislation which are to follow, and that outlined the five areas that the government was proposing to introduce over the period up to 2016 for the obvious reason, and we totally accept this, to try to have things run smoothly. Any attempt to bring all these jurisdictions together at once was probably going to be chaotic; that was not the government's word, but we accept that it would have been extremely burdensome to achieve and, therefore, that it would be over a graduated period. Stages 1 and 2 are now incorporated in this bill.

There are several areas, as we understand it, that are covered under this legislation and they are outlined in the Attorney's contribution. The Guardianship Board currently has Mental Health Act obligations dealing with community treatment orders—as well as other matters, but that is a very significant role—and there are duties it has in relation to guardianship matters. They are—at least for a short time—going to be, and probably currently are, vested with the determinations under the new Advanced Care Directives Act, which came into effect on 1 July. I do not know whether they have had new cases yet; they are probably hoping they do not, because it is expected that within a few months that new area will be transferred over to this new SACAT board in any event.

So there are a number of areas that they currently deal with and they will be transferred to SACAT and I will come back to them shortly. Then we have the Residential Tenancies Tribunal. They, of course, as is evident by their title, are a specialty court established to deal with disputes in respect of tenants and landlords in residential premises. I am old enough to remember when it was established.

It is interesting how common the themes were at the time about how we were going to have streamlined access to justice etc., but, in any event, they have had a number of roles in resolving these disputes, and there are also some provisions under the Retirement Villages Act and the like and they need to be accommodated. I will not have much else to say about the Residential Tenancies Tribunal. It seems undisputed that that is a classic area which could be accommodated under the new SACAT and from all we have heard it is progressing without dissent.

The third area which relates to the First Home and Housing Construction Grants Act decisions (this is about who gets and who does not get a grant), and the Freedom of Information Act and the Public Sector Act decisions are a little bit more complicated. I have not ever been involved in a Public Sector Act grievance by an employee which currently is dealt with under the Public Sector Grievance Review Commission. In any event, the Attorney would know, as we have had a fair bit of experience between us under the Freedom of Information Act, and so I will say to Judge Parker and others, expect to see a bit more of me when they set up this jurisdiction.

The District Court will probably be pleased to be relieved of that direct responsibility. However, they are not currently with a home. As a separate sort of tribunal they are dealt with in the District Court and Supreme Court jurisdictions, and the Supreme Court of course only in relation to very limited appeal work. I just make the point that we accept that these are likely to be in place in SACAT early next year. I think the president has indicated that he is hoping for February next year to have the personnel in place, and to be able to accommodate those, so I will let the registrar know to look forward to my application.

All of that is to be followed with the other three tranches. Stage 3 is to be an enormous number of jurisdictions, I will not repeat them, but they are to come in through April to July 2015 and, as I have indicated, the graduated process is to ensure that we have a smooth transition.

As the leader indicated, during the briefing we were offered, and it subsequently arrived in the mail, the stages up to stage 5. The disputes under the Valuation of Land Act were in stage 5, and today when I met with Justice Parker and an adviser of the government I was handed a document which now indicates that it is in stage 3 and that there was an error in the original indication. That is disappointing but we can live with it.

In the meantime, though, of course, for the reasons outlined already by our leader, it is the opposition's view that one of the jurisdictions that should have priority is the disputes in relation to land valuation. As members would know, in addition to land tax, council rates, and the Emergency Services Levy, the Valuer-General's assessment on property also has an impact on our sewerage rates, and other levies and charges which apply a value-based scale.

This decision by the government in this year's budget, which we dealt with yesterday in some of our budget bills, makes provision for the introduction of a much broader emergency services levy it will apply. We say that is a backdoor land tax on homes, motor vehicles and properties where people have a principal place of residence which had otherwise been exempt. We will not discuss the merits of that because it is without any merit. However, they are in government and they have decided they are going to impose this.

It is of concern to our side that not only did we think that it was a good idea prior to the last state election and published our position to support a more streamlined process for review of Valuer-General's assessments—SACAT being the logical recipient of that jurisdiction—but with the introduction of the emergency services levy to be applied to the principal place of residence, that is, the homes of people and motor vehicles, this jurisdiction should be transferred now. That would be the ideal.

However, again we are reasonable on this side of the house and we accept that there has to be some time to implement it. The government says it is intending to provide it in 2016 and is telling us that it is getting ready to have it in the second quarter of next year (April to July) so we know it must already be working on it. Therefore, what it is proposing is not much different to what we are asking. As the leader says, we are seeking that there be some clear target put in the legislation to ensure that it is given priority because we are going to need it.

The other thing is that I was offered, and appreciated, the opportunity to meet with Judge Parker this morning, the President of SACAT. He raised with me the question of preparation and having adequate resources, and the like. It was clear from that meeting that up until our meeting this morning he had been led to believe that Valuer-General's matters were in stage 5. He had been working on that misapprehension as well, and not unreasonably. He indicated there are a number of other processes that are being set in train and therefore his understanding was that Valuer-General matters were down the track.

At present, and as we would expect, the Supreme Court Land and Valuation Division receives and hears these disputes. I understand His Honour Justice Blue has had that lucky task since the appointment of the Chief Justice and he receives a number of these applications. Justice Parker indicated this morning that, to his knowledge, none of them have gone to trial which may represent the excellent counsel representing the parties, or sensible management by Justice Blue, or a combination of the both. In any event, apparently that is the situation. As I say, and as we would expect, the disputes that are going to the Supreme Court are by large corporations or parties that have sufficient funds to be able to challenge these and spend the money on the filing fees and litigation costs.

As you would expect, there needs to be a significant consequence. If you are arguing about multimillion dollar assessments which you want to challenge to save multi millions, it can be justified and, unsurprisingly, these are the types of cases that end up in the Supreme Court. Mr and Mrs Average, more and more of whom are going to be captured quite overtly by the new taxes introduced by the government, at the moment are excluded and we need to be able to ensure that they are included.

We say that there is a case of urgency for the advancement of valuation disputes, and now we know the government are getting ready for the second quarter of next year. If they say we could not have it ready before 1 April next year, I can quite openly say to the Attorney-General that I thought about putting it on 1 April but there are a few things I have identified in my life where I have decided I do not use the 1 April date, being April Fools' Day, one of which was starting my own business. I specifically had all the corporate documents drawn so that the commencement of the company and the practice started on 2 April, not 1 April. Call me superstitious but, in any event, we picked the date in March. We are certainly open to accommodating that to make provision.

The third area that I want to touch on is this question of the Mental Health Act. My understanding is that, under the Western Australian model, mental health act issues are determined by their new SACAT. I recently read a report of one of the judges of the SACAT who had done a review of their SACAT and said that everything was going swimmingly. That is a bit self-serving, I suppose, but, in any event, that was his assessment—and it may well be: I am not suggesting it is not.

However, that jurisdiction, and another, have determined that mental health matters are transferred to this generic tribunal structure and not kept separate. It may not be as urgent for the moment because it is expected that the current clients of the Guardianship Board will still be physically going to the dedicated premises which they currently occupy so, apart from having a SACAT label over the top and perhaps a few different personnel, it is going to be a dedicated environment for those customers.

However, in other jurisdictions, including in Queensland, when they considered what jurisdictions should be absorbed into their civil tribunal, they did a whole review on it and there were strong recommendations from a number of the people high in health administration plus the private profession that that would be a retrograde step and it ought to be kept out of that jurisdiction.

I have read a few of those reports and there is some argument that suggests that it would be helpful to not have the clients of that jurisdiction, and/or the relatives who are often with them, to have to go into a mainstream court process and that it would be kinder to allow them to have a separate area. Ultimately, if they are going to be all in together, we will see, but I suppose we have some time to be able to at least give this a trial and see whether it makes a difference.

The structure and the dedicated environment are not the biggest concerns, though, for me. My concern is that the government is proposing that a sort of in-house psychiatrist be appointed for the purposes of these assessments and there are a number of concerns that have been raised. I am not going to hold up the debate today because we are still working on some of that material.

However, this bill, in addition to dealing with the jurisdictions (which, as I say, some other states have chosen not to include), at the end introduces some amendments to the Mental Health Act 2009 which are nothing to do with SACAT. I should say that they are associated to the extent that they relate to jurisdictions which are going to become part of SACAT. However, they appear to be largely work that has come out of a review of the Mental Health Act 2009 by the Chief Psychiatrist—who is, of course, a government appointee and in a senior position in the Department for Health.

I have met a few over the years. Obviously, one of their roles is to contribute quite a bit and assist the government, and indeed the parliament, as was the case when the Mental Health Act was rewritten, with very significant changes back in 2009, and we have had a few amendments since. Part of their job is to keep an eye on those reforms—some of which have been quite controversial—and make recommendations. The Chief Psychiatrist, in a report released in May this year, has covered quite an extensive area of reform that was recommended.

I have read the report and have attempted to quickly check what has been absorbed under this bill. The sort of thing that may not have much impact is what happens under certain orders under the Mental Health Act that psychiatrists are obliged to provide copies—usually in relation to detention arrangements—to both the Medical Board and the Chief Psychiatrist. It is the general view of the Chief Psychiatrist that this is unnecessary, that it is a duplication, so we will get rid of the obligation to go to the board and the Chief Psychiatrist will be responsible for it.

We have had long debates on the Mental Health Act over the question of treatments, and I am still at a complete loss as to why we have provision in the Mental Health Act for certain treatments. Apart from ECT, we still provide neurosurgery and prescribe psychiatric treatments, even though I remember asking the Chief Psychiatrist, 'Where in the world is there still treatment under neurosurgical procedures applied for the purposes of dealing with mental health?' The answer to that (to the best of her knowledge at the time) is nowhere. We simply do not use that form of intervention, thankfully. The shocking history—

The Hon. J.R. Rau: Isn't that a completely separate issue?

Ms CHAPMAN: No, because you have amendments in here.

The Hon. J.R. Rau: But we're not changing the status quo of the Mental Health Act.

Ms CHAPMAN: You are doing some things. My point in relation to this is that while we still allow for interventions in certain circumstances which are far more than just allowing for ECT—and that is under protection—we have a very strict regime of ensuring that certain personnel and parties keep an eye on that. It is important. If we are going to detain someone against their will—sometimes medically sedated, sometimes strapped down—or administer treatments against their will, for which the Mental Health Act under that significant review provides, we need to be very clear about how it is going to be supervised.

A very strict regime was set up to ensure that this was supervised in a number of ways so that parents, guardians, relatives, and so on, of people who are in this tragic situation are protected. The medical profession understands the significance of it, and they were part of developing the models for protection and the consultation around that.

So when I see something that on the face of it appears to just streamline a process, it does ring some alarm bells for me. As I have only read the report of the Chief Psychiatrist and not gone through all the other amendments to the Mental Health Act which are captured in this act, I cannot say at this point that we wholly support them but, for the purposes of setting up the new structure of the SACAT, many of these may not be necessary. For convenience, they may be in the bill for that purpose. I will go through them in more detail and I will discuss them with the shadow minister for health, the Hon. Stephen Wade, and we will see if we can come to a landing in that regard.

I will briefly conclude by saying: under advance care directives—there is obviously this bit of transition hiatus—there is a briefing today, I think, being offered by the Minister for Health. The Law Society have raised some significant issues in the application of the law in relation to advance care directives. That may help to hinder things; if it does, in its application, we will accommodate any further transfer requirements. I indicate that, because it may be that we need to deal with some other aspects of the transition. That law has passed and we want to get on with it, but we also want to make sure that it is done in a manner that is not going to cause confusion to the public.

Parliamentary Procedure

VISITORS

The DEPUTY SPEAKER: I put on record that the member for Mawson had two groups from Woodcroft College join us in the gallery a little earlier, who I hope will be with us at question time. If they are, they certainly will see the stark comparison between ordinary business of the house and question time today.

Bills

STATUTES AMENDMENT (SACAT) BILL

Second Reading

Debate resumed.

Mr TARZIA (Hartley) (12:56): I would like to thank the hardworking public servants who have composed this bill, and I appreciate that their task has certainly not been easy. I also thank the government for the opportunity to be briefed on the matter. With super tribunals themselves, since at least the 1970s, there has certainly been a yearning for reform of specialised tribunals or decision-making bodies outside of the court system. One only has to look at the Kerr Committee in the 1970s and the Bland committee, which I think it is fair to say resulted in CATs all over the country—many CATs. The SACAT is the last one by the looks of it, after the NCAT, the QCAT and, my personal favourite, the VCAT.

Once again, South Australia seems to be one of the last states in this nation to implement important reforms, but at least now we finally have a generic civil and administrative tribunal, hopefully. Super tribunals of this nature have existed for a while. In these jurisdictions, the tribunals replace an array of tribunals, which has made it simpler and easier for the people of those jurisdictions to access justice. When compared with the array of tribunals which the super tribunals

replace, across the board there has been far greater accessibility, efficiency, consistency in decision-making, and greater independence from government in both perception and reality. I believe that SACAT will also allow for a much more transparent and consistent approach over the broad range of areas that SACAT will be able to preside over.

Earlier this year we heard that the government appointed current Supreme Court judge Parker, Deputy President and current District Court judge Susanne Cole, and the registrar Clare Byrt. We expect SACAT to be up and running over the next few months and incorporate smaller tribunals in perhaps a staggered way. I note that the Law Society have complimented the bill. They have said that they welcome the important government initiative and generally endorse the establishment, the objectives, the structures, and the powers and procedures provided for in the bill. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Sitting suspended from 12:59 to 14:00.

Parliamentary Procedure

ANSWERS TABLED

The SPEAKER: I direct that the written answer to a question as detailed in the schedule I now table be distributed and printed in *Hansard*.

PAPERS

The following paper was laid on the table:

By the Minister for Disabilities (Hon. A. Piccolo)—

University—South Australia Annual Report 2013

VISITORS

The SPEAKER: I welcome to parliament today students from Woodcroft College, who are guests of the member for Mawson, also students from Salisbury East High School, who are guests of the member for Wright, and students of Mount Carmel College, who are guests of the member for Port Adelaide. I also understand there is a delegation of Shop, Distributive and Allied Employees' Association members—

Mr Pisoni interjecting:

The SPEAKER: The member for Unley will apologise.

Mr Pisoni: Apologise, sorry?

The SPEAKER: He will apologise for disrupting the proceedings of the house.

Mr PISONI: I apologise, sir.

The SPEAKER: —who could be guests of anyone, but I am happy for them to be guests of mine.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:03): I bring up the sixth report of the committee.

Report received.

Question Time

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:04): My question is to the Minister for Education and Child Development. Now that the police commissioner has revealed that an investigation of the 32-year-old Families SA employee was undertaken last year by SAPOL on referral from Families SA, a revelation publicly welcomed by the Premier and the education minister

yesterday, can the minister advise when she was first made aware that SAPOL had investigated the former employee?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:04): Yes, I did welcome Commissioner Burns making his statement yesterday, advising about that particular matter, but again, I would like to actually, I think, clarify some misinterpretation that's been made in relation to comments that I have made both in this house and publicly. At all times, when I have been referring to criminal history checks and working with children checks, I have been talking about the person's engagement—the commencement of his employment.

Mr Marshall: That wasn't even the subject for the interview.

The Hon. J.M. RANKINE: No, I just think it is really important that we are clear about some of these issues that are being peddled, that I have somehow misled the South Australian public. I have at all times only made comment about this person's engagement. In relation to other matters to do with his employment, I have taken advice about what I can and cannot say, and I appreciate, yesterday, the commissioner making a further statement which, in fact, confirmed the actions that I had been taking when he said, and I quote:

> I am satisfied that the Government's position in relation to the release of details has been consistent with the advice provided by SAPOL.

I would also point out that the commissioner also said:

> …I am ultimately responsible for the investigation and as such it is appropriate that I determine—

Mr Marshall: Who wrote that for him?

The Hon. J.M. RANKINE: —what information to publically release and at what time.

Now, in fact, to answer the leader's interjection of 'Who wrote this?' I would assume that the police commissioner is quite capable of making his own statements, and I think it is impudent and improper of the leader to impugn the commissioner—

Mr Marshall interjecting:

The Hon. J.M. RANKINE: No, I think it's impertinent of you to question the capacity and capability of our police commissioner. It is absolutely impertinent and improper, and you should be made to apologise for that. I have not spoken publicly about the matter which the police commissioner raised yesterday. I have not done it, on advice. Regarding details in relation to this person's employment, in fact, the commissioner went on to say that he wasn't intending to make any further comments about this matter either.

The Hon. J.J. SNELLING: Point of order.

The SPEAKER: Point of order from the Minister for Health.

The Hon. J.J. SNELLING: Sir, in the course of the minister's answer, the Leader of the Opposition interjected, when she was talking about the comments of the police commissioner in regards to this matter, 'Who wrote that for him?' Now, that is a slur on the integrity of the police commissioner. If the Leader of the Opposition wants to question the integrity of the police commissioner, he should have the guts to do so by substantive motion and produce some evidence.

The SPEAKER: I call the Leader of Government Business to order, because that was not a point of order: that was an impromptu speech, and a vice I am trying to stamp out.

Members interjecting:

The SPEAKER: No, I haven't quite finished yet with the Minister for Health. The police commissioner isn't in the same position as members of this house. So, if the Leader of the Opposition wants to insult the police commissioner, he is free to do so, because the police commissioner is not a member of this house, so it doesn't require a substantive motion. If the Minister for Health makes a bogus point of order once more, he will be out. Is this a supplementary?

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:09): Supplementary. Is the minister genuinely trying to assert that her comments regarding the fact that no child notification had been received were relating to his pre-employment check; and is this plausible given that the entire interview was based on the *Advertiser* article which was asserting—

The SPEAKER: The leader is now commenting. Minister.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:09): Thank you sir. Yes it was and if the leader—

Mr Marshall interjecting:

The SPEAKER: The minister will be seated. I call the leader to order. He asked the question, now he will listen to the answer. Minister.

The Hon. J.M. RANKINE: Thank you, sir, and if the leader bothered to read the entirety of that transcript he would see that on each occasion when I was asked about the substance of the article in the *Advertiser* I repeated consistently that I couldn't comment about that.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:10): Supplementary. Given that the minister has said that she cannot tell us when a briefing was received, can the minister at least tell the house that she has received a briefing from SAPOL on last year's investigation into a Families SA employee?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:10): Thank you sir. Of course, the leader comes in here and asks questions about things which he knows the answer to, because I spoke directly to him about this matter.

Members interjecting:

The SPEAKER: Before the leader proceeds I call to order the members of Heysen, Bragg and Morialta. Third supplementary, the leader.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:11): Given that there is some confusion about this I would appreciate it if the minister could place on the record here today whether she has received a briefing from SAPOL on this matter.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:11): There were at least two occasions on which I met with SAPOL prior to the public announcement about this particular arrest, and those matters were discussed and I took the advice that was given to me in discussion by both SAPOL and the Crown about what I could and could not say, and the Leader of the Opposition knows full well because he has had similar briefings and, in fact, I spoke personally to him about it.

Mr MARSHALL: Supplementary, sir.

The SPEAKER: Well that would be a fourth supplementary so let's just make it another question.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:12): And a final one as well on this topic, hopefully. If that is the case, and you had received these briefings from SAPOL, why did you and the Premier assert publicly that there was nothing extraordinary about this employee whatsoever?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:12): I never at any time used those words. What I have said publicly was that this man went through criminal history checks and the working with children checks and there was nothing adverse

in either of those checks. Now, the Leader of the Opposition may want to rewrite what I have said. He comes in here—

Mr Marshall interjecting:

The SPEAKER: The Leader of the Opposition is warned for the first time.

The Hon. J.M. RANKINE: We have had instances in here where the opposition asks questions, asserts certain things and then takes that as fact for follow up. I have never said those things, and I would appreciate it if the Leader of the Opposition would withdraw his comments.

The SPEAKER: Member for Colton.

An honourable member interjecting:

The Hon. P. CAICA: I'm opening the batting with government questions.

EXPERT PANEL ON PLANNING REFORM

The Hon. P. CAICA (Colton) (14:13): My question is to the Minister for Planning. Minister, can you please inform the house about the work of the Expert Panel on Planning Reform, including today's release of their report 'Our Ideas for Reform'?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:13): I thank the honourable member for his question. Today Mr Brian Hayes QC, as chair of the Expert Panel on Planning Reform, along with members of the panel, personally handed to me their second public report entitled 'Our Ideas for Reform'.

This public report has been informed by an extensive community program. In 2013 the expert panel held a range of briefings and workshops for councils and communities across the state from Port Lincoln to Mount Gambier. This community consultation was complemented by briefings and workshops for key interest groups, including the Urban Development Institute of Australia, the Planning Institute of Australia, the Housing Industry Association, the Community Alliance, the Conservation Council, the Adelaide City Council and the Property Council.

The Planning Reform Reference Group, featuring members with a very broad range of interests in the planning system, has also been intimately involved with the panel's work. Throughout their work the independence of the panel has been, and will continue to be, of paramount importance and their schedule of work throughout the state to determine the key issues and questions they have considered is commendable.

This process has produced 27 ideas for reform. I look forward to considering all of their ideas in the coming days and weeks and I invite all members of this place, and the community generally, to engage with the report and provide feedback.

The purpose of the ideas for reform is not to present final recommendations: it is to give us all clear ideas that we can consider and discuss constructively. The expert panel will now undertake yet another engagement process discussing these ideas for reform with communities and key interested people across the state.

I look forward to inviting the panel to provide another briefing to interested members of the parliament when we return in September to provide all members with a further update on this very important work. If anyone is interested, further information about this can be found at thinkdesigndeliver.sa.gov.au.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:16): My question is to the Minister for Education and Child Development. When did the minister first become aware that the police commissioner would publicly reveal the SAPOL investigation into the former employee referred by Families SA?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:16): I will preface my answer by saying it would be nice to hear something soon about the children, the subject of this particular matter. Never mind, sir.

Members interjecting:

The SPEAKER: Minister, I would prefer that you addressed the substance of the question.

The Hon. J.M. RANKINE: Sir, I probably heard about it at exactly the same time as the leader did.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:16): A supplementary, sir. Has the minister received legal advice since the commissioner's revelation that she could not discuss her knowledge of the matter given he has discussed this publicly?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:16): I haven't received legal advice counter to that and I do refer to the statement that he made yesterday in saying that he didn't refer to any of the details of the care concern and nor does he intend to in the future. The police commissioner who is in charge of this investigation is in charge of the release of information—and he stated that publicly and very clearly—and will continue to be in charge of that.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:17): A supplementary, sir. Is the minister confirming to the house that she sought no legal advice as to whether or not she can give any details regarding the investigation subsequent to the police commissioner telling people that the investigation has actually taken place?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:17): What we received was a statement from the police commissioner of South Australia basically confirming—

Mr Marshall: Before he went public with it himself.

The SPEAKER: The leader is warned for the second and final time.

The Hon. J.M. RANKINE: He has made the confirmation that he made yesterday and has effectively said that no other matters are to be released at this time and that he determines what information and when that will be released. So whether I have received legal advice or not is quite irrelevant.

Members interjecting:

The SPEAKER: The member for Unley is called to order!

The Hon. J.M. RANKINE: I am happy to read this to the house again. The police commissioner said, 'I determine what information to publicly release and what time.' If you want information about these circumstances—

Mr Marshall: I just want an answer to the question.

The Hon. J.M. RANKINE: If you want information about these circumstances—

The SPEAKER: No, 'If the leader wants information.'

The Hon. J.M. RANKINE: —and, of course, sir, I spoke to the leader about this particular issue on the evening of 24 July.

Mr Marshall: There are several versions.

The Hon. J.M. RANKINE: On 24 July. He has received several—

The SPEAKER: If the leader's lips move out of order again, he will be ejected from the chamber.

The Hon. J.M. RANKINE: The crux of the matter in relation to this is that we have a live investigation that South Australia Police are in charge of. We will eventually see prosecution in the courts. The Leader of the Opposition has been briefed on a number of matters; he knows the sensitivity of those matters—well, he sits there and shakes his head and that is just a nonsense.

In any case, sir, he has been briefed on a range of matters. Some matters he has not been briefed on; he may be, eventually. There are some matters that are still not in the public domain because suppression orders apply to that because this is a very sensitive investigation. We need to maintain our focus on not what interests the Leader of the Opposition and not what might grab a headline for the Leader of the Opposition but what will see a successful prosecution if this person is guilty. I am not going to say anything that is going to jeopardise—

Members interjecting:

The Hon. J.M. RANKINE: We have people in this house who may do that. I am not going to say things that will jeopardise this investigation or this prosecution, and the Commissioner of Police made that very clear yesterday. He is in charge of the release of any information.

The SPEAKER: The member for Hartley I call to order and I warn him for the first time for repeated interjection, I warn the member for Morialta for the first time and I warn the Deputy Leader for the first time. The member for Taylor.

MEET THE BUYER FORUMS

Mrs VLAHOS (Taylor) (14:20): My question is to the Minister for Small Business. Can the minister inform the house on measures the state government is taking to assist local companies win government work?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:21): I thank the member for her question and keen interest. Later this month, Port Pirie will host the state government's first regional Meet the Buyer event. This successful program, which began last year, partners local businesses with key government agencies in order to better position them to win government work. Furthermore, it helps build awareness of what locally based companies have to offer, and there is much in Port Pirie to offer to the people of South Australia, not just good, stable government.

Furthermore, it will help build awareness of what locally based companies have to offer. These events create an opportunity for businesses to meet key government staff that have responsibility for the design of projects, sourcing business solutions or purchasing goods and services. It is a fantastic forum where the business community can learn more about procurement processes, what the government is seeking from suppliers, and upcoming opportunities.

There were six successful Meet the Buyer events last financial year, and the state government proposes to host a further six events this financial year. Importantly, two of these events will be held in the regions. There is no doubt that our regional businesses have a lot to offer, and that is why we are bringing buyers to them. We want to ensure that the power of procurement drives greater employment creation and supports local jobs and innovation in regional South Australia.

It is the view of this government that providing regional businesses with the right knowledge and contacts means that they will be able to identify and grasp the opportunities available to them. The more regional businesses bid for and win government work means more jobs created and more investment in our regional communities.

Ms Redmond interjecting:

The Hon. A. KOUTSANTONIS: Sorry, I can't hear you back there.

Ms Redmond: I said they just don't get paid if they're on Kangaroo Island.

The Hon. A. KOUTSANTONIS: Yes, still not making any sense. The Meet the Buyer events complement the recently launched Tender Ready project between the state government and Business SA, aimed at making sure more small businesses are successful in winning government contracts. The first—

Ms Chapman interjecting:

The Hon. A. KOUTSANTONIS: I agree with the Deputy Leader of the Opposition. I condemn the commonwealth government entirely for what they have done to Mr Rossi and his amazing South Australian company—based in the great electorate of West Torrens. The first regional Meet the Buyer event will be specific to the state government's regional expenditure. It will be held on Thursday, 28 August at the Northern Festival Centre, Port Pirie between 1pm and 4pm. For further information about the regional Meet the Buyer event, contact the office of the Industry Participation Advocate—I might add, an office that was to be abolished had the government not been successful in its re-election campaign—via email at oia@sa.gov.au or please call 8226 2755.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24): My question is to the Minister for Education and Child Development. Can the minister advise the house when the parents of the 13-year-old girl who was allegedly raped by a Families SA contract driver were informed of the alleged crime?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:24): My understanding in relation to that—and this little girl is in care, as you would appreciate—is that contact was made with the family over the weekend.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24): Can the minister clarify which weekend she is referring to: the weekend that has just been held, on the Saturday?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:24): Yes.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24): Is it the case that the parents were informed after the media inquired about this case with the minister's office?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:25): The contact with the parents was not at my instigation; it certainly was instigated, however, by the department, obviously concerned about both highlighting the issues around the media but also in an endeavour to advise these parents. I am not apprised of what difficulties or processes may have had to have been undertaken to locate the parents, but I am happy to get a report and come back to the house.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:25): Can the minister advise the house when the department commenced the process of trying to contact the parents? Was it only over the weekend?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:25): Again, this is an issue that, when we contact people is very much determined by a police investigation, and I am not saying police did or did not authorise contact. What I am—

Mr Marshall: This is the parents of the child.

Mr Pisoni interjecting:

The SPEAKER: The member for Unley is warned for the first time.

The Hon. J.M. RANKINE: This child is under guardianship. I am happy to get a report and bring that back to the house.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:26): Supplementary, sir: does the minister stand by her statement on Saturday at her press conference where she said she first

became aware of the matter on Monday and was focused on informing the parents, when the victim's parents still did not know six days later?

Mr Pisoni: Outrageous!

The SPEAKER: The member for Unley is warned for the second and final time.

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:26): I think it is important that, irrespective of whether a child is under guardianship or not, parents are advised about these matters, but the priority from the very beginning was making sure that this little girl was fine and that the carers had the support they needed in caring for her.

OZASIA FESTIVAL

Ms BEDFORD (Florey) (14:27): My question is to the Minister for the Arts. Can the minister update the house about the upcoming OzAsia Festival?

The SPEAKER: I hope the Minister for the Arts will apprise us of information that is not already obtainable from the program which landed in my electorate office last week.

Ms CHAPMAN: Point of order: we have just had a 10-minute rendition of what has happened on a review, which is on the website.

The SPEAKER: Was that a kind of after-the-fact point of order?

The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for Mental Health and Substance Abuse, Minister for the Arts, Minister for Health Industries) (14:27): Our annual OzAsia Festival will be taking place from 3 to 20 September at the Adelaide Festival Centre and will host 21 performances and 36 events, featuring over 250 artists and presenters from across the globe. The OzAsia Festival is an important event on the South Australian festival calendar not only for its role in offering rich artistic opportunities for our local audiences but also for the role that it plays in strengthening our relationships with our Asian neighbours.

This year, the festival will have a particular emphasis on Shandong and will engage audiences through theatre, dance, music (both contemporary and traditional), film, percussion, food and calligraphy. Audiences of all ages will have the opportunity to learn more about this province, which is the centre of Chinese civilisation, and gain insights into the eternal charm of ancient Shandong and the many facets of its contemporary culture. Some of the highlights from this year's program include:

- *Red Sorghum*, winner of the 2014 Wenhua grand prize, China's Ministry of Culture's highest award for professional arts;
- *Dream of the Ghost Story* by the Shandong Acrobatic Troupe—

The Hon. A. Koutsantonis: How do you say that in Mandarin?

The Hon. J.J. SNELLING: I don't know how you say that in Mandarin, but Tom behind me will tell you—

- Tan Dun's *Nu Shu: The Secret Songs of Women*, which will feature composer and conductor Tan Dun joined by our very own Adelaide Symphony Orchestra; and, of course
- there is the Moon Lantern Festival, which this year falls on Monday 8 September from 3pm to 8:30pm. The Moon Lantern Festival will include 10 schools and 48 community groups, and will transform Elder Park with rich light streaming from hundreds of lanterns and the full moon. I am sure there will be many people hoping for better weather than the torrential downpour that washed out the event last year.

I am pleased to inform the house that as well as the artistic component, a high level delegation from Shandong will come to South Australia for part of the festival, including the Vice-Governor, who has taken a keen interest in developing social and cultural links between our two states.

I would like to acknowledge the Adelaide Festival Centre as the host of the OzAsia Festival, and thank Douglas Gautier and the team for all the hard work they are putting in during the lead up to this great event. OzAsia has grown over the last eight years and has been embraced by local Asian communities and mainstream audiences alike. It has enriched the experience of South Australian audiences by providing a more diverse range of artistic expression while also helping our understanding of Asian culture and traditions. I encourage all members to come along and get involved in this great event.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:30): My question is to the Minister for Education and Child Development. Will the minister restate her support of child protection remaining within the education department in light of the Premier's recent comments that he is now prepared to consider moving it, if recommended by the upcoming royal commission?

The Hon. J.W. WEATHERILL (Cheltenham—Premier) (14:31): Of course—

Mr Pisoni interjecting:

The SPEAKER: The member for Unley is warned for the second and final time.

The Hon. J.W. WEATHERILL: Thank you, Mr Speaker. Of course, as we often hear with questions from the Leader of the Opposition, they involve a misleading verballing of the government in the course of the explanation for the question. No such thing, in fact, occurred. What did occur was, in answer to questions that were raised with me (presumably at the behest of the opposition, which has been promoting this idea of the splitting up of the agency), I said, as I have made clear from the start, that given the nature and extent of these issues all our assumptions need to be tested.

I do not see any rational relationship, frankly, between the splitting of the agency and any of the events we are currently looking at but, as we often see in this child protection space, whenever there is a crisis people pull out whatever agenda they seem to have as their pet project and suggest that that is the answer the question. I must say that I rarely see the idea of the one single solution, the silver bullet somehow being the solution to what is a very complex area, as ever being a very persuasive argument.

For those who are interested, the bringing together of the Department for Education and Child Development was a conscious step to bring together relevant education, health care, protection and child development services within one agency so that we could consider, rather than a series of disconnected services, the whole of our service system from the perspective of the child. That is something that finds support within a national document, the National Framework for Protecting Australia's Children, and a number of very significant child protection experts around the nation have called for this very approach. I think it is a good approach, and it is something that I stand by.

Notwithstanding that, we are prepared to subject all of our assumptions to the most stringent scrutiny, and I have said that this is a matter that could be ventilated if those who wish to do so choose to do so within the context of the royal commission. I am not presently persuaded, but if people can put a cogent argument, and it finds favour with the royal commissioner and is recommended, that is obviously something we will give consideration to.

GRAIN CROP

Mr PICTON (Kaurna) (14:33): My question is to the Minister for Agriculture, Food and Fisheries. Can the minister inform the house about the state's current grain crop, and how the season is progressing?

The Hon. L.W.K. BIGNELL (Mawson—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Tourism, Minister for Recreation and Sport, Minister for Racing) (14:34): I thank the member for Kaurna for the question. I can indeed inform the house about the current grain crop, and it is predominantly good news. We have the latest Crop and Pasture Report for South Australia, which was released today, and the good news is—as most people in the house would know—that above-average temperatures in most parts of the state, up about 1° or 2° right across the state, as well as some good average to above average rainfalls through May and June, have really helped things. We do not want to count our chickens yet, but it is looking like

another bumper crop. In fact, it will be the sixth year in a row that we are above the 10-year average, providing everything goes to plan for the rest of the—

Mr TARZIA: Point of order, sir. This information seems to be publicly available on the internet.

An honourable member: It's on the PIRSA website.

Mr TARZIA: It is on the PIRSA website. I understand he is in France a lot, but it would seem that this is on the PIRSA website.

The SPEAKER: Yes, I got the member for Hartley's point of order. Perhaps the minister will do some commentary on this morning's address.

The Hon. L.W.K. BIGNELL: I know the member for Hartley is a new member, but if he looks down at his feet and looks at the carpet in here, he will see that wheat is a very important part of our state's economy and always has been—

Mr GARDNER: Point of order, sir. Not only is the minister debating, he is actually reflecting on the ruling you have just made against him.

The SPEAKER: I am not sure that he is. Minister.

The Hon. L.W.K. BIGNELL: Thank you, Mr Speaker, and in no way was I reflecting on you, but I was reflecting on the member for Hartley for not allowing me to come in here to talk about one of our great industries, one of the drivers of our economy—

Ms Redmond: No, we're saying you can't tell us what is already on the web. Tell us something we don't already have access to.

The Hon. L.W.K. BIGNELL: Oh, I'll tell you something.

Members interjecting:

The SPEAKER: The member for Heysen appears to be laughing at her own joke. The Minister for Agriculture.

The Hon. L.W.K. BIGNELL: Thank you again, Mr Speaker. PIRSA's crop and pasture report is predicting an above average grain crop of 7.9 million tonnes, which is great news for the entire state. Whether you are in an agricultural electorate or not, we all benefit from good yields across the state. So it is terrific news for our farmers, terrific news for our economy and it is something that goes to the heart of the pillars of our government, and that is premium food and wine from our clean environment. It is a very important thing.

Early sowing combined with mild conditions during May and early June set the crops up for some rapid growth in most areas of the state. In some areas, though, things have not gone quite as well as others. One challenging issue has been the presence of an aphid and virus which are causing damage to canola crops. The beet western yellows virus is spread by the green peach aphid. The virus has damaged up to 10,000 hectares—

Members interjecting:

The Hon. L.W.K. BIGNELL: The member for Goyder is interested in this even if some of his colleagues aren't. The virus has damaged up to 10,000 hectares of canola crop on Eyre Peninsula and York Peninsula and in the Mid North and Mallee regions. This is out of 300,000 hectares of canola sown statewide. While this has been a significant issue to deal with, the affected canola crops have already been pulled out and re-sown with barley Clearfield wheat, which is herbicide-tolerant, or with canola.

Some pulse crops are also at risk of the green peach aphid spreading the virus with the warmer conditions of this coming spring. The strain of virus has been confirmed to also infect pulses and it has been found in pulse crops interstate. The industry has acted quickly, calling for and receiving funding to deal with emerging issues that require prompt attention, and I would like to thank the staff at SARDI and also at PIRSA for working with the industry to try to combat this problem.

If all goes well in the next few months, this season's crop, as I said before, will be the sixth above-average crop in succession based on the 10-year average. Collectively, the past five crops since 2009-10 have produced 41.3 million tonnes and exports worth around $12.5 billion for South Australia, and this season's crop looks like adding to this impressive run of seasons.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:39): My question is to the Minister for Police. Can he advise when he was first briefed by SAPOL on the investigation they undertook into the Families SA employee charged with multiple counts of child sexual abuse?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:39): I thank the member for his question. I can advise that I was first advised of this issue on 12 June by a formal briefing.

The SPEAKER: Supplementary, leader.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:39): Yes, thank you. Can the minister advise, based on his briefing, when Families SA referred the matter to police?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:39): I would actually need to confirm those details, but, what I can say, in the very same briefing I received from the police—and it is very important and I have to be careful what I say in public—is that 'public release of information concerning the arrest at this time will impede the current and ongoing investigation'. So, like my colleague, I am taking the advice of police and being very careful what I say in public.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:40): Supplementary, sir.

The SPEAKER: Supplementary, leader.

Mr MARSHALL: Has the police minister received his own legal advice that he should refuse to answer questions regarding his knowledge on this matter in the public or in the parliament?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:40): I thank the member for his question. I can just confirm what my colleague has advised the house. The advice to me by the police is to make no public comment about this matter. I can just reaffirm the public statement made by police yesterday, to say that:

> SAPOL's advice to government remains unchanged, and that is they should not take any action that may lead to the identification of possible victims, witnesses, impede on the investigation or be prejudicial to the prosecution. I am satisfied that the government's position in relation to the release of details has been consistent with the advice provided by SAPOL.

I quote directly from the police commissioner's statement yesterday. So, in regards to this matter, obviously the issues which are important are the welfare of the victims involved and, secondly, their families, and also the issue of not impeding the investigation and to not prejudice any prosecution. I would rather that the opposition thought I was not answering the question than do something which would be an injustice to those children.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:41): Supplementary to the Minister for Education and Child Development: why is it that the Minister for Police can tell us when his briefing occurred and the minister cannot provide us with exactly the same piece of information, both relying on SAPOL advice?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:42): I outlined publicly when I received advice about the arrest of this man and when we had

received a written briefing in relation to it and follow-up briefings. So, again, I would urge the Leader of the Opposition—

Mr Marshall interjecting:

The Hon. J.M. RANKINE: No, you asked about a specific matter in relation to—

The SPEAKER: The Leader of the Opposition asked.

The Hon. J.M. RANKINE: Thank you, he did, sir. So I have received numerous both oral and written briefings from my department and also oral briefings from SAPOL around this matter, but I am not going to go into detail and I have quoted numerous times exactly the same information that the Minister for Police has just provided this house.

CHILD PROTECTION

Mr MARSHALL (Dunstan—Leader of the Opposition) (14:43): Supplementary, sir.

The SPEAKER: Leader—it's not a supplementary, just another question.

Mr MARSHALL: Another question: can the minister therefore advise when she was first made aware that SAPOL had investigated the former employee?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:43): Again, I have said I have had two oral briefings with SAPOL before we went public in relation to this matter. Information was provided—sensitive information—which the advice was I should not release publicly, and I have not done so.

EDUCATION AND CHILD DEVELOPMENT DEPARTMENT

Ms SANDERSON (Adelaide) (14:43): My question is to the Minister for Education and Child Development. I refer the minister to her ministerial statement provided to the house yesterday that two positions will be advertised in DECD this Saturday for a deputy chief executive of child safety and an executive director of Families SA operations. Is the latter role a newly-created one?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:44): No.

EDUCATION AND CHILD DEVELOPMENT DEPARTMENT

Ms SANDERSON (Adelaide) (14:44): Supplementary: who else has resigned then? If it is not a new role, who is that replacing?

The Hon. J.M. RANKINE (Wright—Minister for Education and Child Development) (14:44): When Mr David Waterford was made deputy chief executive officer, another officer took up that position in an acting role.

CHILD PROTECTION

Mr GARDNER (Morialta) (14:44): My question is to the Minister for Police. Is the minister able to advise the house if the United States FBI has been involved in notifying SA Police of the access to child pornography by the Families SA employee now charged with multiple child sexual assaults?

Mr Whetstone: Look at this. Aren't they shaking in their boots, hey? Shaking in your boots.

The SPEAKER: The member for Chaffey is called to order. Minister.

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:45): I thank the honourable member for his question. The best answer I can provide to the house, consistent with the advice by the commissioner, would be as follows:

> SAPOL does not brief the Government on all aspects of criminal investigations. However, as the commissioner of police I am ultimately responsible for the investigation and as such it is appropriate that I determine what information to publically release and at what time.

I stand by the commissioner's comments.

The SPEAKER: Supplementary.

CHILD PROTECTION

Mr GARDNER (Morialta) (14:45): Perhaps the minister can advise more broadly whether SAPOL has a memorandum of understanding with Families SA to ensure that computers used by staff at Families SA can be monitored for inappropriate use?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:45): Can I have that question again?

Mr GARDNER: Can the minister advise whether South Australia Police (SAPOL) has a memorandum of understanding or of agreement with Families SA to ensure that computers used by staff at Families SA can be monitored for inappropriate use?

The Hon. A. PICCOLO: I will need to get advice on that. I don't have that in front of me.

CHILD PROTECTION

Mr GARDNER (Morialta) (14:46): A further supplementary: perhaps in getting that advice, the minister can find also find out for the house and for the public what protocols are in place to monitor the computers used by care workers at Families SA residential facilities?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:46): To the extent that I can make that information available, once I have obtained it, I will do so.

COMMON GROUND ADELAIDE APARTMENTS

The Hon. S.W. KEY (Ashford) (14:46): My question is directed to the Minister for Social Housing. Can the minister tell the house how a new social housing project will benefit vulnerable South Australians?

The Hon. Z.L. BETTISON (Ramsay—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Multicultural Affairs, Minister for Ageing, Minister for Youth, Minister for Volunteers) (14:46): Today, I had the great privilege of attending the opening of the Common Ground Adelaide Crowther Street and Shannon Place apartments in the city—two new social housing developments targeted towards vulnerable South Australians at risk of homelessness or those who would find it extremely difficult to secure and sustain tenancies in the private rental market.

Common Ground is a not-for-profit organisation which provides rental housing in a mixed community setting to low-income people and those at risk of homelessness in parallel with personal support to create pathways to independent and fulfilling lives for tenants. The state government has now provided more than $2 million to Common Ground for the two new developments, which will house 12 men and women who would otherwise struggle to acquire and maintain safe, affordable accommodation.

The Crowther Street project is a four-storey, medium-density apartment building comprising seven one-bedroom dwellings which will be targeted towards vulnerable people who would find it extremely difficult to secure and sustain a tenancy in the private rental market, such as older people or those with permanent, complex and multiple disabilities. The Shannon Place project is a four-storey, medium-density apartment building comprising five one-bedroom dwellings which will provide a stable place to live for people on low incomes needing affordable accommodation in the city.

Both projects have been developed by the GE Group of Companies with Common Ground being the purchaser upon completion. The total estimated purchase cost of the Crowther Street apartments is $2 million, which will be partially met through an Affordable Housing Stimulus Package grant of $1.3 million, which I will explain shortly. The cost of the Shannon Place apartments is $1.4 million, which will also be partially met through an Affordable Housing Stimulus Package grant of $0.8 million.

Common Ground will meet the remaining costs through a combination of corporate donations and debt finance from the National Australia Bank. The organisation also received approval under

round 5 of the National Rental Affordability Scheme, which will assist in meeting financing costs associated with its funding contributions.

In June 2013, the Premier announced the release of an Affordable Housing Stimulus Package, including $20 million for community housing capital grants. This funding program aims to provide an immediate economic stimulus for the local construction industry and to increase growth within the community housing sector.

Under this program, Common Ground was successful in securing grants of approximately $2 million towards development costs for these 12 inner city apartments. In total the funding program will deliver 130 new affordable rental homes, including 40 across a number of regional locations; 84 of those will be targeted with high support needs including 32 to be allocated to people living with mental illness.

Community housing providers approved under the scheme will bring private finance and other equity contributions of approximately $13 million to generate these additional social housing outcomes. Incentives provided through the state and commonwealth governments will support the ongoing viability of these developments and, therefore, the outcome for tenants.

I would like to touch on the role of Santos in supporting Common Ground. Santos is Common Ground Adelaide's foundation sponsor, contributing $3 million to help establish their operation in South Australia. Santos's involvement is a really good example of government, business and the community sector working together to solve complex social issues.

The SPEAKER: The minister's time has expired. The member for Morphett.

MULLIGHAN INQUIRY RECOMMENDATIONS

Dr McFETRIDGE (Morphett) (14:51): My question is to the Minister for Police. How many cases of child sexual assault on the APY lands have been investigated by SAPOL in the last year?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:51): I thank the honourable member for his question. I do not have that information available at hand and I am happy to get that for him and the house.

Dr McFETRIDGE: Supplementary, Mr Speaker.

The SPEAKER: If it be a supplementary.

Dr McFETRIDGE: It is.

MULLIGHAN INQUIRY RECOMMENDATIONS

Dr McFETRIDGE (Morphett) (14:51): What is SAPOL doing to reduce the availability of pornographic material on the APY lands as promised in response to recommendation 32 of the Mullighan Inquiry?

The SPEAKER: Tenuous. Minister.

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:51): I will need to get advice from the police commissioner as to what extent they have actually implemented that. I have had discussions with the commissioner on a whole range of matters regarding the Mullighan inquiry. The advice, from recollection, was that all the relevant ones to police had been implemented, but I will get further particulars for the member.

MULLIGHAN INQUIRY RECOMMENDATIONS

Dr McFETRIDGE (Morphett) (14:52): Supplementary on that: if the recommendations have been implemented, how many community safety meetings have been convened, and in which APY communities, and how many have they met?

The SPEAKER: That is not a supplementary but, if the opposition is happy for it to be a freestanding question, minister.

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:52): I thank the honourable member for his question and I will get that information for him.

EMERGENCY SERVICES

Dr McFETRIDGE (Morphett) (14:52): My question is to the Minister for Emergency Services. Will the MFS, CFS and SES chief officers be sacked under the model described to volunteers by the minister at the Hahndorf meeting on the Holloway review?

The SPEAKER: I trust that is not meant to be a supplementary? Minister

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:53): I thank the honourable member for his question. At the Hahndorf meeting you said?

Dr McFETRIDGE: Yes.

The Hon. A. PICCOLO: That's right; given that you were there. At the presentation I gave at Hahndorf as in other places, including Port Lincoln—which were open to the public and members of the Liberal Party attended and were able to photograph and take all the information they required away to talk to their communities, including people in the electorate of Hammond who have come to these meetings—I indicated, not only at that forum but at other forums, that should the concept which I am engaging with the community about go ahead, it will be clear that at the moment I have four chief executives in the emergency services sector—and if that model went ahead there would be one, and that four would not go into three. Four wouldn't go into one, sorry.

An honourable member interjecting:

The Hon. A. PICCOLO: No, it is not a yes, and I did not say that. What I said was, clearly, four wouldn't go into one and there would be a process to fill the new position.

The SPEAKER: Supplementary, member for Morphett.

EMERGENCY SERVICES

Dr McFETRIDGE (Morphett) (14:54): Are the three CEOs of the MFS, CFS and SES supporting the model described by the minister last week at Hahndorf or do they prefer the lead-agency model?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:54): I thank the honourable member for his question. That matter has progressed. The last publicly-available opinion expressed by the three CEOs was in the Holloway report in which they expressed a view regarding the lead-agency model.

Mr Gardner: Have you asked him since?

The Hon. A. PICCOLO: Yes, in fact we are meeting next week to discuss it further and that is well known. I have said that on 14 August there will be a round table where all the four CEOs plus the associations etc. will be attending. This is information which is available in public so I am not sure why I am being asked again, because I actually said this at all the round tables. We will be discussing the proposal I have put to the community meetings. They will come to our meeting next week and we will start developing a model based on that feedback.

There are no surprises here because I have said this all publicly on at least 16 occasions around the state. I am sure the member for Goyder heard the same story, I am sure the member for Mount Gambier heard the same story, and the member for Finniss heard the same story, and staff of the member for Morialta.

The SPEAKER: A further supplementary.

EMERGENCY SERVICES

Dr McFETRIDGE (Morphett) (14:56): Will the minister now release the Ernst & Young report into the emergency services?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:56): Mr Speaker, I have canvassed this same issue at the 16 round tables that I have had. I have indicated that, when a proposal is prepared which will go the government for consideration, the Ernst & Young report will be part of that consideration. Depending on what happens there, it may then be made public, but I will have to wait to see what the government says on the day.

SMALL BUSINESS COMMISSIONER

Mr VAN HOLST PELLEKAAN (Stuart) (14:56): My question is for the Minister for Small Business, and I ask that the minister explain the circumstances surrounding the resignation of the Small Business Commissioner which the minister announced yesterday.

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:56): Yesterday I informed the house that the former small business commissioner, Mr Mike Sinkunas, had tendered his resignation to me and he said, and I quote, 'I wish to tender my resignation from the position of small business commissioner, effective 25 July 2014.' He states in his letter to me, 'For personal and family reasons I am retiring after 40 years in the workforce. I appreciate your willingness to accept a shorter period of notice.'

Then he goes on to thank me for my personal support however, I can inform the parliament that there is an investigation into the conduct of the Office of the Small Business Commissioner towards staff within that office. It should be noted that no allegations against Mr Sinkunas have been found or proven, but he has tendered his resignation.

The SPEAKER: Supplementary.

SMALL BUSINESS COMMISSIONER

Mr VAN HOLST PELLEKAAN (Stuart) (14:57): Given that the investigation by the Crown Solicitor's Office started over three and a half months ago, on at least 14 April, can the minister advise why the small business commissioner tendered his resignation on 25 July?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:58): No, I can't. You would have to ask the former small business commissioner why he decided to do that, and it is a matter for him. But I do point out to the house that no finding has been found against him so far.

Mr VAN HOLST PELLEKAAN: Supplementary, sir?

The SPEAKER: Yes, member for Stuart.

SMALL BUSINESS COMMISSIONER

Mr VAN HOLST PELLEKAAN (Stuart) (14:58): Does the minister mean then that the commissioner acted fully in his position from the commencement of the investigation back in April all the way through to his resignation?

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (14:58): No. The Acting Small Business Commissioner was the Deputy Small Business Commissioner, Professor Frank Zumbo, who acted for him. I don't have the exact dates from when that commenced but I can advise that, following an investigation, and upon advice from the Crown Solicitor, there was correspondence to Mr Sinkunas setting out all the allegations about misconduct, and that afforded him the opportunity to respond. It was handed to him on 6 June.

There were some further addendums to allegations soon afterwards, and he tendered his resignation on 25 July. The exact time that Mr Zumbo began in his acting position I don't have with me here, but I will get that for you and give you the date that he was acting from.

ADELAIDE WOMEN'S PRISON

Mr GARDNER (Morialta) (14:59): My question is to the Minister for Correctional Services. When will the mothers and babies program, promised in 2012, become operational in the women's prison?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:59): I thank the honourable member for his question. I will have to get that information for him.

ADELAIDE WOMEN'S PRISON

Mr GARDNER (Morialta) (15:00): My question is to the Minister for Correctional Services and is, in fact, a supplementary to the previous question. Why is the mothers and babies program not operational now, given the promises made in 2012 by the then minister for corrections, now Minister for Education?

The Hon. A. PICCOLO (Light—Minister for Disabilities, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:00): I thank the honourable member for his question. Given my last answer, I think it is ditto for this answer.

LATE NIGHT TRADING CODE OF PRACTICE

Ms HILDYARD (Reynell) (15:00): My question is to the Attorney-General. Can the Attorney-General inform the house as to how effective the late night code has been in reducing violence in the CBD?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:00): I thank the member for Reynell for her question. The Late Night Trading Code of Practice came into operation on 1 October.

Mr GARDNER: I have a point of order, sir. This appears to be a matter that is related to a matter on the *Notice Paper* for the next Wednesday of sitting in relation to a report from the Social Development Committee and I am wondering if it is appropriate to go into such matters.

The SPEAKER: The Social Development Committee, member for Morialta, is reporting on the sale of consumption of alcohol in general. Attorney-General.

The Hon. J.R. RAU: Thank you very much, Mr Speaker. Mr Speaker, sometimes it is hard to make people appreciate good news and that is what we have got here. We have got good news.

Members interjecting:

The Hon. J.R. RAU: As I was saying before I was interrupted, the code came into operation on 1 October 2013. It was, as you would be aware, Mr Speaker, opposed by a number of people.

The Hon. J.J. Snelling: Really?

The Hon. J.R. RAU: Indeed, yes, a number.

The Hon. J.J. Snelling: Who would oppose such sensible legislation?

The SPEAKER: The Minister for Health is warned for the first time, although I would like him, the Attorney-General, to name them.

The Hon. J.R. RAU: Are you asking me to name them?

The SPEAKER: Yes.

The Hon. J.R. RAU: I am happy, if necessary. I can go into some detail. The opposition took some persuasion, I have to say, Mr Speaker, and there was in fact a disallowance motion in the other place, if I recall correctly, about this very code on the basis that it was the inalienable right of all citizens to get hopelessly drunk after 3 o'clock in the morning whilst bar-hopping.

Members interjecting:

The Hon. J.R. RAU: The member for Newland has taken the words out of my mouth. In fact, it was actually said, I believe, in the opposition party room that we hold these truths self-evident: that to consume copious amounts of alcohol and fall over dead drunk in the street is an inalienable right guaranteed by our constitution. But I digress slightly, Mr Speaker.

The code was designed to particularly apply to late-night venues, obviously, that trade between 3am and 7am, with measures specifically aimed at curbing alcohol related crime and anti-social behaviour. The new measures contained in the code include restrictions on the service of shooters and doubles, the presence of drink marshals within venues and a lockout restricting entry after 3am. In other words, if you haven't got enough into your system by 3 o'clock, stay where you are and keep going, but don't try to jump around and go to some other place.

All of these are measures designed to encourage a culture of responsible service, slow down alcohol consumption and change behaviour. Here are the statistics. This is the bit that actually demonstrates how important this measure was. Between 1 October 2013 and 30 June 2014, there was a 20.64 per cent—I am going to read that again, 20.64 per cent—drop in offences against good order. There was a 10.1 per cent drop in offences against the person and a 13.56 per cent drop in violent assaults when compared with the corresponding period the year before.

It is a fantastic outcome, and good for the public hospital system as well. Since the implementation of the late night code the number of early morning related presentations to the Royal Adelaide Hospital has also reduced considerably, lifting pressure on an important public institution. This data shows that the late night code has been effective in reducing antisocial behaviour associated with the excessive consumption of alcohol.

Personal Explanation

GRAIN CROP

The Hon. L.W.K. BIGNELL (Mawson—Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Tourism, Minister for Recreation and Sport, Minister for Racing) (15:05): I seek leave to make a personal explanation.

Leave granted.

The Hon. L.W.K. BIGNELL: During question time, when I was trying to inform the house about the Crop and Pasture Report for August 2014, the member for Hartley said that it was already on the website. I can inform the house that it was not on the website. As a courtesy, we informed the house first and after that it was put on the website, and we also issued a media release. I would like to inform the house of that.

The SPEAKER: The member for Hartley owes the house an explanation. I will give him an opportunity to consult the record and, if he did misinform the house, he will come back and apologise.

Mr TARZIA: I will certainly do that; it is certainly on the website and I am happy to inform the house down the track. Thank you.

The SPEAKER: Today would be good.

Grievance Debate

NAIDOC WEEK

Mr VAN HOLST PELLEKAAN (Stuart) (15:06): I rise today to pay credit to the people of Port Augusta who organised a very successful NAIDOC Week celebration recently. Let me stress that they were Aboriginal and non-Aboriginal people who joined together to create this wonderful celebration, but of course ably led by Aboriginal people in the main.

The National Aboriginal and Islander Day Observance Committee (NAIDOC) Week is a fantastic celebration, and it culminated in Port Augusta this year with the NAIDOC Ball on 11 July. It was a marvellous celebration and I would like to wholeheartedly congratulate the people who organised that ball specifically, which my wife and I attended and had a fantastic evening at, with many friends there: the Family Violence Legal Service Aboriginal Corporation of South Australia.

Of course, while it is always dangerous to single people out because I know a lot of people did contribute, I understand it was largely Ms June Lennon and Ms Iris Furtado who were the key organisers, and it really was an outstanding night in the Cooinda Club in Port Augusta.

We were all joined at the ball by Gavin Wanganeen and Troy Bond, two absolutely outstanding football players from the Port Power club. It was a real pleasure to sit and chat and meet with them, and I know that everybody in the room really enjoyed that. One of the highlights of the night for me was to see that more than half the people in the room knew those two former football stars, and still community stars, at a personal level. That speaks so well of those two men and the amount of time that they have spent in Port Augusta over the last several years, supporting the Port Augusta community. Everybody who spoke with them did so on equal terms as a friend, which I think was really outstanding.

It was lovely to meet with an old friend and basketball adversary, Paul Vandenberg, who was the emcee for the night. It was also outstanding to have the CASM Soul Band, which I have to say I had not heard of before, but I understand that is a musical program with the University of Adelaide: a tertiary program for Aboriginal people to grow and to develop their performing skills within music, and I have to say that they did a really outstanding job. The food was terrific, the music was terrific, the company was outstanding and it was truly a celebration.

It was a really happy and enjoyable night. For me, NAIDOC Week and NAIDOC celebrations are very important opportunities for Aboriginal people to share with each other their pride in their culture, and really step forward and step up to show how pleased and proud—deservedly so—they are of their culture over the past tens of thousands of years and still today. Perhaps more importantly, it is also an opportunity for Aboriginal and non-Aboriginal people to come together and celebrate that culture as well.

It was a really outstanding night, and it was wonderful to have the organisers involve the theme of NAIDOC Week this year, which is 'Serving Country: Centenary and Beyond', which put a very strong and very appropriate focus on Aboriginal people who served and serve in Australia's armed forces defending our nation. From all the things I have read, that I have heard on the radio, from the two current Defence Force personnel whose spoke that night, that information leads me to a very strong knowledge that Aboriginal people within the forces they served were treated completely as equals. Unfortunately though, as soon as those conflicts were over and those people returned to society —100 years ago, with regard to the First World War—they were not treated as equals.

There is a very strong and very important message there: when the chips were down and the non-Aboriginal people standing side by side with those Aboriginal men really needed them, they were treated—without any doubt—as equals. Unfortunately, society at that time did not do the same when the conflict was over. Fortunately things have changed, and they have changed for the better. We still have some distance to go, but wonderful NAIDOC week celebrations, like the one my wife and I attended with so many friends in Port Augusta, contribute to that ongoing improvement of our society.

MURIEL MATTERS ROOM

Ms BEDFORD (Florey) (15:11): Yesterday, at a modest ceremony within the Parliamentary Library, in an event held under the auspices of the Friends of the Library, a room was named after Muriel Matters, the South Australian suffragist who became the first woman to 'speak' in the House of Commons. My thanks go to all MPs and MLCs who attended, the member for Bragg in her role as co-chair of the Friends, and especially to you, Mr Speaker, for assisting with the unveiling. Thanks too to everyone who has embraced Muriel's story and realised the value of her example of commitment to participatory democracy and her passion for the right to vote.

As many here will know, Muriel Matters was largely unheard of until July 2008, when the initial work of the Muriel Matters Society began. Now in its fifth year, the society continues to raise awareness of Muriel's life, work and philosophies. Everyone associated with the Muriel Matters Society is grateful for this naming honour and to all concerned for making the gesture, which is greatly appreciated by Muriel's family. In appreciation, an original Women's Freedom League postcard has been donated to display in the room as a permanent acknowledgement of the day and of Muriel's lifelong interest in education and its power to change lives.

It is for that reason that it is very appropriate for a space in such a place to be dedicated to Muriel. It is also important to acknowledge the assistance of Dr Coral Stanley and her staff, particularly Dr John Weste, Sandy Kane, and former library staff David and Alex for their pioneering work.

It is fitting that it was this week, the week remembering the beginning of the calamity that became World War I, the Great War, for there is a special link between Muriel and the Gallipoli landings. While most of us know about the landing on the day of 25 April, few speak of the second push, commanded by British Lieutenant General Frederick Stopford, which landed at Suvla Bay in darkness on the evening of 6 August against light opposition. It is exactly 100 years today.

From what I have been able to establish, the advance inland was not forced through and little more than the beach was seized. The ensuing delay allowed the Ottomans to occupy the Anafarta Hills, leading to the situation becoming another costly stalemate. An ANZAC attack in the early hours of 7 August was undertaken at Lone Pine to capture the main trench in a diversion to draw the enemy forces away from the main assaults. This was a brave group of soldiers, and among them was Charles Adams Matters, Muriel's brother.

He was born in Port Augusta on 20 October 1885 and enlisted on 4 September 1914 at the age of almost 29. On his papers he states he was a vet surgeon. He was not married, but family stories tell of a girlfriend who was crushed by his death, for he was the love of her life. Charles' field service papers tell us that he was a sergeant in the 6th Battalion AI on 7 August 1915, the day he was killed in action.

A report in his Australian Imperial Force file says it was either 6 or 7 August, so it is 99 years today. It says that 'he was killed in a charge on a German officers' trench. He was in C Company and part of the 4th or 6th reinforcements. A witness saw him after he was shot, right through the head, when he died instantly. They cannot say if his body was ever recovered'.

We also learn that Charles was batman to Lieutenant Dyett, 7th AIF, who was his great friend. Lieutenant Gilbert Dyett was on Gallipoli in April and was wounded at Lone Pine on 7 August, probably in the same engagement where Charles died. Lieutenant Dyett was so badly hurt that he was covered and left for dead but was later rescued. He was told he would never walk again but, happily, that was not the case. He eventually died in 1964 after a long association with the RSL and many other institutions.

A further account of Charles's death comes from research of the records of the British Red Cross, which gives us the first example of Muriel's handwriting from her inquiries for further information about the death of her brother. The account she received tells us that Charles was 'in the charge on the German Officers' Trench between Johnston's Jolly and the Check Board on 6 August'.

Members interjecting:

Ms BEDFORD: This is about the war, and I am sure that members would be interested to hear it.

The first attack was made at midnight just after they reached Turk's trench. He fell mortally wounded. It was necessary to retire then and a second attack at 3.30 that morning was no more successful. They then took up their position in a sap and the next day, through the periscope, it was noticed that the Turks were seen to be throwing out the bodies, Matters being picked out owing to his heavy moustache. He appeared to have been stripped and witnesses did not observe the Turks burying the body.

Charles's name is therefore inscribed on the monument at Lone Pine.

Families also make many great sacrifices in the war and often receive terrible news, such as that we have just heard, and we owe them a great debt of gratitude as well. Many families are taking advantage of the excellent services and the website of the Australian War Memorial and the work of director Dr Brendan Nelson and his staff.

War and history teach us many things and, through my association with veterans, I know that while they serve their country willingly, they know first hand the futility of war. In this sombre week of observances, we reinforce our gratitude and will never forget the sacrifice that Charles and so many others have made in that engagement on 7 August 1915, and every other soldier through every engagement in all wars.

Today is also Hiroshima Day, so let us be mindful of the necessity to do our part to make world peace a reality. It was one of Muriel's aims through her activities with the Women's International League for Peace and Freedom and something that we, in turn, must also do whatever we can to influence.

STATE BUDGET

Mr TRELOAR (Flinders) (15:16): I would like to use the grievance debate today to talk about what we have seen in this place over the last month or so, namely the state budget being handed down by the current government and also the estimates process that followed. I need to say at the outset that it was the most highly politicised budget speech I have heard since I have been in this place. Once upon a time the budget speech was used to let people, the house and the public know where the money was coming from and where the money was going.

Of course, the Treasurer's speech this time had none of that. It seemed quite intent on laying blame for our current fiscal position and it included many other political statements. The point is that our budget is in a lot of bother. I do not think anyone could deny that. We have seen budget surpluses forecast year after year. In fact, over the last seven years, this government has forecast budget surpluses and, except for one occasion, it has only managed to achieve deficits.

So in six out of the last seven years this state has recorded deficits in the budget. Of course, when deficits occur, debt climbs, and what we are seeing is budget forecasts blow out leaving state debt levels well above and beyond what we saw even during the State Bank years. The current forecasts are that the debt will blow out to in excess of $14 billion in the years 2015-16. It is an untenable position. It is a position in which this state finds itself after years and years of spending more than our income.

It is quite simple. I have said in this place before that businesses talk about profit and loss and governments everywhere talk about surplus and deficit. They are, in effect, the same thing and the result is the same. When businesses make a loss, their debt climbs and ultimately they get to a position where they are no longer viable. With governments, if they run deficits, their debt climbs and they find themselves in a position which is untenable and difficult to come back from.

As for the estimates committees, I am one of the members here who do actually value that opportunity. It is a lot of work, and many of the previous members have said over this last week how much work is involved in estimates, not just from the ministers themselves but also obviously the public servants and their preparation, and there is also a lot of preparation on this side, make no mistake.

A lot of work is done by shadow ministers and their staff and other members in developing questions where we really look to hold the government to account. It is not always that we get answers, but at least we make an attempt to find out on behalf of the people of South Australia what the government's intentions are. We work our way through the budget. People have a right to know what the government is spending money on, where it is expecting to make cuts, where it is likely to make cuts or where its expenses are going.

As I said, it is not always that we get an answer. Some ministers take the estimates committee process very responsibly and do their very best to answer all the questions. Others we saw, of course, take up a lot of time with opening statements and taking questions on notice, despite the fact that they had many well-qualified and highly-paid departmental staff there with them. So, we will continue to pore over estimates and we will continue to analyse the answers (or not) given to us by the various ministers, and many of our questions that we were not able to get to we will put to ministers in the coming weeks.

What is highlighted, of course, in all of this is that we are in a difficult financial position in this state. We have unemployment which is now the highest in Australia; it is 7.4 per cent, I understand, and climbing. We are now exceeding Tasmania in many of the economic indicators, so we are no longer second last—we are no longer the lowest in mainland Australia with many of these financial indicators—we are actually well and truly last, coming in below Tasmania, with no real plan that I can see or that anybody on this side can see to actually get out of it.

We have a government which is intent on taxing its way to prosperity, and the effect that has is the reverse to its intention, because of course businesses need to be profitable to stay in business and to employ people. How dare they be so audacious as to employ people, because of course if businesses do then payroll tax kicks in and they struggle to retain that profitability. So, unfortunately, if businesses do in this state take the lead and by chance do well and are viable then they are taxed to within an inch of their lives. We have seen that as part of this budget process: the introduction of the car park tax or car park levy. A levy I understand is something that, by definition, is raised for a particular purpose, for a definitive purpose.

Time expired.

FEDERAL BUDGET

Mrs VLAHOS (Taylor) (15:23): I would like to speak today about the release of my most recent newsletter in which I advertised my next round of listening posts. Throughout August, I will be holding one of my regular rounds of listening posts in the electorate of Taylor. There are seven of these planned over the next coming weeks. Last Saturday actually marked by 40th listening post since I was elected in 2010, and I regularly hold ongoing community forums on topics such as water, community, public transport, seniors, welfare and similar topics.

What people are saying in my electorate is loud and clear: they know the federal budget cuts are going to be hurting them. They are concerned about them. Consistently, all through shopping centres I was at on Saturday afternoon, people approached me. In Paralowie, for example, they were very vocal about the federal budget cuts and how they are going to affect the health system and how they are going to affect particularly older South Australians.

One gentleman had left his job to be a full-time carer of his wife and was worried about the GP co-payment tax, how it would punish his family and his children, and how they should seek the professional advice that they need, particularly as high-end users of the system with the complexity of his wife's conditions.

People were also concerned about the Pharmaceutical Benefits Scheme. One woman approached me in Burton, concerned about how far the federal budgets will go, whether she will be able to get her personal needs met with some of the special products she was requiring, and whether that clarity would be coming through, because it was making a great impact on her mental health.

There are also a number of families in the area, as it is a growing community in the north with many young children. A lovely couple at Paralowie told me about how they were very concerned that the school funding cuts were going to create disadvantage in our schools, separating those children in the northern suburbs from other areas.

For example, the South Australian government is funding an extra $229 million over the next six years for South Australian schools. This compares to $335 million that the federal Abbott government is cutting from our state schools in the same period of time, which is a disgrace to many people in the community who backed the Gonski reforms and wanted them delivered.

In 2018-19, the federal government intends to cut approximately $666,000 from the Lake Windemere B-7 School in my area, which is a school that needs as much support as it can get. It has a magnificent new set of buildings and facilities supported by the state government. In my time as a local member, the school has been largely rebuilt after an amalgamation. That money will have a profound effect on that school.

Over $1 million will be cut from Settlers Farm Campus, which is the school closest to my electorate office. Again, it is a fantastic school but it needs support, not cuts. There will $374,000 cut from Virginia Primary School in the north of my electorate and a further half a million from Burton Primary School. Again, there is a complex community in Burton that needs support.

Nearby Two Wells Primary, which services the students from the Lewiston area in my electorate, will have $426,000 cut from its budget, and $1.684 million will be cut from the Paralowie R-12 School, which is just over the other side of Whites Road in the member for Ramsay's electorate but it serves my electorate as well. Salisbury High—the only other public high school my constituents go to in the local area—has a $1.022 million cut.

It is a shame; it is a disgrace. The people in the north know and are ashamed of what the federal government do and how they are hurting people in the north. This, on top of the Holden closure, makes them distrustful of all governments, but they particularly know that it is the federal government they need to blame and why the state government is delivering on its promises and standing up for them. Shame, federal government.

TAIWAN

Mr SPEIRS (Bright) (15:27): I rise today to provide some information about a recent trip I had the privilege to take to the Republic of China, better known as Taiwan. I travelled there as a guest of the Taiwanese government, along with the member for Newland and the member for Napier. The member for Newland spoke during a grievance speech on this trip yesterday.

I am extremely grateful to the Taiwanese government for the opportunity to undertake this trip and, in particular, to the Taiwan Cultural and Economic Office in Melbourne, capably led by Director General, Ms Judy Wong. The trip was only a few days long, but was packed with many activities which gave us the opportunity to develop a strong understanding of the economic and geopolitical environment which shapes modern Taiwan.

For those who are not aware of the facts and figures around Taiwan, it is a state in East Asia lying 180 kilometres off the coast of China. Taiwan has a population of 23.5 million, which is almost exactly the same as our own population here in Australia, but those 23.5 million live in an area that is only around half the size of Tasmania and, even at that, they only occupy around 30 per cent of the island.

Taiwan enjoys a multiparty democracy with universal suffrage. It is the 19th largest economy in the world, has a significant focus on high-tech industries and is one of the major world players in this space. Taiwan takes its political freedom very seriously and is ranked highly in the areas of freedom of speech, freedom of the press, health care, public education and religion. Something that Taiwan has a real emphasis on is the idea that they are a free society and a society where people are free to do what they want and get ahead.

Our visit to Taiwan involved a significant number of visits to key government agencies and organisations. This included a visit to the Mainland Affairs Council, which outlined the steadily improving relations between Taiwan and the People's Republic of China across the Taiwan Strait. The president of Taiwan, President Ma, has described the relationship between the two countries as a 'special relationship', and there is no doubt that improving relations are providing economic opportunities for both.

We noted that there are now 2.8 million tourists from mainland China going across to Taiwan each year and this has been an economic boon for the island. Many tourists choose to visit the unique artworks which were brought from mainland China, and which were consequently saved from the Cultural Revolution and are retained today in Taipei's National Palace Museum which we had the privilege to view last week when we were there.

The Mainland Affairs Council outlined the success of a range of bilateral agreements which have been signed between Taiwan and mainland China. Again these are strengthening the historically challenging relationship between the two countries. Other engagements in the capital city included visiting the Council of Agriculture, meeting with officials from the Ministry of Foreign Affairs, and a visit to the Ministry of Economic Affairs, to the Atomic Energy Council, to Hsinchu Science Park and to the Yulon Motor Company.

We also travelled to the south of the island and, in doing so, got to experience Taiwan's impressive high-speed rail which took us over 300 kilometres in just an hour and a half. In the southern city of Kaohsiung we visited the free trade zone that has been established there as well as an agricultural biotechnology park.

My time in Taiwan was one of significant learning and I believe was time well spent. Being able to more fully understand the economic links between Australia and Taiwan was incredibly important. It was interesting to note that Taiwan is actually Australia's seventh largest export market and our 14th largest source of merchandise exports in 2013. Exports between Australia and Taiwan

were worth $7.4 billion in 2013 and our main exports there include iron ore, coal, aluminium, crude petroleum but also there is an increasing interest in Australian lifestyle products and food.

I want to place on the record my thanks to the Taiwanese government for being such welcoming hosts and for showing me and my colleagues around their special country. I believe there are many opportunities for Australia to build stronger and lasting relationships with Taiwan and equally for South Australia to do the same, and I believe that there will be substantial economic dividends for both countries as this relationship progresses into the future.

FEDERAL GOVERNMENT

The Hon. P. CAICA (Colton) (15:32): I want to talk briefly today about some of the backflips and broken promises of the federal government. Numerous speakers have spoken about these backflips, for example, the Gonski funding that was our unity ticket in the lead up to the federal election. They were at one with the then Labor government with respect to their commitment to this particular promise, as was the case with other aspects of the National Partnership Agreement as it related to health and, of course, the voting public of Australia believed that they were going to deliver on those promises.

Clearly they were broken promises, and much to the disappointment of many of the people within Australia was their attack on pensioners, Medicare co-payment, and the issues that they put forward to address what they say is a budget crisis and a budget emergency which, of course, was proven not to be the case, and there was no crisis. As I have said, and others before, remedial work needed to be done, certainly on the revenue side, and that could have been done without the breaking of those numerous promises as occurred.

What I want to particularly focus on today is a promise that was made before the federal election that I certainly was not happy about. Some might call it an ideological indulgence to feed those people on free speech, that is, the promise that was made before the last election that the incoming Abbott government, if they were elected, would rewrite section 18C of the Racial Discrimination Act.

That was not very well received by a lot of our communities around Australia particularly Australians of the Muslim faith but also our Australians from a Chinese, Vietnamese or any ethnic background, who viewed this rewriting as, more importantly, the opportunity for people to be able to be bigots and racists and for that to be permitted. The Abbott government has necked George Brandis and decided not to do it. I am very pleased that they have done this particular backflip.

I heard the member for Sturt this morning on the wireless; he was on his usual program with Mark Butler. When speaking about this he reinforced the words of the Prime Minister that $600,000 million is being contributed to address matters of national security—which I think all of us would support—although in the context of the budget, when you are taking money off people like the pensioners and not fulfilling commitments, you do wonder how they are going to find that money.

Christopher Pyne talked about how, 'At this point in time of national cohesion we don't think it's right to go forward with this matter with the rewrite of section 18C.' As I said I think that is how I heard it this morning on the radio and I hope that to be the case. By saying that he did not believe that 'at this point in time' he was telling the listeners what it was that the Prime Minister said in exactly the same terms, and I wonder if that is the Prime Minister's point of view too: that after they have established 'Team Australia'—whatever that means—they will then revisit the matter of a rewrite of 18C. I hope that is not the case; I hope they do not revisit this ideological indulgence that they promised before the last federal election because, quite frankly, Australia is not a country that needs to have racial discrimination legislation that promotes a virulent form of bigotry which would only get more enshrined if that legislation was rewritten.

Deputy Speaker, we have seen a backflip from the Prime Minister, and as I said, I support this particular backflip. I am just hoping that what will occur now is that he will do a backflip and revisit those decisions that have been made with respect to national partnerships agreements as they relate to health; also the funding that relates to Gonski; the Medicare co-payment (which I am sure still has some time to travel in the Senate); the impost that they are going to put on older Australians; and all

those other things that they are putting in place as a result of the federal budget that are going to make the lives of many Australians a lot worse than otherwise would be the case.

So, Madam Deputy Speaker, I say: keep backflipping, please revisit those things that are creating a problem for many Australians, just as you have done with respect to the rewrite of 18C of the Racial Discrimination Act. That was said to be a matter of national cohesion, so let's do these other things in the interests of national cohesion as well.

Bills

RETURN TO WORK BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:37): Obtained leave and introduced a bill for an act to provide for the recovery, return to work and support of workers in relation to work injuries; to repeal the Workers Rehabilitation and Compensation Act 1986; to make related amendments to the Civil Liability Act 1934, the Judicial Administration (Auxiliary Appointments and Powers) Act 1988, the Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013, the Supreme Court Act 1935, the WorkCover Corporation Act 1994 and the Work Health and Safety Act 2012; and for other purposes. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:39): I move:

That this bill be now read a second time.

Today I am introducing a bill to enact a new scheme to support workers and employers where there is a work injury—the Return to Work Scheme—and to repeal the existing scheme established by the Workers Rehabilitation and Compensation Act 1986.

As the house is aware, the current Workers Rehabilitation and Compensation scheme does not best serve workers, employers or the state. Workers experience worse return-to-work outcomes than in other jurisdictions and, for many, the services provided to them do not support early and effective recovery and return to work. However, it should be noted that, currently, there are approximately 15,500 new claimants per year, of which about 70 per cent receive either no income maintenance or less than two weeks' income maintenance.

Published in August 2013, the 2012-13 National Return to Work Survey reported that South Australia's return-to-work result of 82 per cent is the highest it has been since 2008-09. Despite this relative improvement, South Australia's return-to-work rate remains well below that of all other states and has been consistently below the national average for many years.

I will be seeking leave to insert the remainder of the second reading explanation into *Hansard* without my reading it but, in doing so, can I just acknowledge that, thus far, the engagement that the government has had (and I, in particular, and my staff) with representatives of employee and employer associations has been excellent and I commend them for their contributions. I also wish to place on record that the conversations I have had with the Leader of the Opposition have also been very positive, and I commend the Leader of the Opposition for what has, thus far, been a very cooperative and positive attitude. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Employers also pay much more than in other jurisdictions and are not sufficiently supported to provide their employees with opportunities to remain at work or return to work early. We have the highest average premium rate, at about double the rate of other jurisdictions, of 2.75% for the 2014-15 financial year, compared to 1.47% in New South Wales, 1.272% in Victoria and 1.20% in Queensland.

Self-insured employers are, generally, performing well. However, more can be done to enhance the legislative framework in which they are operating.

The Government is committed to improving workers compensation. As part of the first phase of these reforms a commercially focused Board was put in place for WorkCover in late 2013. This was supported by the Charter and Performance Statement, signed by the Premier in his then role of Treasurer and myself, in August 2013 which set out key priorities, initiatives and requirements for WorkCover.

As a result, WorkCover's financial position improved by $96 million for the 6 months to 31 December 2013, following the independent mid-year scheme actuarial valuation. The unfunded liability dropped to $1.23 billion compared to $1.37 billion at June 2013. Despite these recent improvements fundamental change is required to achieve the focus, performance and level of improvements that are necessary for a sustainable scheme.

South Australia needs a fair, effective and efficient scheme that supports injured workers with early intervention, recovery and return to work. It needs to be a scheme with clear, unambiguous boundaries and less moving parts.

The new Return to Work Scheme will clearly identify each party's role and obligations, including those of workers, employers and the Corporation. People will be clear about the part they play in assisting and achieving a return to work outcome.

The new Scheme is designed, if everything is implemented, understood and decided as expected, to have a break even premium rate of less than 2%. This is a significant change which benefits employers.

Early intervention and improving injury management approaches will be at the heart of the new Return to Work Scheme to provide improved health and life outcomes for workers. The emphasis of the new Scheme is on capacity and not incapacity, and medical certificates will need to explain what injured workers can or will be able to do rather than what they cannot.

Seriously injured workers will be supported with income maintenance payments until retirement age and lifetime care and support. Non-seriously injured workers will receive income maintenance support for up to two years and medical expenses paid for a further year after their income support ceases.

People who are seriously injured will be able to pursue common law damages where their employer's negligence caused or contributed to the injury in addition to rights of action against third parties.

People with a physical injury, excluding hearing loss, which results in a whole person impairment of between 5 and 29% inclusive, will receive additional compensation by way of a lump sum payment for economic loss.

Significant improvements in dispute resolution are required. The Return to Work Scheme seeks to minimise the potential for disputes. Improved, evidence-based decision making and active case management will also minimise the potential for disputes. Where they do occur, a new South Australian Employment Tribunal will be responsible for their resolution. These reviews will be heard quickly and dealt with fairly and effectively. Currently in South Australia about 6% of active claims are in dispute at any one time. This is much more than comparable jurisdictions such as New South Wales and Victoria.

The proposed scheme balances the interests of workers and employers. Modelling the future impact of the changes on workers, using historical data, indicates that about 94% of people with a work injury will receive either improved or the same income support benefits. With early intervention initiatives being fully implemented it is expected that an even higher percentage of people with a work injury will receive either improved or the same benefits.

There will be an increased emphasis on early intervention, improved service delivery and support for retraining and job seeking where appropriate. These services will be intensive and targeted at the needs of the individual. There will be strengthened obligations on employers to provide work and injured workers will be able to seek, if needed, an order from the Tribunal to obtain employment with their pre-injury employer.

Useful definitions and provisions that work well in the existing Act have been replicated to maintain consistency wherever possible. Examples include the provisions relating to average weekly earnings, reduction or discontinuance of weekly payments, employer registration and funding and self-insurance.

Workers and employers will receive better service with legislated obligations and service standards with which the Corporation and its agents must comply.

The Return to Work Scheme needs an insurer that is expected and required to meet high-quality service standards focussed on early intervention. Meaningful obligations will be placed upon the Corporation to achieve this.

South Australia needs a sustainable scheme that provides quality services and support to injured workers. A scheme that has both a strong regulator and a service focused insurer. The Return to Work Corporation will take on these roles under this new legislation.

If this legislation is passed this year, the new Return to Work Scheme will commence on 1 July 2015.

Key aspects of the new Return to Work Scheme

Objects of the Act

The Return to Work Scheme has a fundamental basis of:

- people who have suffered a work injury should be provided early and appropriate treatment and support to recover and return to work; and
- employers should bear the cost of that treatment and support by way of compulsory insurance.

The objects of the Bill clearly provide that early intervention to support recovery and return to work is the primary objective of the scheme.

What injuries are covered?

A physical injury must arise out of or in the course of employment and the employment must be a significant contributing cause of the injury for the claim to be accepted.

For a claim for psychiatric injury to be accepted, employment must be the significant contributing cause and it cannot arise from any one or more of the exclusionary factors listed in the legislation.

Legislative rights and obligations

Legislative obligations are placed on workers, employers and the Corporation.

Workers have a right to:

- early intervention;
- active case management;
- expect their employer to participate and co-operate in assisting in their return to work;
- reasonably request the Corporation to review services or investigate non-compliance of their employer regarding their retention, employment or re-employment;
- apply to the Tribunal for the employer to provide work.

Workers are obliged to:

- give notice of a work injury occurring;
- participate in all activities supporting recovery and return to work (exclusion for seriously injured workers);
- provide medical certificates;
- return to suitable employment (exclusion for seriously injured workers);
- take reasonable steps to mitigate any loss.

Employers have a right to support in claims management and the right to request a medical examination of the worker.

Employers are obliged to:

- support their workers' participation in recovery and return to work activities;
- mitigate loss;
- provide suitable employment;
- pay an appropriate wage for any alternative or modified duties or return to suitable employment;
- give 28 days' notice before termination of employment;
- register with the Corporation;
- pay a premium;
- provide information as requested, keep accounts, maintain confidentiality.

An employer must also appoint (and retain) a return to work co-ordinator to assist injured workers to remain at or return to work as soon as possible and to assist in the preparation and implementation of recovery/return to work plans.

The Corporation is obliged to:

- adopt a service-oriented approach focused on early intervention;
- act professionally and promptly;
- provide face-to-face service wherever possible;
- ensure injuries and claims are actively managed;

- improve recovery and return to work outcomes.

These provisions signal a new era for recovery and return to work. The new scheme clearly outlines the responsibilities of all key parties, and in particular the Corporation. For the first time, the new Corporation can be held to account for its performance and behaviour in both regulating the scheme and providing services.

Seriously injured workers

One of the key features of the new scheme is the distinction between seriously injured workers and non-seriously injured workers.

Workers assessed with a whole person impairment of 30% or more will be treated as seriously injured. The scheme will provide income support for such workers until retirement age and lifetime care, support and medical services.

Having a distinct boundary here is essential for the scheme to be able to support those workers who need it most.

Recovery and Return to Work Plans

Injured workers who are likely to be incapacitated for work for more than 4 weeks will have a recovery/return to work plan, which combines the objectives and functions of the rehabilitation programmes and rehabilitation and return to work plans under the existing Act.

There is now a clear focus on supporting the worker and the employer along the recovery and return to work pathway.

Medical services

Workers will be entitled to be compensated for costs of medical services that are reasonable, necessary and reasonably incurred.

This entitlement ceases 12 months after income support ends (except for seriously injured workers who will receive lifetime care and support). Medical certificates will certify workers' capacity and will be required to support any periods when income support is payable.

Income support

The Corporation must offer to make interim payments if it fails to determine a claim within 10 business days.

Injured workers will be able to access:

- 100% of notional weekly earnings (NWE) capped at twice the State average from 0—52 weeks from the date on which the incapacity for work first occurs;
- 80% of NWE from 53—104 weeks for non-seriously injured workers;
- 80% of NWE from 53 weeks—retirement age for seriously injured workers.

It should be noted that weeks relates to the passing of calendar weeks rather than the previous notion of entitlement weeks.

Based on historical experience, out of the approximately 15,500 claims made each year, about 1,020 will be affected by the two year time-banding of income support for non-seriously injured workers. This is expected to reduce with improved early intervention, training and support as well as a clear understanding of the time banding.

The legislation gives the Corporation the power to designate a weekly amount that a worker could earn in suitable employment based on his or her capacity to work. This designated earnings amount will be deducted from the notional weekly earnings after a 6 month notice period. Essentially this means that weekly payments are there only to support physical or psychological incapacity, not an economic incapacity. If someone is fit to return to work but does not do so with appropriate notice, it becomes an unemployment issue and not a work-injury one.

Again based on historical experience, out of the approximately 6,500 claims in an injury year that receive income maintenance in the first 12 months, about 2,900 people will receive additional income support due to the changes in the income support step-downs.

In addition, the amount of income support provided will, where necessary, be increased so that the combined amount (the amount otherwise payable plus any designated earnings) is no less than the Federal minimum wage.

Workers may receive supplementary income support payments for incapacity outside the two year time-banding that results from surgery approved by the Corporation before the medical services entitlement concludes.

Dependency payments will no longer be affected by income earned from the investment of the lump sum payable upon a worker's death.

Redemptions

The scheme allows a liability to make weekly payments to be redeemed by a capital payment to injured workers, by agreement between the injured worker and the Corporation. The access restrictions to redemptions in the current Act have been removed.

Redemptions will be used in exceptional circumstances when recovery and return to work options have been exhausted. Careful control of redemptions is essential and is enshrined in the new scheme.

If a seriously injured worker elects to receive a redemption he or she cannot access common law.

Permanent impairment and death lump sums

Only one assessment of a worker's whole person impairment may be made in respect of impairment resulting from 1 or more injuries arising from the same trauma.

Again, this is an important element of the new scheme. Without this, the scheme will not be sustainable in the long term.

A lump sum payment for physical injuries is payable where the worker's whole person impairment is 5% or greater. Consistent with current arrangements, lump sum compensation is not payable for psychiatric injuries.

The maximum lump sum payment for death will be made to a worker's partner(s) and child(ren) regardless of their level of dependency.

Common law and lump sum payments for non-economic loss

The Government has previously talked about including access to common law damages in the new scheme. Following consultation with both employer and worker representatives, an alternative approach has been established that will largely maintain the no-fault basis of the scheme and give injured workers greater certainty about the entitlements available to them.

In addition to the lump sum payment for permanent impairment, an additional lump sum will be payable to physically injured workers (excluding hearing loss) with a whole person impairment assessed at 5% or more and less than 30%. This payment is to acknowledge the potential economic loss associated with a work injury and will be scaled to make greater payments to those furthest from retirement age.

As already mentioned, workers who are seriously injured will be entitled to income maintenance payments until retirement age. In addition, those seriously injured workers whose employer's negligence caused or contributed to the injury, will be able to pursue a common law claim against their employer. However, they will be unable to claim damages for future treatment, care and support as a consequence of the National Injury Insurance Scheme obligations and these services will continue to be provided by the scheme.

The provisions of the *Civil Liability Act 1936* apply.

Dispute resolution

The South Australian Employment Tribunal will be solely responsible for resolving disputes that arise under the new scheme.

A separate Bill is being brought to this Parliament to establish the South Australian Employment Tribunal, which will have similar powers, functions and operating arrangements to the South Australian Civil and Administrative Tribunal. The new Tribunal will be focused on resolving applications for review as quickly as possible, expediting matters where appropriate with an inquisitional rather than adversarial approach.

Only those decisions identified in the Act as reviewable can be the subject of proceedings before the Tribunal.

Only questions of law can be appealed to the Supreme Court, with the unsuccessful party being at risk for legal costs.

At the worker's request, income support may continue pending the outcome of the review proceedings, but not beyond the date where the weekly payments would have come to an end in any event e.g. reaching the end of the time banded scheme, the worker reaching retirement age, etc.

The Tribunal will be able to access Independent Medical Advisers, operating under the direction of the Tribunal, for inquiry and report on medical questions.

Advisory Committee

A Ministerial Advisory Committee will provide advice on matters requested by the Minister.

They will also establish an accreditation scheme for permanent impairment assessors and recommend to the Minister the permanent impairment assessors to be accredited.

Recoveries

In third party recovery actions, the Corporation can enter into a deed of release with the worker who may retain the balance of the damages recovered from the third party after repayment of the workers compensation payments already paid from the settlement sum.

The deed of release will have the effect of discharging any outstanding workers compensation entitlements and extinguishing the employer's obligation to provide suitable employment.

A new provision allows the Corporation to recover as a debt any payment made to workers, employers and providers to which they are not entitled.

Self-insured employers

Self-insured employers have the same obligations as employers to support injured workers. Self-insured employers are liable for all payments of compensation for work injuries arising from employment with a self-insured employer.

An employer, or group, can apply for registration as a self-insured employer. A foreign holding company cannot be taken into account when determining whether an employer is part of a group.

The Crown and any agency or instrumentality of the Crown will be taken to be registered as self-insured employers.

Renewal of registration can be made for up to 5 years.

A self-insured employer must pay a fee to the Corporation.

Discontinuance fees have been removed from the scheme.

A self-insured employer can appeal various decisions to the Minister.

Whole Person Impairment Assessments

Whole Person Impairment Assessments form a critical part of the Return to Work Scheme. The thresholds for access to lump sum payments for permanent impairment and economic loss and being characterised as a seriously injured worker are all reliant on the whole person impairment assessment.

Whole person impairment arising from physical injuries will be assessed in accordance with the Act and by reference to the *Impairment Assessment Guidelines*. The guidelines will draw upon the *American Medical Association Guides for the Evaluation of Permanent Impairment*, fifth edition, known as AMA 5. AMA 5 is used consistently across Australian jurisdictions for the assessment of physical injuries.

Whole person impairment arising from psychiatric injuries will be assessed in accordance with the Act and by reference to the *Impairment Assessment Guidelines* which will be informed by the Psychiatric Impairment Rating Scale, known as PIRS. PIRS is used consistently across Australian jurisdictions for the assessment of psychiatric and psychological injuries.

New Corporation

The WorkCover Corporation will be renamed as the Return to Work Corporation. This is not a superficial name change. It will send a clear message that South Australia has a focused regulator and insurer equipped to ensure the new scheme is implemented and managed as intended.

The Corporation will be responsible for administering the new scheme. It will be expected and required to meet high-quality service standards focused on early intervention. Meaningful obligations will be placed on the new Corporation.

Standards are included in the legislation about how the Corporation interacts with injured workers and meets their reasonable expectations.

Scheme bonus period

A framework is included for the spreading of the benefits available from the scheme performing financially well between workers and employers. Subject to the scheme's funding level being of at least 100% and achieving a profit from its insurance operations in 2 consecutive years and actuarial confirmation a 'scheme bonus period' would be declared.

Based on an assessment by the Corporation of how much could be paid out without affecting the sustainability of the scheme, equal amounts would be allocated to reducing the average premium rate employers pay and to a funding pool to provide job seeking services and developing skills and capacity for workers whose entitlements have ceased and who have not returned to work.

If scheme funding is below 90% for 2 consecutive years, or if declaring a 'scheme bonus period' would result in the average premium rate falling below 1.25%, a full review of the scheme will be initiated by the Minister.

Review of the Return to Work Scheme

An independent review of the reforms is required to commence three years after the commencement of the new scheme. Specifically, the review will need to consider whether the reforms and the dispute resolution approach has achieved a significant reduction in the number and duration of disputes and the success of resolving medical related matters.

Other legislative changes

Consequential changes to other Acts

This Bill makes consequential amendments to other Acts, including the *Civil Liability Act 1934*, the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*, the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*, the *Supreme Court Act 1935*, the *WorkCover Corporation Act 1994* and the *Work Health and Safety Act 2012*.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Although the measure is to commence on a day to be fixed by proclamation, certain provisions of Schedule 9 (Repeal, amendments and transitional provisions) will come into operation at a time specified in the Schedule.

3—Objects of Act

This clause specifies the object of the Act, which is to establish a scheme for the support of workers who suffer injuries at work. The primary objective of the scheme is to be the provision of early intervention in respect of claims so as to ensure that action is taken to support workers in relation to health, recovery and return to work. Subclause (2) sets out other objectives that apply with respect to the Act, including objectives in relation to the services and support given to workers who suffer injuries at work, limitations on costs to employers, providing a reasonable balance between the interests of workers and the interests of employers and reducing disputation when workers are injured at work.

The clause requires the Corporation, the worker and the employer from whose employment a work injury arises to seek to achieve an injured worker's return to work (taking into account the objects and requirements of the Act).

4—Interpretation

This clause provides definitions of a number of terms used in the measure. For example:

Damages means damages for injury or loss sustained by a worker in circumstances creating, independently of the Act, a legal liability in the worker's employer (or a person who is vicariously liable for the acts of the worker's employer), or another person, to pay damages to or in relation to the worker or a dependant of a deceased worker. 'Damages' does not include the following:

- a sum required or authorised to be paid under an award or industrial agreement;
- a sum payable under a superannuation scheme or any life or other insurance policy;
- any amount paid in respect of costs incurred in connection with legal proceedings;
- damages of a class excluded from the ambit of this definition by the regulations.

A *dependant*, in relation to a deceased worker, is a relative of the worker who, at the time of the death, was wholly or partially dependent for the ordinary necessities of life on earnings of the worker (or would, but for the worker's injury, have been so dependent).

An *employer* is:

- a person by whom a worker is employed under a contract of service, or for whom work is done by a worker under a contract of service (but this is subject to certain exclusions);
- the Crown, where the Crown is, under Schedule 1, the presumptive employer of a person;
- in relation to persons of whom any other person is, by virtue of a provision of the Act, the presumptive employer—that other person.

The term 'employer' includes a former employer and the legal personal representative of a deceased employer.

Employment includes the following:

- work done under a contract of service;
- the work of a self-employed person to whom the Corporation has extended the protection of the Act;

- the work of persons of whom the Crown is, under Schedule 1, the presumptive employer;
- attendance by a worker at a place of pick-up.

Injury means a physical or mental injury and, where the context admits, the death of a worker. The term includes an injury that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury.

The *Tribunal* is the South Australian Employment Tribunal.

A *worker* is—

- a person by whom work is done under a contract of service (whether or not as an employee);
- a person who is a worker by virtue of Schedule 1;
- a self-employed worker.

The term includes former workers and the legal personal representatives of deceased workers.

In addition to defining terms used in the measure, this clause deals with a number of other preliminary matters.

5—Average weekly earnings

This clause provides that the average weekly earnings of an injured worker is the average weekly amount that the worker earned in relevant employment during the period of 12 months preceding the date on which his or her injury occurred. Relevant employment is employment with the employer from whose employment the injury arose. If the worker was employed by two or more employers when the injury occurred, relevant employment is constituted by employment with each of those employers.

In addition, this clause sets out rules in relation to various matters connected to the determination of a worker's average weekly earnings. For example, the clause provides that employer superannuation contributions and prescribed allowances are to be disregarded for the purposes of determining a worker's average weekly earnings and specifies how and when an overtime component of a worker's earnings is to be taken into account.

6—Act to bind Crown

This clause provides that the Act binds the Crown in right of the State and in all of its other capacities.

Part 2—Key principles, concepts and requirements

Division 1—Connection with employment

7—Injury must arise from employment

Clause 7 provides that the Act applies to an injury if (and only if) the injury arises from employment. An injury arises from employment if the injury arises out of or in the course of employment and the employment was a significant contributing cause of the injury. However, in the case of a psychiatric injury, the injury arises out of employment if it arises out of or in the course of employment and the employment was the significant contributing cause of the injury. Additionally, a psychiatric injury only arises from employment if it did not arise wholly or predominantly from—

- reasonable action taken in a reasonable manner by the employer to transfer, demote, discipline, counsel, retrench or dismiss the worker or a decision of the employer not to renew or extend a contract of service; or
- a decision of the employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with the worker's employment; or
- reasonable administrative action taken in a reasonable manner by the employer in connection with the worker's employment; or
- reasonable action taken in a reasonable manner under the Act affecting the worker.

If the worker's injury is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury, employment must be a significant contributing cause of the aggravation, acceleration, exacerbation, deterioration or recurrence. In the case if a psychiatric injury, the employment must be the significant contributing cause of the aggravation, acceleration, exacerbation, deterioration or recurrence and the aggravation, acceleration, exacerbation, deterioration or recurrence must not arise wholly or predominantly from any action or decision of a kind included in the list above.

This clause includes additional provisions detailing the circumstances in which the following may arise from employment for the purposes of the Act:

- an injury attributable to surgery or other treatment;
- an injury arising out of or in the course of a social or sporting activity;

- an injury arising out of or in the course of a journey.

8—Effect of misconduct etc

This clause provides that a worker is not entitled to receive services or benefits under the Act if he or she is guilty of misconduct or acts in contravention of instructions from his or her employer. Further, services and benefits are not available if it is established on the balance of probabilities that the injury is wholly or predominantly attributable to serious and wilful misconduct on the worker's part or the influence of alcohol or a drug that he or she voluntarily consumed. This does not include a drug lawfully obtained and consumed in a reasonable quantity.

9—Evidentiary provision

Clause 9 is an evidentiary provision. For an injury to be compensable under the Act, it must be established on the balance of probabilities that it arises from employment. This provision operates subject to certain qualifications and presumptions specified in the clause and in Schedule 2 and Schedule 3.

Division 2—Connection with State

10—Territorial application of Act

This clause deals with the territorial application of the Act and provides that the Act applies to a worker's employment if the employment is connected with South Australia. The clause sets out rules for determining the State with which a worker's employment is connected. A worker's employment is connected with the State in which he or she usually works in the relevant employment. If no State, or no single State, can be identified as the State in which the worker usually works, his or her employment is connected with the State in which he or she is usually based for the purposes of the employment or, if no such State can be identified, the State in which the employer's principal place of business is located.

The clause also deals with the application of the Act to workers working on ships where no single State can be identified as the State in which the worker usually works or is based.

11—Determination of State with which worker's employment is connected in proceedings under this Act

If the question of whether this State is connected with a worker's employment arises in proceedings before the Tribunal or a court, the Tribunal or court is required under this clause to determine the State with which a worker's employment is connected.

12—Recognition of previous determinations

If the Tribunal or a court of a kind specified under this clause makes a determination as required under clause 10, the State determined by the Tribunal or court as the State with which the worker's employment is connected is to be recognised as such for the purposes of the Act (but this does not mean that the determination cannot be the subject of an appeal).

Division 3—Fundamental principles, rights and obligations

13—The Corporation

This clause requires the Corporation to—

- adopt a service-orientated approach that is focused on early intervention and the interests of workers and employers; and
- seek to act professionally and promptly in everything that it does; and
- be responsible and accountable in its relationships with others; and
- take reasonable steps to comply with any request made by a worker for a review of the provision of any service to the worker under the Act or to investigate any circumstance where it appears that his or her employer is not complying with a requirement of the Act in relation to the retention, employment or re-employment of the worker.

Additionally, the clause sets out requirements of the Corporation in relation to maintaining plans and strategies designed to establish practices and procedures under which an injured worker's specific circumstances (and those of his or her employer) will be addressed and specifies the Corporation's objective in respect of this requirement:

- ensuring early and timely intervention occurs to improve recovery and return to work outcomes including after retraining (if required);
- achieving timely, evidence based decision making that is consistent with the requirements of the Act;
- wherever possible, providing a face to face service where there is a need for significant assistance, support or services;
- ensuring regular reviews are taken in relation to a worker's recovery and, where possible, return to work;
- ensuring the active management of all aspects of a worker's injury and any claim;

- encouraging an injured worker and his or her employer to participate actively in any recovery and return to work processes;
- minimising the risk of litigation.

It is made clear in the clause that the policies and procedures set out do not give rise to substantive rights or liabilities (compared to rights or liabilities established or prescribed under other relevant provisions of the Act).

14—Service standards

The Corporation is required under this clause to adopt and apply the service standards set out in Schedule 5.

15—Workers

This clause provides that a worker who has suffered a work injury is entitled to expect the following:

- early intervention by the Corporation in providing recovery and return to work services;
- the Corporation to actively manage the worker's injury and claim and to provide services in a manner consistent with the requirements of the Act;
- his or her employer to participate and co-operate in assisting the worker's recovery and return to work and to reasonably support the worker in receiving any benefit available under the Act.

The clause also requires a worker who has suffered a work injury to—

- participate in all activities designed to enable him or her to recover and return to work as soon as is reasonably practicable; and
- participate and co-operate in the establishment of a recovery/return to work plan; and
- comply with obligations imposed by or under a recovery/return to work plan; and
- ensure that the Corporation is provided with current medical certificates with respect to any incapacity for work for which weekly payments are being made so as to provide evidence to support the continuation of the payments; and
- return to suitable employment when reasonably able to do so; and
- take reasonable steps to mitigate any possible loss on account of the work injury.

Specified exceptions to the above apply for seriously injured workers.

16—Worker's duty to give notice of injury

This clause sets out the duty of a worker to give notice of a work injury to his or her employer (or, if the worker is not in employment or is self-employed, the Corporation).

17—Employers

This clause provides that an employer of a worker who has suffered a work injury is entitled to expect—

- early intervention by the Corporation in providing recovery and return to work services to the worker; and
- the Corporation to act fairly and reasonably in a manner consistent with the requirements of the Act; and
- support in managing claims and the provision of services available to the worker under the Act.

The clause requires the employer to, so far as is reasonably practicable—

- support the worker in the worker's participation in activities designed to enable the worker to recover and return to work; and
- participate and co-operate in the establishment of any recovery/return to work plan that is required for the worker; and
- comply with obligations imposed on the employer by or under a recovery/return to work plan for the worker; and
- take reasonable steps to mitigate any possible loss on account of the work injury.

18—Employer's duty to provide work

This clause requires the employer of a worker who has been incapacitated for work in consequence of a work injury to provide suitable employment for the worker. This obligation arises if the worker is able to return to work (whether full-time or part-time and whether or not to the previous employment). The employment must be employment

for which the worker is fit and, to the extent practicable, the same as, or equivalent to, the employment in which the worker was working immediately before the incapacity. This obligation applies in relation to the employer from whose employment the injury arose (the *pre-injury employer)* and is subject to certain qualifications set out in subclause (2).

The clause also sets out a procedure for a worker incapacitated by a work injury to apply to the Tribunal for an order for the pre-injury employer to provide specified employment to the worker. The worker can make the application if—

- he or she has sought employment with the pre-injury employer (consistent with the requirements of subclause (1)); and
- in seeking the employment, he or she—
- by written notice to the employer, confirmed that he or she is ready, willing and able to return to work with the employer and provided information about the type of employment he or she considers that he or she is capable of performing; and
- complied with any other requirements prescribed by the regulations; and
- the employer failed, within a reasonable time, to provide suitable employment to the worker.

The clause also sets out rules in relation to the costs of applications under the section and explains what is meant by 'suitable employment' in the context of the clause.

19—Payment of wages for alternative or modified duties

The employer of a worker who has been incapacitated for work in consequence of a work injury and undertakes alternative or modified duties under employment or an arrangement that falls outside his or her contract of service for the employment from which the injury arose is required under this clause to pay an appropriate wage or salary in respect of the duties. This requirement operates subject to a determination of the Corporation.

20—Additional requirement with respect to termination of employment

This clause requires the employer of a worker who has suffered a work injury to give the Corporation and the worker at least 28 days notice if the employer proposes to terminate the worker's employment. This requirement does not apply if—

- the employment is properly terminated on the ground of serious and wilful misconduct; or
- the worker is neither participating in a recovery/return to work plan, nor receiving compensation, for the work injury; or
- the worker's rights to compensation for the injury have been exhausted or the time for making a claim for compensation has expired.

Division 4—Seriously injured workers

21—Seriously injured workers

A seriously injured worker for the purposes of the Act is a worker whose work injury has resulted in permanent impairment and the degree of whole person impairment has been assessed under Division 5 for the purposes of the Act to be 30% or more. As stated in the clause, the Act makes special provision in a number of places for seriously injured workers. The clause allows the Corporation to make an interim decision that a worker is to be taken to be a seriously injured worker. An interim decision can be made on the Corporation's own initiative or on application by the worker.

The clause provides that, in assessing whether the 30% threshold has been met (that is, whether the degree of whole person impairment resulting from a work injury is at least 30%)—

- impairment resulting from physical injury is to be assessed separately from impairment resulting from psychiatric injury; and
- in assessing impairment resulting from physical injury or psychiatric injury, no regard is to be had to impairment that results from consequential mental harm; and
- in assessing the degree of whole person impairment resulting from physical injury, no regard is to be had to impairment that results from a psychiatric injury or consequential mental harm; and
- the 30% threshold is not met unless the degree of whole person impairment resulting from physical injury is at least 30% or the degree of whole person impairment resulting from psychiatric injury is at least 30%.

Division 5—Assessment of permanent impairment

22—Assessment of permanent impairment

Clause 22 sets out a scheme for assessing the degree of impairment (that is, whole person impairment) that applies to a work injury that results in permanent impairment. An assessment under the clause is to be made in accordance with the Impairment Assessment Guidelines by a medical practitioner who holds a current accreditation under the clause.

The Impairment Assessment Guidelines are to be published by the Minister in the Gazette and must incorporate a methodology that arrives at an assessment of the degree of impairment of the whole person.

An assessment of the degree of impairment resulting from an injury—

- must not be made until the injury has stabilised; and
- must be based on the worker's current impairment as at the date of assessment, including any changes in the signs and symptoms following any medical or surgical treatment undergone by the worker in respect of the injury; and
- must be made at a time determined or approved by the Corporation; and
- must be made by an accredited medical practitioner selected in accordance with the Impairment Assessment Guidelines.

Subclause (8) lists principles that must be taken into account in relation to an assessment of the degree of impairment resulting from an injury.

The clause provides that only one assessment may be made in respect of the degree of permanent impairment of a worker from one or more injuries (including consequential injuries) arising from the same trauma. Any injury that may subsequently develop or manifest itself or develop after the assessment of impairment is made will not be assessed. However, this rule operates subject to an assessment made under Part 8 (Independent medical advice) and the exercise of any adjudicative functions by the Tribunal or a court. Further, an interim decision under clause 21 will be taken not to constitute an assessment for the purposes of the rule that only one assessment may be made. That rule does not apply in circumstances prescribed by the regulations.

The clause also requires the Advisory Committee to establish, after consultation with the Minister, an accreditation scheme for medical practitioners who will be undertaking assessments under this provision.

Part 3—Early intervention, recovery and return to work

23—Object

This clause sets out the object of Part 3, which is to establish a system that seeks to ensure that a worker who suffers a work injury achieves the best practicable levels of physical and mental recovery and is, if possible, restored to the workforce and the community in a timely, safe and durable way.

The clause emphasises the importance of early intervention in the provision of recovery/return to work services to injured workers and the aim of returning workers to work in their pre-injury duties or, if that is not reasonably practicable, other suitable duties or work with another employer.

24—Early intervention, recovery and return to work services

This clause provides that services provided under Part 3 (recovery/return to work services) may do one or more of the following:

- provide for the physical, mental or vocational assessment of a worker;
- provide advisory services to a worker, members of the family of a worker, an employer and others;
- assist a worker in retaining, seeking or obtaining employment;
- assist in the training or retraining of a worker;
- assist a worker to find or establish appropriate accommodation;
- provide equipment, facilities and services to assist a worker to cope with any injury at home or in the workplace;
- provide assistance to a person who may be in a position to help a worker to overcome or cope with an injury;
- provide necessary and reasonable costs (including costs of travel, accommodation and child care) incurred by a worker in order to receive or participate in any services;
- provide anything else that may assist in achieving the objects of Part 3.

Action must be taken as early as possible after a worker suffers a work injury to determine the most appropriate recovery/return to work services to be provided to the worker. The Corporation is required under the clause to take reasonable steps to ensure that a reasonable level of recovery/return to work services are provided to an

injured worker. For the purposes of this Part, recovery/return to work services will be provided by persons who have been accredited, approved or appointed under schemes established by the Corporation.

25—Recovery/return to work plans

Clause 25 imposes an obligation on the Corporation to ensure that a recovery/return to work plan is prepared for a worker if it appears that the worker is (or is likely to be) incapacitated for work by a work injury for more than 4 weeks. A plan may be prepared even if the period of incapacity may be less then 4 weeks but need not be prepared for a worker if the Corporation considers that, due to the severity of his or her injuries, the focus should be on other forms of support and services. A recovery/return to work plan is to set out the actions and responsibilities of a worker, an employer and the Corporation in order to achieve the earliest possible safe return to work or, if relevant, to the community on a durable basis. The clause requires that, in preparing a recovery/return to work plan, consultation is to occur with the worker and, to the extent that it is necessary or appropriate, the employer. The clause imposes various other obligations in relation to the preparation of recovery/return to work programs, including a requirement that plans comply with standards and requirements prescribed by regulation.

26—Return to work co-ordinators

This clause requires an employer to appoint a return to work co-ordinator and specifies the functions of a co-ordinator.

27—Standards and facilities established by Corporation

This clause authorises the Corporation to undertake various activities in relation to the provision of recovery/return to work services. For example, the Corporation may enter into arrangements with a government agency or other body under which facilities and services, including medical services, will be provided to injured workers.

28—Rates for provision of services

Under this clause, the Minister may publish scales of charges that will apply to the provision of recovery/return to work services. The scales are to be published in the Gazette on the recommendation of the Corporation. The Corporation is required under the clause to undertake consultation before making a recommendation to the Minister about the publishing of a scale of costs.

29—Related initiatives

This clause authorises the Corporation to disseminate information that relates to work related injuries, to conduct, participate in or subsidise research promoting the objects of the Part and to encourage and support the work of organisations that provide assistance to workers who have suffered work related injuries.

Part 4—Financial benefits

Division 1—Claims

30—Claims

This clause prescribes various requirements in relation to the making of claims under Part 4, including a requirement that a claim be supported by a certificate by a recognised health practitioner. The clause deals with various other matters relating to claims, including, for example, the period within which a claim must be made, to whom a claim must be given and the obligation of an employer (other than a self-insured employer) to furnish the Corporation with information the Corporation requires in order to assess or determine a claim.

31—Determination of claim

This clause provides that the Corporation may, following receipt of a claim, make the investigations and inquiries it thinks necessary to determine the claim. The Corporation may require a worker to submit to an examination by a recognised health practitioner. A claim may be rejected by the Corporation if a claimant fails or refuses to furnish information reasonably required by the Corporation or to submit to a required examination.

The Corporation is required to determine claims for compensation as expeditiously as reasonably practicable. If a claim is for compensation by way of income support, the Corporation is to endeavour to determine the claim within 10 business days (if practicable). Notice of the rejection of any part of a claim is to include information required by the regulations as to the grounds of the rejection and a statement of the claimant's right to have the determination reviewed. The clause specifies circumstances in which the Corporation may redetermine a claim.

32—Payment of interim benefits

Clause 32 authorises the Corporation to make interim payments to a claimant pending the final determination of his or her claim. There is a requirement for the Corporation to offer to make interim payments if it fails to determine a claim within 10 business days after the date of receipt of the claim. An amount paid under this clause to which a claimant was not entitled on the final determination of the claim may be recovered by the Corporation as a debt.

Division 2—Medical expenses etc

33—Medical expenses

This clause provides that a worker is entitled to be compensated for the costs of the following services if they are reasonable and necessary and reasonably incurred by the worker:

- the cost of medical services;
- the cost of hospitalisation and all associated medical, surgical and nursing services;
- the cost of approved recovery/return to work services;
- the cost of travelling, or being transported, to and from any place for the purpose of receiving medical services, hospitalisation or approved recovery/return to work services (but not where the worker travels in a private vehicle);
- the cost of accommodation where it is necessary for the worker to be accommodated away from home for the purpose of receiving medical services or approved recovery/return to work services (but not exceeding limits prescribed by regulation);
- the cost of attendance by a registered or enrolled nurse, or by some other person approved by the Corporation or of a class approved by the Corporation, if the injury is such that the worker must have nursing or personal attendance;
- the cost of the provision, maintenance, replacement or repair of therapeutic appliances;
- the cost of medicines and other material purchased on the prescription or recommendation of a health practitioner;
- any other costs (or classes of costs) authorised by the Corporation.

The Corporation may reduce charges it considers excessive or disallow charges for services that it considers were unreasonable, unnecessary or unreasonably incurred but, if it does so, must give the provider of the service notice of the decision to reduce or disallow the charge.

The clause also provides for publication by the Minister, by notice in the Gazette, of scales of charges for the purposes of the clause. The amount of compensation for a service covered by a scale of charges must be in accordance with the scale. The notice must be made on the recommendation of the Corporation. The clause prescribes various requirements in relation to scales of charges, including a requirement for the Corporation to consult various bodies before making a recommendation to the Minister about the publishing of a scale.

This clause also provides an entitlement for workers to apply to the Corporation for approval to obtain the provision of prescribed classes of services, appliances, medicines or materials of a kind referred to in the list above.

A person's entitlement to compensation under this clause ceases if he or she has not had an entitlement to receive weekly payments in relation to the work injury for a continuous period of 12 months or has not had an entitlement to receive weekly payments and a period of 12 months has expired. However, this cessation does not apply in relation to a seriously injured worker or in other circumstances specified in subclause (21) (including in relation to therapeutic appliances required to maintain a worker's capacity and surgery that has been approved by the Corporation before the entitlement ceased) or prescribed by the regulations.

34—Transportation for initial treatment

This clause applies if a worker is injured at his or her place of employment during the course of employment and, as a consequence of the injury, requires immediate medical treatment. The employer is required to provide the worker with immediate transportation to a hospital or health practitioner for initial treatment. The transportation is to be provided at the employer's expense.

Division 3—Property damage

35—Property damage

This clause provides for compensation if a worker suffers a work injury and, in consequence of the trauma out of which the injury arose, damage occurs to therapeutic appliances, clothes, personal effects or tools of trade of the worker. The worker is entitled to compensation for the full amount of the damage (subject to prescribed limitations).

Division 4—Income support

Subdivision 1—Preliminary

36—Capacity to perform work

This clause provides that a worker's current work capacity for the purposes of the Act is constituted by a present inability arising from a work injury such that the worker is not able to return to his or her employment at the time of the injury but is able to return to work in suitable employment. It is further provided that a worker has no current work capacity if he or she has a present inability arising from a work injury such that he or she is not able to return to work in his or her employment at the time of the occurrence of the injury or in suitable employment.

37—Prescribed benefits

This clause lists *prescribed benefits* for the purposes of Division 4 as follows:

- any amount paid to the worker by the Corporation or a self-insured employer in respect of an employment program provided or arranged by the Corporation or self-insured employer for the purposes of the Act;
- any of the following received by the worker from an employer:
- any payment, allowance or benefit related to annual or other leave;
- any payment, allowance or benefit paid or conferred by the employer on the worker's retirement;
- any payment, allowance or benefit paid or conferred under a superannuation or pension scheme;
- any payment, allowance or benefit paid or conferred on the retrenchment, or in relation to the redundancy, of the worker;
- any other payment, allowance or benefit of a prescribed kind.

38—Prescribed allowances

In Division 4, a reference to weekly earnings or current weekly earnings means weekly earnings exclusive of prescribed allowances.

Subdivision 2—Entitlement to weekly payments

39—Weekly payments over designated periods for workers other than seriously injured workers

This clause sets out the principles according to which a worker (other than a seriously injured worker) who suffers a work injury that results in incapacity for work is entitled to weekly payments in respect of the incapacity.

If a period of incapacity for work occurs within the period of 52 weeks from the date on which the incapacity first occurs, the worker is entitled to weekly payments equal to his or her notional weekly earnings for a period when he or she has no current work capacity and weekly payments equal to the difference between his or her notional weekly earnings and his or her designated weekly earnings for a period when he or she has a current work capacity.

If a period of incapacity for work occurs within the period of 52 weeks beginning immediately after the end of the first 52 week period, the worker is entitled to weekly payments equal to 80% of his or her notional weekly earnings for a period when he or she has no current work capacity and weekly payments equal to 80% of the difference between his or her notional weekly earnings and his or her designated weekly earnings for a period when he or she has a current work capacity.

The *designated weekly earnings* of a worker for the purposes of the clause are the greater of the following:

- the current weekly earnings of the worker in employment or self-employment;
- the weekly earnings that the Corporation determines that the worker could earn from time to time (including, but not limited to, the amount of any current weekly earnings) in employment, whether in the worker's employment previous to the relevant injury or in suitable employment, that the Corporation determines the worker is capable of performing despite the injury.

There is no entitlement to weekly payments under the clause following the end of the period of 104 weeks from the date on which the incapacity for work first occurs.

40—Supplementary income support for incapacity resulting from surgery

This clause provides for supplementary income support payments where an injured worker has been incapacitated for work, after the end of the period of 104 weeks from the date on which incapacity first occurs, as a result of surgery approved by the Corporation. Supplementary income support payments are not payable in respect of a period of incapacity that occurs more than 13 weeks after the surgery.

41—Weekly payments for seriously injured workers

This clause sets out the principles according to which a seriously injured worker who suffers a work injury that results in incapacity for work is entitled to weekly payments in respect of the incapacity.

If a period of incapacity for work occurs within the period of 52 weeks from the date on which the incapacity first occurs, the worker is entitled to weekly payments equal to his or her notional weekly earnings for a period when he or she has no current work capacity and weekly payments equal to the difference between his or her notional weekly earnings and his or her designated weekly earnings for a period when he or she has a current work capacity.

If a period of incapacity occurs after the end of the first 52 week period from the date on which incapacity first occurs, the worker is entitled to weekly payments equal to 80% of his or her notional weekly earnings for a period when he or she has no current work capacity and weekly payments equal to 80% of the difference between his or her notional weekly earnings and his or her designated weekly earnings for a period when he or she has a current work capacity.

If a worker who is paid weekly payments on the basis that he or she is a seriously injured worker is subsequently determined not to be a seriously injured worker, he or she is entitled to continue to receive payments as if he or she were a seriously injured worker until the expiration of 8 weeks following the date of the whole person assessment on account of which the determination was made. Any further entitlement to weekly payments will be determined on the basis that the worker is not a seriously injured worker.

42—Federal minimum wage safety net

This clause has the effect of ensuring that the amount that a worker who has suffered a work injury receives in any week (that is, from a combination of compensation and designated weekly earnings) is not less than the Federal minimum wage (as adjusted, if necessary, for part-time workers). If the combined amount would be less than the Federal minimum wage, the amount of compensation payable must be increased so that the combined amount is equal to that minimum (or, in the case of a part-time worker, to the minimum as adjusted).

43—Return to work obligations of worker

A worker who has a current work capacity is required under this clause to make reasonable efforts to return to work in suitable employment or pre-injury employment at his or her place of employment or at another place of employment.

44—Termination of weekly payments on retiring age

This clause provides that weekly payments are not payable in respect of a period of incapacity for work falling after the date on which a worker reaches his or her retiring age. Despite this, if a worker who is within 2 years of his or her retiring age or above his or her retiring age becomes incapacitated for work while still in employment, weekly payments are payable (subject to other provisions of the Act) for any period of incapacity falling within 104 weeks after the date on which the incapacity first occurred.

Subdivision 3—Adjustment of weekly payments

45—Adjustments due to change from original arrangements

This clause authorises the Corporation to review the calculation of the average weekly earnings of a worker for the purposes of making an adjustment. A review may be undertaken on the Corporation's own initiative or at the request of the worker. The Corporation may make an adjustment if it finds that there has been a change that warrants the adjustment. An adjustment may be made if there has been—

- a change in a component of the worker's remuneration used to determine average weekly earnings (including a component constituted by a non-cash benefit); or
- a change in the equipment or facilities provided or made available to the worker (if relevant to average weekly earnings).

An adjustment under the clause takes effect as an adjustment to the worker's notional weekly earnings. The adjustment may therefore have the effect of increasing or reducing weekly payments.

46—Review of weekly payments

This clause authorises the Corporation to review the amount of the weekly payments made to a worker who has suffered a work injury. A review under this clause may be undertaken on the Corporation's own initiative, but must be undertaken if a worker or employer requests the review. If the Corporation finds on the review that the worker's entitlement to weekly payments has ceased, increased or decreased, it must adjust or discontinue the weekly payments accordingly.

47—Economic adjustments to weekly payments for seriously injured workers

The Corporation is required under this clause to review the weekly payments of a seriously injured worker who is incapacitated for work or appears likely to be incapacitated for work for more than 1 year. A review must be undertaken during the course of each year of incapacity. The purpose of the review is to make an adjustment to the amount of the worker's weekly payments to reflect changes in rates of remuneration.

Subdivision 4—Reduction or discontinuance of weekly payments

48—Reduction or discontinuance of weekly payments

This clause provides that weekly payments to a worker who has suffered a work injury may not be reduced or discontinued except specified circumstances.

If the Corporation decides to reduce or discontinue weekly payments under the clause, it must give notice in writing to the worker. The notice must contain the information required by the regulations as to the reasons for the decision, must inform the worker of his or her right to have the decision reviewed and must be given as required under subclause (6).

If a worker applies to the Tribunal for a review of a decision to reduce or discontinue weekly payments under this clause within one month of receipt of the decision, and the worker makes an election under subclause (9), the

operation of the decision is suspended. Weekly payments must then continue or be reinstated until the matter first comes before a member of the Tribunal. The Tribunal may then further suspend the operation of the decision from time to time to allow a reasonable opportunity for resolution of the dispute by conciliation or determination if the suspension is reasonably necessary in order to avoid undue financial hardship being suffered by the worker. This power operates subject to the principle that the Tribunal should give extra weight to taking such action if it appears to the Tribunal that it is reasonably open to the worker to dispute the relevant decision. The Tribunal may vary or revoke a decision to suspend the operation of a decision and may also make an order for the payment of an amount to represent some or all of any of the weekly payments that have not been made to the worker during the period of the dispute. If a dispute is ultimately resolved in favour of the Corporation and the worker has been paid an amount in excess of his or her lawful entitlement to weekly payments, the Corporation may recover the amount of the excess (plus interest) from the worker as a debt or set off the amount recoverable against liabilities of the Corporation to make payments to the worker. This ability to recover or set off the excess payment operates subject to the regulations.

This clause also makes provision for review of a worker's circumstances with a view to reducing or discontinuing weekly payments at the request of an employer who believes that reasonable grounds exist for a reduction or discontinuance.

Subdivision 5—Related matters

49—Protection from excess payments

This clause provides that a worker is not entitled to receive, in respect of 2 or more injuries, weekly payments in excess of his or her notional weekly earnings.

50—Weekly payments and leave entitlements

This clause deals with the effect of leave entitlements on weekly payments. A liability to make weekly payments in respect of a period of incapacity is not affected by a payment, allowance or benefit for annual leave or long service leave to which a worker is entitled for that period. Various other matters relating to leave entitlements and weekly payments are dealt with under the clause.

51—Absence of worker from Australia

A worker who has suffered a work injury and is receiving weekly payments must give the Corporation details of any proposed absence from Australia that is to be for a period of more than 28 days. This clause authorises the Corporation to suspend or reduce weekly payments being made to a worker who is absent from Australia if certain circumstances specified in the clause apply.

52—Reports of return to work etc

This clause places an obligation on an employer to notify the Corporation of a worker's return to work. The Corporation must also be notified if there is a change in the weekly earnings of, or a change in the type of work performed by, a worker who is receiving weekly payments for partial incapacity. A worker who has been receiving weekly payments for total incapacity must notify the Corporation if he or she returns to work with an employer that is not the employer from whose employment the injury arose.

Division 5—Redemptions

53—Redemptions—liabilities associated with weekly payments

This clause allows for the redemption of a liability to make weekly payments by a capital payment to the worker. A redemption must be by agreement between the worker and the Corporation. An agreement for the redemption of weekly payments cannot be made unless the worker has received competent professional and financial advice, and unless the Corporation has consulted with the relevant employer, as required under the clause. There must also be certification from a recognised health practitioner that the extent of the worker's incapacity resulting from the work injury can be determined with a reasonable degree of confidence.

For a seriously injured worker, this clause applies subject to any election made by the worker under Part 5 Division 1.

54—Redemptions—liabilities associated with medical services

This clause allows for the redemption of a liability to make payments of a kind referred to in clause 33 (that is, payments in relation to certain medical and therapeutic services) by a capital payment to the worker. The liability may only be redeemed if the worker has received competent professional advice and advice from a recognised health practitioner about the future medical services he or she will or is likely to require on account of the work injury and any related surgery, treatment or condition. The clause does not apply in relation to seriously injured workers.

Division 6—Permanent impairment—economic loss

55—Preliminary

This clause sets out a number of terms and references (or factors) for the purpose of forming the basis of the calculation required to determine the lump sum payment for loss of future earning capacity to an injured worker.

56—Lump sum payments—economic loss

This clause establishes an entitlement to a lump sum for loss of future earning capacity for a worker (other than a seriously injured worker) who suffers a work injury resulting in permanent impairment. The lump sum is determined according to a formula set out in the clause. No entitlement arises under the clause if the degree of whole person impairment from physical injury is less than 5% or in relation to psychiatric injury, consequential mental harm or noise induced hearing loss. The maximum amount payable under this provision will be $350,000 (indexed), with the actual amount being determined according to the degree of whole person impairment, the age of the worker, and the status of the worker's employment as a full-time or part-time worker at the time of the injury. A worker's degree of impairment is to be assessed in accordance with Part 2 Division 5 (and the Impairment Assessment Guidelines). Only 1 claim may be made in respect of any impairment or impairments that result from 1 or more injuries (including consequential injuries) arising from the same trauma.

Division 7—Permanent impairment—non-economic loss

57—Prescribed sum

This clause provides that the prescribed sum for the purposes of Division 7 is $472,000 (indexed). However, if a greater amount is prescribed by regulation for the purposes of the definition, the prescribed sum is the greater amount.

58—Lump sum payments—non economic loss

This clause provides a worker who has suffered a work injury resulting in permanent impairment with an entitlement to compensation for non-economic loss by way of a lump sum. However, if a worker's degree of whole person impairment from physical injury is less than 5%, there is no entitlement to compensation under the clause. Further, there is no entitlement under the clause in relation to psychiatric injury or consequential mental harm.

The lump sum to which a worker is entitled will be an amount that represents a portion of the prescribed sum calculated in accordance with the regulations. The regulations made for those purposes must provide for compensation that at least satisfies the requirements of Schedule 8 taking into account the assessment of whole person impairment.

A worker's degree of impairment is to be assessed in accordance with Part 2 Division 5 (and the Impairment Assessment Guidelines).

Only 1 claim may be made in respect of any impairment or impairments that result from 1 or more injuries (including consequential injuries) arising from the same trauma.

Division 8—Payments on death

59—Weekly payments

This clause provides an entitlement to compensation in the form of weekly payments for spouses, domestic partners and dependent children of workers who die as a result of work injuries. There is also an entitlement for a dependent relative of a deceased worker who is not a spouse, domestic partner or child.

60—Review of weekly payments

This clause provides for review by the Corporation of weekly payments payable to a person under Division 8. A review may be undertaken on the Corporation's own initiative, but must be undertaken at the request of the employer or the person to whom the weekly payments are payable.

61—Lump sums

This clause provides for the payment of compensation in the form of a lump sum to spouses, domestic partners and dependent children of workers who die as a result of work injuries.

62—Funeral benefits

A funeral benefit is payable under this clause where a worker dies as a result of a work injury. The benefit is to be paid to the person who conducted the funeral or to a person who has paid, or is liable to pay, the funeral expenses of the deceased worker.

63—Counselling services

This clause provides an entitlement to compensation for the cost of approved counselling services for family members of workers who die as the result of work injuries.

Division 9—Rules as to liability

64—Incidence of liability

The Corporation is liable under this clause for the compensation that is payable under Part 4. However, if a work injury arises from employment by a self-insured employer, the self-insured employer is liable to make all payments of compensation to which any person becomes entitled because of the injury.

This clause also makes further provision in relation to the liability of the Corporation and employers with respect to compensation under the Act.

This clause requires the Corporation to pay compensation on behalf of an employer that fails to make the payment as required under the Act. The Corporation is then entitled to recover the amount of the payment plus an administration fee from the employer as a debt.

65—Augmentation of weekly payment in consequence of delay

This clause makes provision for the payment of interest if a weekly payment is not paid as and when required under the Act or there is a delay in the making of a weekly payment pending the resolution of a dispute.

Division 10—Related matters

66—Rights of action and recovery against third parties

This clause deals with certain matters relating to rights of action and recovery where a right of action exists (or would exist but for this clause) against a person other than the employer for damages in respect of a work injury.

Subclause (7) sets out rules and requirements that apply where compensation is paid or payable under the Act to a person who has received, or is entitled to, damages from another person, and the person by whom the compensation under the Act is paid or payable is entitled (under subclause (5) or (6)) to recover the amount of compensation.

67—Prohibition of double recovery

This clause provides that compensation is not payable under the Act in respect of an injury to the extent that compensation has been received in respect of the same injury under the laws of another place.

68—Injuries arising from employment on ships

This clause provides that the amount of compensation payable in relation to a work injury arising from employment on a ship is not subject to any limitation imposed by the *Merchant Shipping Act 1894* of the United Kingdom.

69—Sporting injuries

Under subclause (1) of this clause, if a worker is employed solely to participate as a contestant, or act as a referee or umpire, in a sporting or athletic activity or contest, and remuneration is not payable under the contract of employment except in respect of that employment, the worker is not entitled to compensation for an injury arising out of or in the course of that employment. This principle operates subject to exceptions specified in subclause (2).

Part 5—Common law

Division 1—Preliminary

70—Preliminary

This clause deals with some preliminary matters in respect of Part 5, as follows:

- a reference to a worker's employer includes a reference to a person who is vicariously liable for the acts of the employer and a person for whose acts the employer is vicariously liable;
- a reference to a percentage (or degree) of permanent impairment is a reference to a percentage (or degree) of whole person impairment;
- a reference to compensation payable under the Act includes a reference to compensation that would be payable under the Act if a claim for that compensation were duly made.

71—Application of Part in relation to damages and scope and limitation of liability

This clause provides, in subclause (1), that Part 5 of the Act applies to an award of damages in respect of a work injury to a worker, or the death of a worker resulting from a work injury, if the injury is caused by the negligence or other tort of the worker's employer and arises from employment.

That subclause operates subject to a further principle, specified in subclause (2), that an employer is not liable to an award of damages in respect of a psychiatric injury unless that injury is primarily caused by the negligence or other tort of the worker's employer. Further, an employer is not liable to an award of damages in respect of consequential mental harm.

Subclause (5) makes it clear that Part 5 applies to an award of damages in respect of an injury caused by the negligence or other tort of the worker's employer even though the damages are recovered in an action for breach of contract or in another action based on the same act or omission of the employer that would have founded an action for negligence or on account of another tort

The clause provides that a worker cannot commence proceedings in a court for damages within the scope of subclause (1) unless or until an assessment of the degree of permanent impairment of the worker has been undertaken under Part 2 Division 5.

An employer is not liable to an award of damages in respect of a work injury to a worker or the death of a worker resulting from a work injury unless the damages fall within the scope of subclause (1), (2) or (5) of the clause or the damages constitute motor vehicle damages. A liability under subclause (1), (2) or (5) does not arise unless a successful claim for compensation has been made under Part 4 of the measure.

Further, an employer is not liable to an award of damages in respect of a work injury to a worker or the death of a worker resulting from a work injury if the employer is a body corporate and the worker is a director who has a defined interest in the body corporate as well as being an employee of the employer.

72—No damages unless whole person impairment of at least 30%

Under clause 72, no damages may be awarded against an employer except in circumstances that are consistent with the operation of Part 5 and unless the injury results in a degree of permanent impairment of at least 30% or death.

73—Seriously injured workers—special provisions

This clause applies in relation to a seriously injured worker (if the seriously injured worker has a right of action against the employer) and provides that—

- the worker is not entitled in an action against an employer to damages in respect of any treatment, care or support services; and
- the worker is not entitled to both a redemption of a liability to make weekly payments under Part 4 Division 5 and damages for future economic loss due to the deprivation or impairment of earning capacity in an action against an employer; and
- the worker is not entitled in an action against an employer to damages for any loss other than economic loss; and
- the worker must elect to claim damages for future economic loss due to the deprivation or impairment of earning capacity or to enter into an agreement under Part 4 Division 5; and
- the worker cannot commence an action for damages for future economic loss or enter into an agreement under Part 4 Division 5 unless or until the election has been made (and cannot make such an election unless he or she has received legal advice about the consequences of the election).

74—General regulation of court awards

This clause provides that a court may not award damages to a person contrary to Part 5.

Division 2—General principles

75—Effect of recovery of damages on compensation

Clause 75 deals with the situation where a worker or other person recovers damages in respect of an injury from the employer and the relevant compensating authority (that is, the Corporation or self-insured employer) is liable to pay compensation under the Act in respect of the same injury.

In that situation, the person ceases to be entitled to any further compensation under the Act in respect of the injury. Further, the amount of compensation already paid is to be deducted from the damages and the person ceases to be entitled to receive recovery/return to work services under the Act. This does not include an entitlement of a seriously injured worker to receive services under Part 3 (Early intervention, recovery and return to work) or to receive compensation for medical and other expenses under Part 4 Division 2. Similarly, if a person recovers damages as a dependant of a worker in respect of proceedings in respect of the death of the worker, the relevant compensating authority is not liable to pay compensation, or further compensation, in respect of the death and the amount of any compensation already paid to the dependant under Part 4 Division 8 in respect of the death of the worker is to be deducted from the damages.

Similar principles apply in respect of a person's entitlement to compensation under the Act (and the deduction of compensation already paid) if the person recovers motor accident damages, or other damages, in respect of an injury under the Act.

76—Retirement age

A court is required under this clause, when awarding damages for future economic loss due to deprivation or impairment of earning capacity or loss of expectation of financial support in a case where Part 5 applies, to disregard any earning capacity of the injured worker after pension age (as defined in the *Social Security Act 1991* of the Commonwealth for persons other than veterans).

77—Mitigation of damages

This clause requires a court that is assessing damages in a case where Part 5 applies to consider the steps that have been taken, and that could reasonably have been or be taken by an injured worker, to mitigate the damages.

78—Payment of interest—limited statutory entitlement

This clause specifies a plaintiff's right to interest on damages in a case where Part 5 applies. The clause provides that interest is not payable unless—

- information that would enable a proper assessment of the plaintiff's claim has been given to the defendant and the defendant has had a reasonable opportunity to make an offer of settlement (where it would be appropriate to do so) in respect of the plaintiff's full entitlement to all damages of any kind relevant to the operation of this Act but has not made such an offer; or
- the defendant has had a reasonable opportunity to make a revised offer of settlement (where it would be appropriate to do so) in the light of further information given by the plaintiff that would enable a proper assessment of the plaintiff's full entitlement to all damages of any kind relevant to the operation of this Act but has not made such an offer; or
- the defendant has made an offer of settlement, the amount of all damages of any kind awarded by the court (without the addition of any interest) is more than 20% higher than the highest amount offered by the defendant and the highest amount is unreasonable having regard to the information available to the defendant when the offer was made.

79—Contributory negligence

This clause provides that the common law and enacted law in relation to contributory negligence apply to an award of damages under Part 5.

80—Defence of voluntary assumption of risk

Although the defence of voluntary assumption of risk is not available in an action for the award of damages where Part 5 applies, if that defence would otherwise have been available, the amount of any damages is to be reduced to an extent that is just and equitable on the presumption that the injured or deceased person was negligent in failing to take sufficient care for his or her own safety.

81—Exemplary or punitive damages

Exemplary and punitive damages are not available in an award of damages to which Part 5 applies.

82—Court to apportion damages etc

This clause provides that if a judgment is obtained for payment of damages to which Part 5 applies as well as for other damages, the court is required, as part of the judgment, to declare what portion of the sum awarded by the judgment is damages to which Part 5 applies.

83—Abolition of doctrine of common employment

An employer who is sued in respect of personal injury caused by the negligence of a person employed by the employer cannot rely on the defence that the employed person was, at the time of the injury, in common employment with the injured person.

84—No damages for nervous shock injury to non-workers

This clause prohibits the awarding of damages for pure mental harm against an employer in respect of the death of or injury to a worker where Part 5 applies if the pure mental harm arises wholly or partly from mental or nervous shock in connection with the death or injury. This does not apply if the pure mental harm is in itself a work injury under the Act.

Division 3—Procedural matters and costs

85—Compulsory mediation

Where an action for damages to which Part 5 applies is brought before a court, a pre-trial mediation must be conducted before the matter proceeds to trial. The clause sets out certain requirements in relation to compulsory mediation.

86—Costs

This clause applies in relation to an action for damages brought under Part 5 if the proceedings are settled or judgment is given or the proceedings are otherwise brought to an end. A legal practitioner acting on behalf of a party is required to declare the legal costs that he or she has charged, or intends to charge, the party.

Division 4—Choice of law

87—The applicable substantive law for work injury claims

This clause provides that where there is an entitlement to compensation under the statutory workers compensation scheme of a State in respect of an injury to a worker, the substantive law of that State is the substantive law that governs whether or not a claim for damages in respect of the injury can be made and, if so, the determination of the claim. However, if compensation is payable in respect of the injury under the statutory workers compensation scheme of more than one State, Division 4 of Part 5 (dealing with choice of law) does not apply.

88—Claims to which Division applies

Division 4 of Part 5 applies to a claim for damages or recovery of contribution—

- brought against a worker's employer in respect of an injury caused by the negligence or other tort (including breach of statutory duty) of the employer or a breach of contract by the employer; or
- brought against a person other than a worker's employer in respect of an injury if—
- the worker's employment is connected with this State; and
- the negligence or other tort or the breach of contract on which the claim is founded occurred in this State.

89—What constitutes injury and employment

This clause assists in the interpretation of the terms *injury*, *employer* and *worker*, and the determination of what constitutes employment, for the purposes of the Division.

90—Claim in respect of death included

This clause provides that, for the purposes of the Division, a claim for damages in respect of death resulting from an injury is to be considered as a claim for damages in respect of the injury.

91—Meaning of substantive law

This clause provides definitions of *a State's legislation about damages for a work related injury* and *substantive law*.

92—Availability of action in another State not relevant

This clause provides that it does not matter for the purposes of the Division if, under the substantive law of another State—

- the nature of the circumstances is such that they would not have given rise to a cause of action had they occurred in that State; or
- the circumstances on which the claim is based do not give rise to a cause of action.

Division 5—Related matters

93—Ability of Corporation to conduct and settle proceedings

Under this clause , if a proceeding is brought for damages, and Part 5 applies, the proceeding must be against the employer and not against the Corporation. Despite this, the Corporation may (if the employer is not a self-insured employer) conduct the proceedings for the employer and settle any matter that is the subject of the proceedings.

94—Interaction with *Civil Liability Act 1936*

The Act will prevail to the extent of any inconsistency with the *Civil Liability Act 1936* but does not otherwise limit the operation of the *Civil Liability Act 1936* in respect of a cause of action for damages under Part 5.

Part 6—Dispute resolution

Division 1—Preliminary

95—Specific object

This clause makes it clear that the vesting of jurisdiction in the Tribunal under this Part is intended to achieve an outcome in any proceedings that is based on quick and efficient decision making that resolves disputes expeditiously and fairly.

96—Interpretation

This clause provides definitions of several terms used in the Part.

97—Reviewable decisions

This clause identifies the types of decisions that are reviewable.

Division 2—Conferral of jurisdiction

98—Conferral of jurisdiction

This clause confers jurisdiction on the proposed new South Australian Employment Tribunal to deal with a reviewable decision.

Division 3—Institution of proceedings

99—Application to Tribunal

This clause establishes that a person who has a direct interest in a reviewable decision may commence proceedings for a review of the reviewable decision by the Tribunal.

100—Time for making application

This clause sets a time limit of 1 month (subject to extension) within which an application may be made to the Tribunal after the applicant receives notice of the reviewable decision.

101—Notice to be given by Registrar

Provision is made for the Registrar of the Tribunal to send copies of the application to the other parties to the proceedings.

Division 4—Initial reconsideration

102—Initial reconsideration

This clause establishes a scheme for the reconsideration of the decision to which the application relates by the relevant compensating authority.

The relevant compensating authority must (on completion of the reconsideration) confirm or vary the decision to conform with the result of the reconsideration and give the Registrar written notice of the result of the reconsideration and whether the compensating authority has confirmed or varied the decision as a result of the reconsideration and, if the decision has been varied, how the decision has been varied.

The clause provides that the reconsideration is not to be regarded as a redetermination of a claim under the other provisions of this Act and that a decision on a claim by the Tribunal itself, made in the exercise of the Tribunal's special jurisdiction to expedite decisions on claims, is not liable to reconsideration under this section and if such a decision is the subject of an application under this Part, the matter will immediately proceed to be reviewed under Part 3 of the proposed *South Australian Employment Tribunal Act 2014*.

103—Proceedings on application

This clause provides that if the relevant compensating authority confirms a decision on reconsideration, or a party to the dispute expresses dissatisfaction (in accordance with the rules) with the variation of a decision on reconsideration, the matter will be dealt with under Part 3 of the proposed *South Australian Employment Tribunal Act 2014*. The reconsideration of a matter under this Division should not unduly delay proceedings before the Tribunal and the Tribunal must, so far as is reasonably practicable, undertake its processes pending the outcome of the reconsideration.

Division 5—Related matters—Tribunal proceedings

104—Pre-hearing conference

This clause provides that before the Tribunal proceeds with the hearing of a matter, a compulsory conference between the parties must be held under the proposed *South Australian Employment Tribunal Act 2014*. Although the Tribunal must not dispense with a conference under that Act, the member of the Tribunal presiding at the conference may close the conference at any time if it appears to him or her that the matter should immediately be referred to the Tribunal for hearing and determination.

105—Representation

This clause makes it clear that a party to proceedings before the Tribunal is entitled, without leave, to be represented by an officer or employee of an industrial association acting in the course of employment with that industrial association.

106—Costs

This clause sets out the nature and extent of the entitlement of a party (other than the relevant compensating authority) to costs, subject to the Act and the regulations.

The clause also gives the Tribunal power to decline to make an award of costs in favour of a party and make an award of costs against the party or reduce the amount of the award to which the party would otherwise have been entitled, if the Tribunal is of the opinion that the party acted unreasonably in various respects, or frivolously or vexatiously in bringing or in relation to the conduct of proceedings before the Tribunal.

The clause further provides that an award of legal costs cannot exceed 85% of the amount that would be allowable under the relevant Supreme Court scale if the proceedings were in the Supreme Court.

The clause also establishes that if the amount of permanent impairment compensation is disputed by a worker and the amount the Tribunal awards is less than, or the same as, or less than 10% above, an amount offered by the relevant compensating authority to settle the matter before the matter proceeds to a hearing before the Tribunal, the worker is not entitled to costs under the clause.

107—Costs liability of representatives

This clause gives the Tribunal power to make various orders for the payment or repayment of costs by a professional representative that has caused costs to be incurred improperly or without reasonable cause or to be wasted by undue delay or negligence or other misconduct or default.

108—Recovery of costs of representation

This clause makes it an offence for a representative of a party to proceedings before the Tribunal to charge or seek to recover for work involved in, or associated with, that representation an amount exceeding the amount allowable under a scale fixed by regulation.

109—Ministerial intervention

The power for the Minister to intervene in proceedings before the Tribunal or the Supreme Court under this Part, if satisfied that intervention is justified in the public interest, is established.

110—Power to amend or set aside decisions or orders

This clause enables the Tribunal to amend or set aside a decision or order of the Tribunal.

111—Regulations concerning medical evidence

This clause provides for the making of regulations in relation to the provision of reports and expert medical evidence before the Tribunal and the disclosure of medical reports.

112—Payment to child

This clause makes provision for the order of payments of money to a child.

Part 7—Special jurisdiction to expedite decisions

113—Special jurisdiction

A worker or employer who believes there has been undue delay in deciding a claim or other matter affecting the worker or employer (being a claim or matter that would, once determined or decided, constitute a reviewable decision) may apply to the Tribunal, in the manner and form prescribed by regulation, for expedited determination of the matter.

114—Timing of application

An application for expedited determination of a matter cannot be made until at least 10 business days after the day the matter was placed before the relevant decision-maker.

115—Powers of Tribunal on application

This clause sets out the powers of the Tribunal on an application for expedited determination of a matter.

116—Costs

This clause gives power for regulations to be made about the costs of proceedings under this Part.

Part 8—Independent medical advice

Division 1—Interpretation

117—Interpretation

This clause defines the term *medical question* for the purposes of the Part.

Division 2—Appointment of independent medical advisers

118—Constitution of board

This clause constitutes the *Independent Medical Advisory Board* (or *IMAB*). It provides that the Board will be constituted by medical practitioners appointed by the Minister on the recommendation of a selection committee established under this clause.

119—Independent medical advisers

A member of IMAB will be called an *independent medical adviser* for the purposes of this Act.

120—Related appointment provisions

This clause provides that the terms and conditions for the appointment of an independent medical adviser is to be determined by the Minister. The clause specifies the circumstances in which the office of a person appointed to be an independent medical adviser becomes vacant.

Division 3—Referrals

121—Referral by Tribunal or court

This clause provides for the referral, by the Tribunal or a court, of any question or questions arising in proceedings to 1 or more independent medical advisers specified by the Tribunal or court for inquiry and report.

122—Powers and procedures on a referral

This clause sets out the procedures to be followed by an independent medical adviser to whom a medical question has been referred under this Division. It also gives the Tribunal or a court the power to make certain orders. Proposed subclause (6) also specifies a number of principles to be taken into account if a medical question relates to any matter that is relevant to the assessment of whole person impairment (including as to whether an impairment is permanent).

Division 4—Related matters

123—Provision of report

Proposed section 123 sets out that a report is to be prepared by an independent medical adviser at the conclusion of his or her consideration of a medical question and that the report is to be in a form specified by the rules of the Tribunal or court and is to set out a number of specified matters. The clause further provides for the admission of the report as evidence in proceedings.

124—Competency to give evidence

This clause provides that an independent medical adviser is competent to give evidence as to any matter in a report furnished by the independent medical adviser (and any other relevant matter, as appropriate).

125—Further referrals

This clause provides that the Tribunal or a court may, if it thinks fit, refer any matter (in the nature of a medical question or in connection with a medical question) back to an independent medical adviser who has furnished a report to the Tribunal or court for further report to the Tribunal or court (and then this Division will apply in relation to the reference as if it were a new reference of a medical question).

126—Staff and facilities

This clause establishes the basis of a scheme to provide staff or facilities that may be required to support IMAB or independent medical advisers in the performance of their functions under this Part.

127—Recovery of costs

This clause ensures that the costs associated with IMAB, independent medical advisers and any staff or facilities provided under this Part are payable out of the Compensation Fund.

Part 9—Registration and funding

Division 1—Registration of employers

128—Registration of employers

The scheme under the current Act for the registration of employers and the imposition and recovery of premiums is essentially re-enacted as Part 9 of this Act. This clause is the principal section with respect to the registration of the employers for the purposes of the Act.

129—Self-insured employers

The scheme under which an employer or group of employers may apply for registration as a self-insured employer or as a group of self-insured employers is to continue. A new aspect of this scheme will be that it will be a condition of registration as a self-insured employer that the employer must adopt and apply the service standards set out in Schedule 5. Another change is that the maximum period for a renewal of registration as a self-insured employer will be 5 years under the new Act (rather than the current period of 3 years). New provisions will exclude foreign companies that are holding companies from being a member of a group of self-insured employers. A specific provision allowing a self-insured employer to cease being such an employer under an agreement between the Corporation and the employer is also to be included under the new Act.

130—Crown and certain agencies to be self-insured employers

This clause continues the current scheme for the Crown and agencies and instrumentalities of the Crown to be self-insured employers.

131—Applications for registration

This clause continues the current scheme for registration.

132—Changes in details for registration

This clause continues the current scheme for employers to notify the Corporation if there is any change in any details or information relevant to a registration under the Act.

133—Ministerial appeal on decisions relating to self-insured employers

This clause continues the current scheme under the Act under which certain decisions of the Corporation with respect to the registration of an employer are reviewable by the Minister.

Division 2—Delegation to self-insured employers

134—Delegation to self-insured employers

This clause continues the current scheme under which the powers and discretions of the Corporation under specified provisions of the Act are delegated to a self-insured employer.

Division 3—Compensation Fund

135—Compensation Fund

The Compensation Fund will continue to be maintained by the Corporation. One change to the provision will be to allow a contribution to be made towards advocacy services for the benefit of injured workers (as determined by the Minister from time to time after consultation with the Corporation).

Division 4—Premiums

Subdivision 1—Preliminary

136—Interpretation

This clause is in the same terms as section 65 of the current Act.

137—Average premium rate ceiling

As a general rule, the Corporation will be required to achieve an average premium rate that does not exceed 2%.

Subdivision 2—Premiums (terms and conditions)

138—Premiums (terms and conditions)

This clause continues the scheme under which the Corporation establishes a set of terms and conditions that apply to employers in relation to the calculation, imposition and payment of premiums under the Act. These provisions will now be called 'RTWSA premium provisions'. Different sets of provisions will continue to be able to be set in relation to different categories of employers. These provisions underpin the arrangements for the purposes of the premiums that apply under the Act.

Subdivision 3—Premiums (general principles)

139—Liability to pay premiums

This clause sets out the requirement for employers to pay premiums under the Act. An employer who is a self-insured employer, exempt from the requirement to be registered, or exempt under the regulations, is not required to pay a premium under this Division.

140—Employer categories

This clause continues the scheme for the division of workers into various categories for the purposes of this Part. The categories will be determined by the Corporation (rather than prescribed by the regulations).

141—Classes of industry

This clause continues the scheme that allows the Corporation to divide the industries carried on in the State into various classes. One change that has been made is to provide specifically that if an employer employs workers at a workplace for the purpose of supporting a predominant class of industry carried on at 1 or more other workplaces, that predominant class of industry will, if the Corporation so determines, apply in relation to those workers at that workplace.

142—Industry rates and base premiums

This clause continues the scheme for the fixing of industry premium rates. Section 70(3) and (5) of the current Act, relating to fixing a percentage rate not exceeding 7.5%, will not apply under the new provisions.

Subdivision 4—Premiums (calculation and application)

143—Premium orders

This clause continues the scheme for publishing premium orders.

144—Premium stages

This clause continues the scheme for the imposition and payment of premiums in stages.

145—Grouping provisions

This clause continues the scheme for the grouping of employers for the determination and payment of premiums under this Division.

Division 5—Self-insured employers—fees

146—Self-insured employers—fees

This clause continues the scheme for the payment of a fee by a self-insured employer.

Division 6—Remissions and supplementary payments

147—Remissions and supplementary payments

This clause continues the scheme for the remission of a premium or fee otherwise payable by an employer or the imposition of supplementary payments.

Division 7—Administration of premiums/fees scheme

148—Interpretation

149—Provision of information (initial calculations)

150—Provision of information (on-going requirements)

151—Revised estimates or determinations

152—Further adjustments

153—Deferred payment

154—Recovery on default

155—Penalty for late payment

156—Exercise of adjustment powers

157—Review

158—Payments to be made to Corporation

159—GST

160—Transfer of business

161—Reasonable mistake about application of Act

These clauses set out various ancillary or related provisions associated with the calculation and payment of premiums and other relevant amounts. They are based on the provisions of the current Act.

Division 8—Miscellaneous

162—Separate accounts

This clause is similar to section 73 of the current Act, except that 'secondary' injuries will no longer be separately listed in the account of an employer.

163—Liability to keep accounts

164—Person ceasing to be an employer

165—Certificate of registration

These are also ancillary provisions that replicate provisions from the current Act.

166—Insurance of registered employers against other liabilities

This clause is based on section 105 of the current Act so that an employer registered under the Act, or who is not required to be registered under the Act, is insured by the Corporation, subject to terms and conditions prescribed by the regulations, against any liability that may arise apart from this Act in respect of a work injury arising from employment (being employment to which the Act applies) by the employer. The basic insurance scheme does not extend to a self-insured employer and will not extend to a liability excluded by the regulations.

167—Corporation as insurer of last resort

This clause is based on section 50 of the current Act so that the Corporation may undertake the liabilities of a self-insured employer in certain circumstances (and will do so if the employer becomes insolvent or ceases to carry on business in the State and does not make adequate provision for relevant liabilities under the Act).

Part 10—Scheme adjustment mechanisms

168—Preliminary

This clause sets out the definitions and concepts that need to be included or explained for the purposes of this Part.

169—Scheme adjustment/review events

A scheme/adjustment review event will occur if, in respect of each of 2 consecutive financial years—

- the Corporation has achieved a funding level of at least 100% at a probability of sufficiency of 75%; and
- the Corporation has achieved a profit from its insurance operations,

and an actuary has confirmed the ongoing viability of the scheme during a declared scheme bonus period.

If such an event occurs, a payment will be made into a special account that is to be established to assist certain categories of injured workers and the Corporation will apply an equal amount so as to achieve a reduction in the premiums paid by employers under the Act. However, this is subject to the qualification that if such a course of action would result in the average premium rate falling below 1.25%, then the Minister must instead initiate a review of the scheme established by the Act.

170—Scheme funding/review events

This clause will require a review of the scheme established by the Act if, in respect of each of 2 consecutive financial years, the Corporation has been operating at a funding level below 90% at a probability of sufficiency of 75%.

Part 11—The Minister's Advisory Committee

171—Advisory Committee

This clause establishes the *Minister's Advisory Committee* and provides for its membership.

172—Functions of Advisory Committee

This clause sets out the functions of the *Minister's Advisory Committee*, which include the investigation and provision of advice about any matter relating to early intervention, recovery, return to work or compensation with respect to injured workers.

173—Proceedings etc of Advisory Committee

This clause sets out the proceedings in relation to Advisory Committee meetings.

174—Related provisions

It will be an offence for members of the Advisory Committee to divulge information without the approval of the Committee that is commercially sensitive, private, or that the Committee has classified as confidential.

This clause also makes provision in relation to committee members' duties under the *Public Sector (Honesty and Accountability) Act 1995* by providing that they will not be taken to have an interest in a matter if they only have an interest that is shared in common with employers generally or employees generally, or a substantial section of employers or employees.

Part 12—Miscellaneous

175—Extension of the application of Act to self-employed persons

This clause enables the Corporation, on the application of a person who is self-employed, to extend to that person the protection of the Act (or of specified parts of this Act), subject to conditions and limitations determined by the Corporation.

176—Agreements with LSS Authority

The proposed section provides a scheme for the making of agreements between a prescribed authority and the LSS Authority for the provision of services to persons who have suffered work injuries and who, in the opinion of the prescribed authority, would benefit from participating in certain aspects of the Scheme under the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013* relating to treatment, care and support needs and in having other services (whether under that Act or this Act) provided by the LSS Authority.

177—Payment not to constitute an admission of liability

This clause makes it clear that a payment by the Corporation or an employer to a worker does not constitute an admission of liability or estop a subsequent denial of liability.

178—Employer may request progress report

This clause establishes that an employer may request (from the Corporation) the provision of a report on the medical progress being made by a worker and the worker's capacity for work.

179—Copies of medical reports

This clause provides that the Corporation must, within 7 days after receiving a request from a worker's employer, provide the employer with copies of reports in the Corporation's possession prepared by health practitioners and relevant to the worker's medical condition, the worker's progress in recovery, or the extent of the worker's capacity for work.

180—Worker's right of access to claims file

This clause sets out the nature and extent of the right of a worker to access copies of documentary material relevant to a claim by the worker and the right of a worker to inspect all non-documentary material in the possession of the Corporation or a delegate of the Corporation (subject to certain exceptions). The clause requires the worker to return the material if the Corporation or a delegate of the Corporation mistakenly provides material to a worker to which the worker is not entitled.

181—Medical examination at request of employer

This clause provides that the employer of a worker who has made a claim under the Act may require the Corporation to have the worker submit to an examination by a recognised health practitioner nominated by the Corporation.

182—Worker to be supplied with copy of medical report

A copy of a report obtained for the purposes of the Act by the Corporation or an employer concerning findings made, or the opinions formed, by a health practitioner on the examination of a worker, must be sent to the worker.

183—Powers of entry and inspection

This clause sets out various powers of entry, inspection and seizure of authorised officers for the purposes of the Act.

184—Inspection of place of employment by recovery or return to work adviser

The proposed section allows for the inspection of the place of employment of an injured person by a designated adviser provided the power to inspect is exercised so as to avoid any unnecessary disruption of, or interference with, the performance of work at a place of employment.

185—Confidentiality to be maintained

Subject to the disclosure of specified matters outlined in proposed subsection (3), this clause makes it an offence for a person to disclose information if the person obtained the information in the course of carrying out functions in, or related to, the administration, operation or enforcement of this Act and the information is about commercial or trading operations, the physical or mental condition, or the personal circumstances or affairs, of a worker or other person or information provided in a return or in response to a request for information under this Act.

186—Confidentiality—employers

Except as specified, a registered employer or a person employed by a registered employer must not disclose information about the physical or mental condition of a worker.

187—Employer information

This clause provides for the disclosure of certain specified matters in relation to a registered employer by the Corporation.

188—Injuries that develop gradually

This clause makes specific provision for injuries that develop gradually and for claims in respect of noise induced hearing loss. The clause also enables the Corporation to require employers to carry out tests on classes of workers determined by the Corporation. Furthermore, if it is established that a worker was, at the time of undertaking employment with the employer, suffering from a particular injury, the clause establishes a scheme by which a self-insured employer may recover a contribution towards an amount of compensation from another self-insured employer from whose employment the injury arose or if there is no such self-insured employer—the Corporation.

189—Certain payments not to affect benefits under this Act

This clause established that the payment of certain types of compensation under the Act must not be reduced or otherwise affected by an *ex gratia* payment, an accident insurance payment or a payment or benefit of a class prescribed by regulation for the purposes of this section.

190—No contribution from workers

The proposed section ensures that the liability of an employer under this Act must not be deducted from the wages of a worker and that an employer must not discriminate against a worker on the ground that the employer is liable to pay any sum under this Act to or in relation to the worker.

191—No contracting out

Proposed subsection (1) ensures that the Act applies despite any contract to the contrary (subject to the matters set out in proposed subsection (2)).

192—Non-assignability of benefits

This clause provides that compensation is not capable of being assigned, charged or attached and does not pass to any other person.

193—Payments if worker in prison

This clause provides for the suspension of weekly payments to a person who is convicted of an offence and committed to prison for the period of imprisonment subject to the Corporation determining that they should be paid to the dependents of the prisoner.

194—Service of documents

This clause provides for the service of documents under the Act.

195—Service of documents on Corporation

This clause sets out the requirements for the effective service of documents on the Corporation.

196—Dishonesty

The proposed section makes it an offence to behave dishonestly in relation to a number of specified matters. The clause also ensures that where a court convicts a person of an offence against the proposed section or makes a finding of guilt, the court must, on application by the Corporation or a self-insured employer, order the person who committed the offence to make good any loss to the applicant as a result of the offence and reimburse costs incurred by the applicant in investigating and prosecuting the offence.

197—Evidence

This clause provides for certain evidentiary matters for the purpose of legal proceedings under the Act.

198—Offences

This clause creates an offence provision in respect of the requirement to comply with the Act.

199—Expiation fees

The proposed section provides for the fixing of expiation fees, by regulation, for alleged offences against the Act.

200—Right of intervention

The clause creates a right of intervention for the Corporation in respect of proceedings under the Act before the Tribunal or certain proceedings before a court.

201—Recovery of payments

This clause provides for the recovery (as a debt) from a worker, an employer or any other person any payment of compensation or other amount to which the worker, employer or other person is not entitled. The recovery extends to a situation where it is correcting an error, mistake or oversight, or revising an assessment, previously made by the Corporation under the Act.

202—Regulations

This clause provides a regulation making power.

203—Review of Act

The proposed section provides for the conduct of a review into the Act and its administration and operation on the expiry of 3 years from its commencement and for a report that forms the basis of the review to be laid before both Houses of Parliament.

The review must include an assessment of the extent to which the scheme established by this Act and the dispute resolution processes under this Act and the *South Australian Employment Tribunal Act 2014* have achieved a reduction in the number of disputed matters and a decrease in the time taken to resolve disputes and the extent to which there has been an improvement in the determination or resolution of medical questions arising under this Act (especially when compared to the scheme and processes applying under the repealed Act).

Schedule 1—Presumptive employment

1—Presumptive employment

This clause establishes the concept of the Crown as the presumptive employer for persons of a prescribed class who voluntarily perform work of a prescribed class that is of benefit to the State.

Schedule 2—Injuries presumed to arise from general employment

This Schedule contains a list of injuries presumed to arise from general employment.

Schedule 3—Injuries presumed to arise from employment as a firefighter

1—Substantive provisions

This Schedule contains a list of injuries presumed to arise from employment as a firefighter.

Schedule 4—Adjacent areas

1—Interpretation

2—Adjacent areas

This Schedule establishes the adjacent area for a State or Territory.

Schedule 5—Statement of service standards

Part 1—Introduction

1—Aim of these standards

2—Interpretation

3—Spirit of these standards

This Schedule sets out a statement of service standards to be met by the Corporation in its relationship with workers and employers

Part 2—The standards

4—The standards

This clause sets out the individual standards to be observed by the Corporation.

Part 3—Complaints about breaches of these standards

5—Overview

6—Procedures for the Corporation to deal with a complaint

This clause sets out the various procedures to be followed by the Corporation following its receipt of a complaint concerning the Corporation's compliance with the service standards.

7—Remedies

This clause sets out the remedies available following a finding that the Corporation has breached any of the standards.

Part 4—Wider issues

8—Wider issues

This clause provides that the Corporation will consider and address the wider implications associated with the operation and effectiveness of the standards and any complaints that arise under them.

Schedule 6—Age factor

This Schedule inserts a table of values that determine the age factor. The age factor forms part of the formula that determines the lump sum payment in clause 56 of the Act.

Schedule 7—Prescribed sum—economic loss

This Schedule inserts a table that determines the prescribed sum according to the degree of whole person impairment for the purposes of the formula used to determine the lump sum payment in clause 56 of the Act.

Schedule 8—Minimum amounts of compensation according to degree of impairment under regulations

This Schedule provides for the minimum amounts of compensation payable according to the degree of whole person impairment.

Schedule 9—Repeal, amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Repeal

2—Repeal

This clause repeals the *Workers Rehabilitation and Compensation Act 1986*.

Part 3—Amendment of *Civil Liability Act 1936*

3—Amendment of section 4—Application of Act

This clause makes changes to substitute a reference to the *Workers Rehabilitation and Compensation Act 1986* with a reference to Part 4 of the *Return to Work Act 2014*.

Part 4—Amendment of *Judicial Administration (Auxiliary Appointments and Powers) Act 1988*

4—Amendment of section 2—Interpretation

This clause deletes the reference to 'the office of Deputy President of the Workers Compensation Tribunal' from the definition of *judicial office* in section 2 of the *Judicial Administration (Auxiliary Appointments and Powers) Act 1988* and substitutes a reference to the office of Deputy President of the South Australian Employment Tribunal.

Part 5—Amendment of *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*

5—Amendment of section 24—Eligibility for participation in Scheme

This clause substitutes the reference to a compensable injury under the *Workers Rehabilitation and Compensation Act 1986* with a reference to a work injury under the *Return to Work Act 2014* (other than to such extent as applies under section 55) for the purposes of determining the coverage of the *Motor Vehicle Accidents (Lifetime Support Scheme) Act 2013*.

6—Amendment of section 55—Agreements with prescribed authorities

This clause makes further consequential changes to the principal Act in line with the substitution of references to the *Workers Rehabilitation and Compensation Act 1986* with the *Return to Work Act 2014*.

Part 6—Amendment of *Supreme Court Act 1935*

7—Amendment of section 39—Vexatious proceedings

This clause deletes the reference to the Workers Compensation Tribunal in the definition of *prescribed court* for the purposes of section 39 of the *Supreme Court Act 1935*.

Part 7—Amendment of *WorkCover Corporation Act 1994*

8—Amendment of long title

9—Amendment of section 1—Short title

10—Amendment of section 3—Interpretation

11—Amendment of section 4—Continuation of Corporation

12—Amendment of section 7—Allowances and expenses

13—Amendment of section 12—Primary objects

14—Amendment of section 13—Functions

15—Amendment of section 14—Powers

16—Amendment of section 14A—Direction of Minister

17—Amendment of section 16—Committees

18—Amendment of section 17A—Corporation's charter

19—Amendment of section 20—Annual reports

20—Amendment of section 21—Chief Executive Officer

21—Amendment of section 26—Protection of special names

Consequential amendments are made to reflect the passage of the *Return to Work Act 2014* and the repeal of the *Workers Rehabilitation and Compensation Act 1986*.

The amendments, where necessary, substitute references to the WorkCover Corporation of South Australia with the Return to Work Corporation of South Australia (ReturnToWorkSA).

Amendments to the *Return to Work Corporation of South Australia Act 1994* are made, where appropriate, to support the emphasis on early intervention, recovery and return to work in the *Return to Work Act 2014*.

22—Insertion of section 27A

This clause inserts a section that applies provisions of the *Public Corporations Act 1993* to the Corporation with respect to tax equivalence payments, subject to specified modifications.

Part 8—Amendment of *Work Health and Safety Act 2012*

23—Amendment of section 4—Definitions

24—Amendment of Schedule 2—Local tripartite consultation arrangements

25—Amendment of Schedule 5—Provisions of local application

These clauses contain a number of consequential amendments and include changes that substitute references to the *Workers Rehabilitation and Compensation Act 1986* and the WorkCover Corporation of South Australia with references to the *Return to Work Act 2014* and the Return to Work Corporation of South Australia (ReturnToWorkSA) respectively. The contribution payment associated with the administration of the Act under clause 3 of this Schedule is to be combined with the amount payable under clause 2.

Part 9—Transitional provisions

Division 1—Interpretation

26—Interpretation

This clause provides definitions of a number of terms used in Part 9. The *designated day* is a day appointed by proclamation as the designated day for the purposes of the provision in which the term is used. This clause also provides that a reference in Part 9 to the Corporation in a prescribed clause will be taken to include a reference to a self-insured employer.

Division 2—CPI adjustment

27—CPI adjustment

This clause, which will come into operation on 1 January 2015, makes provision for the indexation of sums of money fixed by the Act at the time of enactment that are followed by the word '(indexed)'. The provisions of this clause providing for indexation apply to a sum fixed by a provision that has not come into operation on 1 January 2015 so that the sum as adjusted will apply when the provision comes into operation.

Division 3—Application of Act

28—General provision

Clause 28, which is subject to the other provisions of Part 9, deals in general terms with the application of the Act and provides that the Act applies to—

- an injury that is attributable to a trauma that occurred before the designated day and that is a compensable injury under the repealed Act (an *existing injury*); and
- an injury that is attributable to a trauma that occurred on or after the designated day (a *new injury*).

If an injury is partially attributable to a trauma that occurred before the designated day and partially attributable to a trauma that occurred on or after the designated day, the injury will be taken to be a new injury.

29—Connection with employment

Under this clause, although sections 30 and 30A of the repealed Act will apply for the purposes of determining whether an existing injury is compensable, section 7(3) of the Act will extend to an injury that is, or results from, the aggravation, acceleration, exacerbation, deterioration or recurrence of a prior injury if the prior injury is wholly or partially attributable to a trauma that occurred before the designated day and the later injury is wholly or partially attributable to a trauma that occurred on or after that day.

30—Notice of injury

If a worker has given a notice of injury under section 51 of the repealed Act, the notice will be taken under this clause to be a notice under section 16 of the proposed Act.

31—Employer's duty to provide work

This clause makes it clear that section 18(3) of the Act applies to a worker who has been incapacitated for work before the designated day.

32—Recovery and return to work

This clause continues rehabilitation programs and rehabilitation and return to work plans in force under the repealed Act immediately before the designated day. The latter are to be taken to be recovery/return to work plans under the proposed Act. A person who held an appointment as a co-ordinator under the repealed Act immediately before the designated day will be taken to be an accredited return to work co-ordinator under the proposed Act.

33—Seriously injured workers

If a person's degree of whole person impairment has been assessed as 30% or more under the repealed Act, he or she will be taken to be a seriously injured worker under the proposed Act. The Corporation may also determine that a worker who has an existing injury will be taken to be a seriously injured worker for the purposes of the Act.

34—Medical expenses

Under this clause, the continuous period of 12 months referred to in subclause (20) of clause 33 (that is, the period, where there has been no entitlement to weekly payments, at the end of which an entitlement to compensation under clause 33 comes to an end (subject to subclause (21)) will, in respect of an existing injury, be a period of 12 months that runs from the designated day or that commences on or after the designated day.

35—Provisional liability for medical expenses

This clause provides that a right of set off under section 32A(8) of the repealed Act may be exercised in relation to a right to the payment of compensation under the proposed Act.

36—Weekly payments for workers

This clause sets out the principles according to which a worker who is incapacitated for work in respect of an existing injury during the period beginning on the designated day and ending 104 weeks after the designated day is entitled to weekly payments in respect of the incapacity. It is made clear in this clause that a worker has no entitlement to weekly payments under the proposed Act or the repealed Act in respect of an existing injury after the end of the second transitional period (that is, the period of 52 weeks beginning after the end of the period of 52 weeks from the designated day). This does not apply in relation to a seriously injured worker.

37—Federal minimum wage safety net

This clause extends the minimum wage safety net provided by clause 42 to the amount of compensation payable under Part 4 Division 4 Subdivision 2 of the Act on account of the operation of transitional provisions.

38—Management of transitional arrangements for income support

This clause authorises the Corporation to establish a scheme to provide for the transition from making weekly payments under the repealed Act to making weekly payments in accordance with the transitional provisions and more generally.

39—Retirement age

It is made clear by this clause that clause 44 of the Act (Termination of weekly payments on retiring age) extends to weekly payments being paid to a worker under the transitional provisions.

40—Discontinuance of weekly payments

The provision of the Act allowing for suspension of a decision to reduce or discontinue weekly payments on the application by the worker for review of the decision applies under this clause to a notice of a decision under section 36 of the repealed Act. This does not apply if the worker has lodged a notice of dispute in relation to the decision before the designated day. Subclauses (2) and (3) of this clause deal with the situation where the worker has lodged a notice of dispute under the repealed Act before the designated day.

41—Redemptions

Nothing in Part 9 affects the application of section 42 of the repealed Act with respect to negotiations, and any agreement for, a redemption if entered into in accordance with that section before the designated day. Apart from that, section 42 of the repealed Act does not apply to or in relation to a liability under that Act with respect to an existing injury.

42—Loss of future earning capacity

This clause puts it beyond doubt that Part 4 Division 6 of the Act does not apply to or in relation to an existing injury.

43—Permanent impairment assessment

Under this clause, if a person's entitlement to compensation for non-economic loss has been determined under the repealed Act in respect of an existing injury, the person is not entitled to an assessment under this Act in relation to the same injury (or any other injury arising from the same trauma). That principle does not apply in prescribed circumstances.

44—Payments on death—lump sums

The Corporation is authorised under this clause to make *ex gratia* payments on the application of a person who was the spouse or domestic partner of a worker who died on or after 1 July 2008. A payment is to be made (in the absolute discretion of the Corporation) on the application of the person who was the spouse or domestic partner of the worker. The Corporation is to take into account the amount (or additional amount) that would have been payable under section 59 of the Act if that section had been in operation before the trauma.

Under this clause, the Corporation may deal with a claim in relation to the death of a worker under section 45A of the repealed Act that has not been determined before the designated day in all respects under clause 59 of the proposed Act. Clause 59 provides for the payment of compensation in the form of a lump sum to spouses, domestic partners and children of workers who die as a result of work injuries.

45—Incidence of liability

This clause extends clauses 64(3) and (4) of the proposed Act to outstanding payments of compensation under the repealed Act. Clause 64(3) provides that a self-insured employer is liable to make all outstanding payments of compensation to which a person is entitled in consequence of the occurrence of a work injury arising from employment by the employer that occurred before the employer became a self-insured employer. Clause 64(4) requires the Corporation to pay a self-insured employer an amount, to be determined in accordance with the code of conduct for self-insured employers, to offset the self-insured employer's liability under subclause (3).

46—Payments by employers

This clause makes provision for the recovery by an employer from the Corporation of amounts paid by the employer as compensation for income maintenance under the repealed Act where the employer would have a right of recovery from the Corporation under clause 64 of the proposed Act if that clause has been in operation at the time of the payment.

47—Provisional payments

This clause provides for the exercise of a right of set off under section 50H of the repealed Act in relation to a right to the payment of compensation under the Act.

Division 4—Common law

48—Common law

This clause provides that Part 5 of the Act does not apply to or in relation to an existing injury or the death of a worker resulting from an existing injury.

Division 5—Dispute resolution

49—Existing proceedings etc

This clause provides for the continuation and completion of applications or other proceedings commenced before the Workers Compensation Tribunal under the repealed Act before the designated day. An application or proceeding that is not commenced before the designated day will proceed before the South Australian Employment Tribunal (SAET) rather than WCT.

50—Adoption of WCT decisions

This clause authorises SAET to draw conclusions of fact from evidence before WCT, adopt findings, determinations decisions, directions or orders of WCT and set aside any decision, direction or order of WCT.

51—Dissolution of WCT

The clause provides for the dissolution of WCT by proclamation of the Governor when he or she thinks that it is appropriate to do so. When a proclamation is made, the following will occur:

- members of WCT holding office under the repealed Act will cease to hold that office;
- any contract, agreement or arrangement relating to the office will be terminated (and there will be no right of action against the Minister or the State on account of the termination);
- proceedings before WCT will be dealt with in accordance with provisions made by the regulations;
- a member of WCT who is a Judge of the Industrial Relations Court of South Australia will continue as a member of SAET under the provisions of the *South Australian Employment Tribunal Act 2014*.

Division 6—Registration and funding

52—Continuation of registration

This clause provides for the continuation of the registration of employers registered under the repealed Act immediately before the designated day.

53—Premiums and payments

Under this clause, RTWSA premium orders may take into account the claims experience of employers under the repealed Act. A hindsight premium under the repealed Act is payable as if the relevant period applied under the proposed Act and is to be paid by a date specified by the Corporation. This clause also provides for continuity of groups constituted under section 72A of the repealed Act.

54—Scheme reviews

A financial year relevant to the operation of Part 10 will be a financial year commencing on or after the designated day.

Division 7—Medical panels

55—Medical panels

There is a requirement under this clause for proceedings before Medical Panels under the repealed Act immediately before the designated day to be concluded as quickly as is reasonably practicable after that day. Such proceedings will, in any event, be brought to an end 60 days after that day.

Division 8—WorkCover Ombudsman

56—WorkCover Ombudsman

This clause provides that the person holding office as the WorkCover Ombudsman immediately before the designated day will cease to hold office on that day.

Division 9—1971/1986 Acts

57—Interpretation

For the purposes of the provisions of Division 9, the *appointed day* is the day on which the *Workers Compensation Act 1971* (the *1971 Act*) was repealed.

58—Application of 1971 Act

The 1971 Act will continue to apply in respect of injuries that are attributable to traumas that occurred before the appointed day. The new Act applies where an injury is partially attributable to a trauma that occurred before the appointed day and partially attributable to an injury that occurred on or after the appointed day, but this clause sets out various provisions that apply in respect of such injuries.

59—Mining and Quarrying Industries Fund

This clause provides for the continuation of the scheme established under Part 9 of the 1971 Act for the settlement of claims and other matters arising in relation to death or disablement from silicosis suffered before the appointed day. The Corporation will be liable to satisfy any claim made under the scheme

60—Statutory Reserve Fund

There is a requirement under this clause for the Statutory Reserve Fund to continue to be held as a separate part of the Compensation Fund.

61—Insurance Assistance Fund

This clause requires that the Insurance Assistance Fund continue to be held as a separate part of the Compensation Fund.

62—Management of funds

This clause authorises investment of the Statutory Reserve Fund and the Insurance Assistance Fund in common with the Compensation Fund as if they formed part of the Compensation Fund.

63—Entitlement to documents

The Corporation is entitled under this clause to possession of all documents and other materials in the possession or power of the Motor Accident Commission relevant to claims against the Statutory Reserve Fund or to liabilities under policies of insurance transferred to the Corporation in connection with the scheme continued under the Schedule.

Division 10—Work health and safety administration costs

64—Work health and safety administration costs

This clause requires that the prescribed percentage of the prescribed amount under Schedule 5 clause 2(7) and (8) of the *Work Health and Safety Act 2012* for the 2015/2016 financial year be at least equal to the total of the prescribed percentage of the prescribed amount under those provisions for the 2014/2015 financial year and the amount payable under Schedule 5, clause 3 of the WHS Act for the 2014/2015 financial year. This relates to the percentage of registration fees that are to be paid to the Department.

Division 11—Renewal of authorised contracts

65—Renewal of authorised contracts

This clause will allow a regulation under section 14(4)(d) of the *WorkCover Corporation Act 1994* which authorises a contract to be entered into under that section to come into operation on 1 July 2015 and without the need for its commencement to be delayed pending any possible motion of disallowance.

Division 12—Regulations

66—Additional transitional provisions—regulations

This clause provides that the Governor may, by regulation, make additional provisions of a saving or transitional nature consequent on the enactment of the Act.

Debate adjourned on motion of Ms Chapman.

SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL BILL

Introduction and First Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:42): Obtained leave and introduced a bill for an act to establish a tribunal with jurisdiction to review certain decisions relating to rights or circumstances arising out of or in the course of employment; to confer powers on the tribunal; and for other purposes. Read a first time.

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (14:43): I move:

That this bill be now read a second time.

Today I am introducing a bill to establish the South Australian Employment Tribunal, with jurisdiction to review certain decisions arising from the Return to Work Scheme planned to commence on 1 July 2015.

The South Australian Employment Tribunal will have similar functions, powers and operating approach as the newly established Civil and Administrative Tribunal. It will provide efficient and cost-effective processes for all parties involved, act with as little formality and technicality as possible and be flexible in the way in which it conducts its business. The tribunal will also be transparent and accountable, headed by a president who will hold concurrent office as a judge of the Industrial Relations Court.

Currently, the Workers Compensation Tribunal deals with disputes about claims for workers compensation under the Workers Rehabilitation and Compensation Act of 1986. The establishment of a new return to work scheme requires a fresh approach to the resolution of disputes arising under the new scheme. The new scheme is designed with less moving parts and should provide injured workers and their employers with greater certainty regarding their entitlements and obligations under the legislation.

We therefore anticipate that the rate of disputation should decrease significantly, and those disputes that do arise and cannot be resolved through reconsideration by the corporation will be dealt with by the proposed employment tribunal. The bill has been introduced concurrently with the Return to Work Bill of 2014. I seek leave to insert the remainder of the second reading explanation into *Hansard* without my reading it.

Leave granted.

Turning now to the main features of the Bill.

Members of the Tribunal

The Bill proposes that the Tribunal be led by a President, supported by 1 or more Deputy Presidents, Magistrates and conciliators.

The President will be the person holding office as the Senior Judge of the Industrial Court.

The President, aside from participating as a member of the Tribunal, has primary responsibility for its administration and will not be subject to the direction or control of a Minister in the performance of his or her functions. The President's functions are expressly prescribed in the Bill to include both administrative and managerial responsibility, which are as follows:

managing the business of the Tribunal, which includes ensuring it operates efficiently and effectively;

providing leadership and guidance to the Tribunal and ensuring a collective cohesiveness amongst the members and staff;

- giving directions about practices and procedures to be followed by the Tribunal;
- developing and implementing performance standards and benchmarks;
- being responsible for promoting the training, education and professional development of members;
- overseeing the proper use of resources; and
- providing advice about the membership and operation of the Tribunal.

There will be at least one Deputy President. A Judge, other than the Senior Judge of the Industrial Relations Court, will be a Deputy President of the Tribunal. Other Deputy Presidents, may, if eligible for appointment as a Judge of the Industrial Relations Court, be appointed by the Governor, on the nomination of the Minister.

Aside from participating as a member of the Tribunal, a Deputy President, will assist the President in the management of business and members of the Tribunal.

Conciliation officers

The Bill proposes that the Tribunal should be comprised of conciliation officers who may be legally qualified, but may also be experts from different fields or vocations. Legally qualified officers must be legal practitioners of not less than five years standing and other members must have, in the Minister's opinion, extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal.

The Bill will allow for the Minister to appoint a panel of persons who will, after consultation with the President, recommend the selection criteria for the conciliation officers of the Tribunal. This same panel of persons will also be responsible for assessing a candidate or candidates for appointment as a conciliation officer and provide advice to the Minister about this.

All members should be assessed by a panel against selection criteria and appointed by the Governor, after consultation with the President and the Minister, for a term of office, of up to five years. A conciliation officers will be eligible for reappointment at the expiration of a term of office. Conciliation officers will be appointed on conditions specified in the instrument of appointment.

The Bill proposes mechanisms for removal and suspension of senior and ordinary members of the Tribunal, in addition to specifying the grounds upon which a senior or ordinary member ceases to be a member of the Tribunal.

In order to manage unforeseen spikes in workloads, the Bill provides a mechanism to temporarily appoint conciliation officers for a particular matter or for a specified period, either at the request or with the agreement of the President of the Tribunal.

Constitution of Tribunal and its decision-making processes

Subject to the provisions in the Bill, the President may determine, in relation to particular matters, or particular classes of matters, which member or members of the Tribunal will constitute the Tribunal. Unless the conferring Act states otherwise, the Tribunal is not to be constituted by more than three members.

The Bill also clarifies which member in particular circumstances will be considered the presiding member in the hearing of matters and the order of precedence generally, amongst all members of the Tribunal.

Clarification is also provided about how the Tribunal resolves cases that come before it. For questions that do not amount to a determination of a question of law, the opinion of the majority will apply. Where there is no majority, the opinion of the presiding member prevails. By contrast, where a question of law requires determination by the Tribunal, it will be decided according to the opinion of the presiding member, if that member is legally qualified or the unanimous opinion of two legally qualified members.

There is also a mechanism for a presiding member to refer a question of law to a Presidential member for determination and for a Presidential member to refer it to the Supreme Court. The Bill sets outs the process for such referral.

A range of other matters related to the constitution of the Tribunal are set out to assist the day to day operations of the Tribunal, these include:

- permitting the listing of matters into various steams that reflect the areas of jurisdiction;
- validating the acts of the Tribunal;

- setting out requirements of Tribunal members to disclose interests (pecuniary or otherwise);
- authorising of the President of the Tribunal to delegate a function or power under the Bill.

General nature of proceedings

Matters that come before the Tribunal, as per a conferring Act, will be dealt with as a review of the original decision. The Tribunal will examine the decision of the original decision-maker by way of re-hearing.

In order to assist the Tribunal in exercising its review jurisdiction, the Bill imposes obligations upon the original decision-maker for the purposes of assisting the Tribunal so that it can make its decision on the review. The Bill also confirms the effect of the review proceeding on the decision being reviewed.

The Bill also allows for the Tribunal, at any stage of a proceeding for the review of a reviewable decision, to invite the decision-maker to reconsider the decision. Upon being invited to do so by the Tribunal, the original decision-maker may affirm, vary or set aside the decision and substitute a new decision.

Principles, powers and procedures

Principles

The Bill sets out the principles that are to guide the Tribunal in the hearing of any proceeding for which it has jurisdiction. In summary, these principles include: minimising any formality, dispensing with rules of evidence and adopting an inquisitorial approach and finally, acting according to equity and good conscience, without regard to legal technicalities.

Evidentiary Powers

To discharge its various functions as an administrative tribunal, the Tribunal will need powers to establish processes, obtain evidence, control parties and make adequate and appropriate determinations. Certain powers are proposed for inclusion in the Bill, whereas others will be located in the Regulations or Rules.

First, the Tribunal will be equipped with the power to require the production of evidentiary material or to require an individual to give evidence, which may be exercised by the Tribunal upon the application of a party or by means of its own initiative. This power will be exercised by the issuing of a summons. Failure to comply with this provision of the Bill amount to an offence, which will attract a maximum penalty of a $25,000 fine or imprisonment for 1 year.

Second, a member of the Tribunal will have the power to enter any land or building and carry out any inspection that the Tribunal considers relevant to a proceeding before a Tribunal. Obstruction of a member of the Tribunal, or a person authorised by the Tribunal who is exercising this power, will be guilty of an offence, attracting a maximum penalty of $10,000 or 6 months imprisonment.

Finally, there is a power for the Tribunal to refer any question arising in any proceedings for investigation and report by an expert in the relevant field. However before doing so, the Tribunal must seek submissions from the parties to the proceedings, prior to making such a reference.

Practice and procedures

The Bill outlines a number of obligations upon the Tribunal in terms of practices and procedures generally, and regarding the conduct of proceedings and interaction of parties to proceedings. More specifically, it confirms the Tribunal's ability to give directions, consolidate proceedings, split proceedings, move a proceeding to a more appropriate forum and finally to dismiss or strike out a proceeding that is frivolous, vexatious or an abuse of process. There is also a mechanism for the Tribunal to manage proceedings being conducted to cause disadvantage to a party, either by the application of a party or on its own initiative.

Conferences, mediation and settlement

An important emphasis is placed on the role of alternative dispute resolution in proceedings before the Tribunal. The Bill provides the Tribunal with the scope, at an initial directions hearing or at any other time, to require the parties to attend a compulsory conference, or refer the matter, or any aspect of the matter, for mediation by a person specified as a mediator by the Tribunal. The Bill also sets out the procedures for both conferences and mediation. The Tribunal itself may also endeavour to achieve a negotiated settlement of a matter before the Tribunal.

Parties and representation

The Bill defines who is considered a 'party' for the purposes of a proceeding before the Tribunal, confirms who may be joined as a party, and who can intervene in a proceeding before the Tribunal and on what grounds. The matter of representation before the Tribunal is also addressed.

Other procedural and related provisions

The Bill addresses a range of other miscellaneous, procedural and related provisions, which are summarised as follows:

- the time and location of Tribunal sittings;

- the requirement for hearings to be heard in public, unless the Tribunal is satisfied that it is desirable to either hear all or part of a hearing in private or there is a need for example to prohibit/restrict publication of the name and addresses of persons appearing before the Tribunal and/or evidence given at the Tribunal;
- the power to make any order that may be necessary to preserve the subject matter of proceedings or interests of a party;
- security as to costs;
- the power to make interlocutory orders;
- the power to make declaratory judgments;
- the power to make conditional and alternative orders;
- the power to refer questions arising in a proceeding to a special referee;
- the power to provide relief from time limits for doing anything in connection with a proceeding or the commencement of any proceeding;
- equipping the Tribunal with the capacity to undertake electronic hearings and proceedings without hearings (on the basis of documents);
- other claims of privilege.

Appeals

The Bill sets out an avenue to appeal:

- to the Full Court of the Industrial Relations Court, if the Tribunal was constituted for the purpose of making the order by the President or a Deputy President, whether with or without others; or
- to a single judge of the Industrial Relations Court in any other case.

The Bill then sets out what orders can be made by the Industrial Relations Court on appeal. Under the *Fair Work Act 1994*, a decision of the Full Court of the Industrial Relations Court can be appealed to the Supreme Court.

Staff of the Tribunal

It is proposed that the Tribunal have one principal registrar, supported by one or more other registrars (to be known as 'Deputy Registrars').

The functions of the Registrar will be:

to assist the President of the Tribunal in the administration of the Tribunal;

- to be responsible for the registry and records of the Tribunal;
- to undertake responsibility for the day-to-day case management of the Tribunal;
- to constitute the Tribunal to the extent specified under this Act; and
- to fulfil other functions assigned to the Registrar by the President or under the rules of the Tribunal.

The Bill also confirms that there will be other staff of the Tribunal, consisting of persons employed in a public sector agency and made available to act as members of the staff of the Tribunal.

Miscellaneous

Finally, the Bill contains a number of miscellaneous measures relating to the operation and functions of the Tribunal and a regulation making power.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of words and phrases used in the Bill, including applicant, decision-maker, evidentiary material, legally qualified member and Tribunal.

4—Relevant Acts prevail

A 'relevant Act' is defined in clause 3 to mean 'an Act which confers jurisdiction on the Tribunal'. There will be numerous relevant Acts that confer jurisdiction on the Tribunal. In the event of an inconsistency between a relevant Act and the proposed Act, the relevant Act prevails.

Part 2—South Australian Employment Tribunal

Division 1—Establishment of Tribunal

5—Establishment of Tribunal

This Bill establishes a new tribunal called the South Australian Employment Tribunal ('the Tribunal').

6—Jurisdiction of Tribunal

This clause provides that the Tribunal's jurisdiction is as conferred by statute.

7—Tribunal to operate throughout State

This clause provides that the Tribunal is to facilitate access to its services throughout South Australia and may sit at any place. The President, after consultation with the Minister, will determine where Registries of the Tribunal will be located.

Division 2—Main objectives of Tribunal

8—Main objectives of Tribunal

This clause sets out the Tribunal's primary objectives. These will enable the Tribunal to be an accessible 'one-stop shop' that can resolve disputes quickly, with minimal formality and costs and utilise Tribunal members who have the appropriate experience and expertise.

The objects of the Tribunal are—

- to promote the best principles of decision-making;
- to be accessible and be responsive to parties, especially people with special needs;
- to ensure that applications are processed and resolved as quickly as possible while achieving a just outcome;
- resolving disputes through high-quality processes and the use of mediation and other alternative dispute resolution procedures where appropriate;
- to keep costs to parties involved in proceedings before the Tribunal to a minimum;
- to use straight forward language and procedures;
- to act with as little formality and technicality as possible;
- to be flexible in the way in which the Tribunal conducts its business.

Division 3—Members of Tribunal

Subdivision 1—The members

9—The members

The proposed section provides for membership of the Tribunal. This clause specifies that members of the Tribunal are the President, the Deputy Presidents, magistrates who are designated as members, and conciliation officers.

Subdivision 2—The President

10—Appointment of President

This clause provides that the Senior Judge of the Industrial Relations Court is the President of the Tribunal.

11—President's functions generally

This clause outlines the functions of the President of the Tribunal.

12—Acting President

This clause provides for the appointment of a Deputy President as Acting President of the Tribunal if there is a vacancy in the office of President or the President is absent or unable to perform the functions of office.

Subdivision 3—The Deputy Presidents

13—Appointment of Deputy Presidents

This clause provides that a Judge of the Industrial Relations Court is a Deputy President of the Tribunal. The clause also provides for appointment of a person as a Deputy President of the Tribunal if the person is eligible for appointment as a Judge of the Industrial Relations Court.

14—Deputy President's functions generally

This clause outlines the functions of a Deputy President of the Tribunal.

Subdivision 4—Magistrates

15—Magistrates

Under this clause, magistrates may be designated by the Governor by proclamation as members of the Tribunal. Before the Governor makes such a proclamation, the Attorney-General must consult with the President of the Tribunal and the Chief Magistrate. Appointment as a magistrate of the Tribunal does not affect that person's tenure, status, rights or privileges as a magistrate.

Subdivision 5—Conciliation officers

16—Appointment of conciliation officers

The proposed section provides for the appointment of conciliation officers to the Tribunal. The Minister may appoint a panel of persons from time to time who will, at the Minister's request, recommend the selection criteria for conciliation officers. This panel may also, at the request of the Minister, assess candidates for appointment as conciliation officers. A person is eligible for appointment as a conciliation officer if he or she is a legal practitioner of at least 5 years standing or has extensive knowledge, expertise or experience relating to a class of matter for which functions may be exercised by the Tribunal. The Minister is required to consult with the President of the Tribunal before he or she makes a recommendation for the appointment of a conciliation officer. A conciliation officer will be appointed for a term of office not exceeding 5 years.

17—Conciliation officer ceasing to hold office and suspension

This clause contains standard provisions regarding the removal or suspension of conciliation officers of the Tribunal. A conciliation officer may be removed from office by the Governor (on the recommendation of the Minister) for misconduct, neglect of duty, incompetence or incapacity to carry out duties satisfactorily.

18—Supplementary conciliation officers

This clause allows the Minister, after consultation with the President of the Tribunal, to temporarily appoint a person to act as a supplementary senior member or a supplementary conciliation officer in relation to particular matters or for a specified period.

Division 4—Constitution of Tribunal and its decision-making processes

19—Constitution of Tribunal

This clause provides for the constitution of the Tribunal. Generally, the composition of the Tribunal is to be determined by the President. Under the proposed section, the Tribunal is to be constituted by not more than 3 members. Under the measure, the President of the Tribunal will have discretion to organise the Tribunal's business and regulate proceedings before the Tribunal.

20—Who presides at proceedings of Tribunal

This clause makes provision for who will preside over proceedings in the Tribunal where the Tribunal is constituted by 2 or more members.

21—Decision if 2 or more members constitute Tribunal

If the Tribunal is constituted by 2 or more members to resolve a question, it is resolved according to the majority opinion. If the opinion on how to resolve a question is split between members, it is resolved according to the opinion of the presiding member.

22—Determination of questions of law

This clause provides for referral of questions of law to Presidential members of the Tribunal.

Division 5—Related matters

23—Streams

Under the measure, the President of the Tribunal will be able to establish various streams or lists that reflect the areas of jurisdiction of the Tribunal.

24—Validity of acts of Tribunal

Acts or proceedings of the Tribunal are not invalidated by reason of a vacancy or defect in appointment.

25—Disclosure of interest by members of Tribunal

The proposed section provides procedures for disclosure where a member has a pecuniary interest or conflict of interest in proceedings before the Tribunal.

26—Delegation

This clause provides for delegations by the President of the Tribunal.

Part 3—Exercise of jurisdiction

27—General nature of proceedings

A matter that comes before the Tribunal will be dealt with as a review of the decision that constitutes the matter. The Tribunal will examine the decision of the decision-maker by way of rehearing in accordance with the proposed Act and the relevant Act. On a rehearing the Tribunal must reach the correct or preferable decision, but in doing so, must have regard to, and give appropriate weight to, the decision of the original decision-maker. A rehearing will include an examination of the evidence or material before the decision-maker and any further evidence or material that the Tribunal decides to admit.

28—Decision-maker must assist Tribunal

In review proceedings, the decision-maker for the reviewable decision must use his or her best endeavours to help the Tribunal so that it can make its decision on the review.

29—Effect of review proceedings on decision being reviewed

This clause provides that the commencement of a review does not affect the operation of the original decision unless provided for by the relevant Act, or the Tribunal or decision-maker makes an order for a stay of the decision.

30—Decision on review

The Tribunal may on a review affirm, vary, or set aside the decision of the original-decision maker. If the Tribunal sets-aside the decision it may substitute its own decision or send the matter back to the original decision-maker for reconsideration. Any decision made on reconsideration is open to review by the Tribunal. Once the Tribunal has decided to affirm, vary or substitute the original decision then this reviewed decision is to be regarded as, and given effect as, a decision of the original decision-maker. The reviewed decision has effect from the time of the original decision, unless the relevant Act allows or the Tribunal orders otherwise.

31—Tribunal may invite decision-maker to reconsider decision

At any stage the Tribunal may invite the original decision-maker to reconsider the decision the subject of review. On reconsideration, the decision-maker may affirm, vary, or set aside their decision and substitute a new decision.

Part 4—Principles, powers and procedures

Division 1—Principles governing hearings

32—Principles governing hearings

This clause provides the general principles that the Tribunal will uphold in the performance of its functions. The main principles are that the Tribunal:

- will act subject to the relevant Act;
- will conduct itself with minimal formality;
- is not bound by the rules of evidence;
- will act according to equity, good conscience and the substantial merits of the case;
- will act without regard to legal technicalities and forms.

Further, this clause makes clear that nothing in this measure affects any rule or principle of law relating to legal professional privilege, 'without prejudice' privilege or public interest immunity.

Division 2—Evidentiary powers

33—Power to require person to give evidence or to provide evidentiary material

The proposed section provides powers for the Tribunal to order persons to appear before the Tribunal or to produce to the Tribunal documents or materials relevant to the Tribunal's proceedings. In addition it contains provisions relating to the giving of evidence on oath or affirmation. The clause also creates an offence relating to refusal to comply with the requirements of the proposed section, the maximum penalty being $25 000 or imprisonment for 1 year.

34—Entry and inspection of property

Under this clause, a member of the Tribunal may enter any land or building, or authorise an officer of the Tribunal to enter any land or building, that the member considers relevant to a proceeding before the Tribunal. In

addition, the clause creates an offence of obstructing a member or authorised officer of the Tribunal while exercising powers under the proposed section.

35—Expert reports

The proposed section enables the Tribunal to appoint experts to assist the Tribunal and to require the parties to proceedings to contribute to the costs of engaging such persons.

Division 3—Procedures

36—Practice and procedure generally

The Tribunal is to assist the parties by, for example, explaining procedures and enabling them the opportunity to be heard or otherwise have their submissions received. The Tribunal must ensure that all relevant material is available to it and may require documents to be served outside of the State. To the extent that the practice or procedure of the Tribunal is not prescribed under the proposed Act or a relevant Act, it is to be as determined by the Tribunal.

37—Directions for conduct of proceedings

This clause enables the Tribunal to give directions and do other things to enable the proceedings to be fair and expeditious. These directions can require the production of a document or material or provision of information.

38—Consolidating and splitting proceedings

The Tribunal may consolidate proceedings into one proceeding or require proceedings to be heard together. The Tribunal may also direct that proceedings commenced by 2 or more persons jointly be split into separate proceedings or that any aspect of proceedings be heard and determined separately.

39—More appropriate forum

This proposed section enables the Tribunal to strike out a proceeding or part of a proceeding if another tribunal, court or person can more appropriately deal with the matter.

40—Dismissing proceedings on withdrawal or for want of prosecution

This clause sets out provisions relating to the ability of a party to withdraw proceedings. The Tribunal will also have power to dismiss or strike out proceedings for want of jurisdiction.

41—Frivolous, vexatious or improper proceedings

This clause allows the Tribunal to make an order that a proceeding is dismissed or struck out, if the Tribunal considers that the proceeding is frivolous, vexatious, misconceived or lacking in substance, or involves a trivial matter or amount, or is being used for an improper purpose. If a proceeding is dismissed or struck out under the proposed section, another proceeding of the same kind in relation to the same matter cannot be commenced before the Tribunal without the leave of a Presidential member.

42—Proceedings being conducted to cause disadvantage

This clause enables the Tribunal to dismiss or strike out proceedings if a party is conducting proceedings in a way which unnecessarily disadvantages another party to the proceedings. A list of examples of such conduct is provided. This can be done on the Tribunal's own initiative or following an application by a party to the proceedings.

Division 4—Conferences, mediation and settlement

43—Conferences

The proposed section empowers the Tribunal to hold compulsory private conferences to identify and clarify issues and promote settlement of disputes.

44—Mediation

This clause enables the Tribunal to refer a matter, with or without the parties' consent, for private mediation by a person approved by the President to resolve the matters in dispute.

45—Settling proceedings

The proposed section allows the Tribunal to make an order giving effect to a written agreement between the parties to a dispute to settle proceedings where the Tribunal would otherwise have power to make a decision in accordance with that settlement. A settlement under the proposed section must not be inconsistent with a relevant Act.

Division 5—Parties

46—Parties

This clause outlines that parties to the Tribunal's proceedings include the applicant; decision-makers in review proceedings; persons joined as a party by order of the Tribunal; intervener and other persons specified in legislation. The decision-maker is to be described by his or her official description, not his or her personal name.

47—Person may be joined as party

The proposed section enables the Tribunal, in specified circumstances, to join persons as parties to proceedings. The Tribunal may make an order under the proposed section on the application of any person.

48—Intervening

The clause indicates that the Attorney-General may intervene at any time in the Tribunal's proceedings. In addition, any other person may be given leave to intervene if the Tribunal thinks fit.

Division 6—Representation

49—Representation

The proposed section enables parties to the Tribunal's proceedings to appear in person and represent themselves or be represented by a lawyer. With leave of the Tribunal, parties may be represented by persons who are not lawyers. Unless specified by the Tribunal, a party appearing may be assisted by another person as a friend. The clause also makes it clear that a legal practitioner who has been suspended, struck off or would be acting contrary to disciplinary proceedings is not permitted to act as a representative in proceedings before the Tribunal.

Division 7—Costs

50—Costs

This clause makes provision for costs liability between parties to the proceedings in the Tribunal. In general, parties are to bear their own costs, unless there are reasons for the Tribunal to order otherwise.

51—Costs—related matters

This clause provides that the power of the Tribunal to make an order for the payment by a party of the costs of another party may include the power to make an order for the payment of an amount to compensate the other party for any expenses or loss resulting from the proceedings. The rules of the Tribunal may deal with the effect of certain offers to settle (and any response to such an offer) on an order for the payment of the costs of another party.

Division 8—Other procedural and related provisions

52—Sittings

The Tribunal will sit at such times and places as the President of the Tribunal may direct.

53—Hearings in public

This clause provides that hearings are to be public unless the Tribunal specifies (for reasons outlined in the proposed Act) that the hearing or part of the hearing is to be private. In exercising its powers, the Tribunal can also place restrictions on the publication of all or any part of proceedings where the Tribunal considers it is necessary to do so.

54—Preserving subject matter of proceedings

Under this clause, the Tribunal may make orders it considers necessary to preserve the subject matter of proceedings.

55—Security as to costs etc

This clause allows the Tribunal to order a party to proceedings to give security for costs or an undertaking in relation to payment of costs. An order under the proposed section may be made by a legally qualified member or a non-legally qualified member with the concurrence of a legally qualified member.

56—Interlocutory orders

The proposed section gives the Tribunal the power to make interlocutory orders.

57—Conditional, alternative and ancillary orders and directions

The Tribunal may make orders and give directions on conditions the Tribunal considers appropriate. The Tribunal will, by ancillary order, be able to provide that a decision of the Tribunal is to be implemented by a third party.

58—Special referees

The proposed section enables the Tribunal to refer questions to a special referee for the referee's decision or opinion and to require parties to contribute to the costs.

59—Relief from time limits

The rules may provide for the Tribunal to extend or abridge a time limit for doing anything in connection with a proceeding.

60—Electronic hearings and proceedings without hearings

This clause enables the Tribunal to have proceedings using telephones, video links or other communication systems. It also allows the Tribunal to conduct proceedings solely on the basis of documents without need for a hearing.

61—Completion of part-heard matters

Under the proposed section, persons who no longer hold office as members of the Tribunal may continue to act in the relevant office for the purposes of completing part-heard proceedings (other than where the member has had his or her appointment revoked or has been removed from office).

62—Other claims of privilege

A person may not be compelled to answer a question or produce a document or other material in proceedings before the Tribunal if the person could not be compelled to do so if the proceedings where before the Supreme Court.

Part 5—Appeals

Division 1—Appeals

63—Appeals to Industrial Relations Court

Under the proposed section, appeals from decisions of the Tribunal lie to the Industrial Relations Court. This clause outlines the procedure in relation to appeals. Generally, the Industrial Relations Court may, for example, affirm, vary or set-aside the Tribunal's decision or send the matter back to the Tribunal for reconsideration. The clause also provides that the regulations may prescribe scales of costs that are payable in respect of proceedings before the Industrial Relations Court on an appeal under this clause.

Division 2—Related matters

64—Effect of appeal on decision

The proposed section enables the Tribunal or a court to stay the operation of a Tribunal decision while the court decides whether to grant leave to review or appeal and, if so, while it decides the review or appeal. If the Tribunal or court does not make such an order, the review or appeal does not affect the Tribunal's decision or prevent implementation of that decision.

65—Reservation of questions of law

This clause enables a Presidential member of the Tribunal to refer any question of law arising in proceedings for determination by the Full Court of the Supreme Court.

Part 6—Staff

Division 1—Registrars

66—Registrars

The proposed section provides that there will be a principal registrar of the Tribunal (to be known as the Registrar), as well as 1 or more Deputy Registrars.

67—Functions of registrars

This clause outlines the functions of the Registrar and Deputy Registrars of the Tribunal.

68—Delegation

This clause provides for delegations by the Registrar of the Tribunal.

Division 2—Other staff of Tribunal

69—Other staff of Tribunal

This clause makes provision for the Tribunal to use persons employed in a public sector agency who are made available to act as staff of the Tribunal.

Division 3—Use of services or staff

70—Use of services or staff

This clause allows the Tribunal to use the services, facilities or staff of a government department, agency or instrumentality, the Courts Administration Council or another tribunal or court.

Part 7—Miscellaneous

71—Immunities

This clause provides for the protection of members of the Tribunal, and other persons, who must perform functions under the proposed Act or who are parties, legal representatives or witnesses.

72—Protection from liability for torts

A member of the Tribunal, or a member of the staff or an officer of the Tribunal, will be protected from liability in tort for anything done in the performance, or purported performance, of a function under the proposed Act or a relevant Act.

73—Protection from compliance with Act

No liability will attach to a person for compliance, or purported compliance, in good faith, with a requirement under the proposed Act.

74—Alternative orders and relief

This clause empowers the Tribunal to grant any form of relief that it considers appropriate, despite the fact that another form of relief may be sought by an applicant.

75—Power to cure irregularities

The Tribunal may, under this clause, cure an irregularity by making an order for a requirement of the Act to be dispensed with to the extent necessary for the purpose.

76—Correcting mistakes

This clause allows the Tribunal to correct a decision or statement of reasons so as to rectify, for example, clerical mistakes or defects of form.

77—Tribunal may review its decision if person was absent

Under the proposed section, if the Tribunal makes a decision in respect of a person who did not appear and was not represented at a relevant hearing before the Tribunal, the person may apply to the Tribunal for a review of the decision. The Tribunal must be satisfied that the applicant for the review had a reasonable excuse for not attending or being represented at the relevant hearing. The Tribunal may, on such a review, revoke or vary its decision. As far as is practicable, the Tribunal should be constituted by the same members who made the original decision.

78—Tribunal may authorise person to take evidence

The Tribunal will be able to authorise a person (whether or not a member of the Tribunal) to take evidence on behalf of the Tribunal. The Tribunal may authorise evidence to be taken under this clause outside the State.

79—Miscellaneous provisions relating to legal process and service

This clause is a standard provision setting out how notices and documents may be served.

80—Proof of decisions and orders of Tribunal

Generally, an apparently genuine document purporting to be a copy of a decision or order of the Tribunal and certified as such by a registrar will be accepted in any legal proceedings as a true copy of a decision or order of the Tribunal.

81—Enforcement of decisions and orders of Tribunal

If the Tribunal makes a monetary order, the amount specified may be recovered in an appropriate court by a person recognised by the regulations as if it were a debt. If a person contravenes or fails to comply with some other order of the Tribunal, the person is guilty of an offence.

82—Accessibility of evidence

This clause outlines the procedures that will apply if a member of the public seeks to inspect or obtain documentary material.

83—Costs of proceedings

The Tribunal will be able, in limited circumstances, to order that a party pay for all or a part of proceedings before the Tribunal.

84—Annual report

The President of the Tribunal will prepare an annual report, which will be tabled in both Houses of the Parliament.

85—Additional reports

The Minister will also be able to request the President of the Tribunal to provide a report on a matter relevant to the administration of the Tribunal.

86—Disrupting proceedings of Tribunal

A person will be guilty of an offence if, at a place where Tribunal proceedings are being conducted, he or she wilfully interrupts Tribunal proceedings, behaves in an offensive or disorderly manner or uses offensive language.

87—Rules

The proposed section enables the President and a Deputy President of the Tribunal to make rules for the Tribunal.

88—Regulations

This clause makes provision for the Governor to make regulations for the purposes of the measure.

Debate adjourned on motion of Ms Chapman.

PASTORAL LAND MANAGEMENT AND CONSERVATION (RENEWABLE ENERGY) AMENDMENT BILL

Second Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:45): I move:

That this bill be now read a second time.

I seek leave to insert the second reading explanation in *Hansard* without reading it.

Leave granted.

The Bill the Government is introducing today will provide renewable energy investors with access to 40 per cent of South Australia's land mass that is Crown land subject to pastoral lease.

This Government has ensured that South Australia is at the forefront of renewable energy and climate change policy action. South Australia has already reached its target of achieving 20 per cent renewable energy production by 2014 and has committed to achieving 33 per cent electricity generation from renewable sources by 2020.

In October 2013, South Australia committed to an investment target of $10 billion in low carbon generation by 2025 in recognition of the economic development potential of this industry. Since 2003, there has been $5.5 billion in investment in renewable energy with some $2 billion, or 40 per cent, of this investment occurring in regional areas.

As of March 2013, per person we have 725 watts of installed wind power compared to a national average of 163, and 205 watts of installed solar photovoltaic power per person compared to 98 nationally. This performance puts us in the international space for comparison.

The State has proved an attractive destination for wind farm developments. According to the Clean Energy Council, almost $3 billion has been invested into wind farms in South Australia with 1203 megawatts of capacity, or 559 turbines, installed to date. This represents 38 per cent of Australia's total wind power generating capacity.

Much of the State's solar investment has been achieved through individual household rooftop applications and solar now makes up more than 3.8 per cent of the State's electricity capacity. The largest installation to date is the one megawatt plant on the Adelaide showground roofs.

When the Pastoral Land Management and Conservation Act was originally drafted, renewable energy development was not envisaged. This amendment Bill makes it possible for a wind farm developer to apply for a licence to build and operate a wind farm on pastoral lease land. A wind farm development can coexist with pastoral activities in the same way as occurs on freehold farming land. The Bill also expedites access to pastoral land for solar energy projects.

To date, all wind farm development in South Australia has occurred on freehold farming land but we also have an excellent wind resource in some areas of our pastoral lease land. The solar resource in the north of our State is world class.

This Bill, if passed, will be the first of its type in Australia which specifically allows for the coexistence of wind farm development and the activities of pastoralism and resource exploration on Crown land. No other legislation of this type exists in Australia.

The wind farm licence authorises a wind farm developer to build access roads and infrastructure associated with the wind farm. The licence will allow a developer to fence off areas such as a substation where it is considered necessary to do so. A wind farm developer will make information available on an ongoing basis regarding planned activities on the land and the location of access roads and infrastructure, and a pastoral lessee will be able to make reasonable use of access roads built by a wind farm developer.

The wind farm licence conditions will be negotiated on a case by case basis in recognition of the varying nature of pastoral lease land and the great variation in the scope of wind farm projects.

A pastoral lessee stands to benefit financially from a wind farm licence. The South Australian Government will charge a licence fee for use of pastoral lease land that is commensurate with that paid by wind farm developers to

owners of freehold land. This fee will take account of the extra costs associated with development in remote areas. 95 per cent of this fee will be distributed to a pastoral lessee and any other parties with an interest in the land, such as native title holders. An initial amount will be paid during the exploration and construction phases of the project and then an annual amount once the wind farm is operating.

A wind farm licence will be granted for at least 25 years with the option to renew for another term of at least 25 years. Prior to the granting of a licence, a wind farm developer will be able to gain access to pastoral land upon approval by the Minister responsible for the Act. The wind farm developer will need to give 14 days notice and access can be granted for: conducting investigations or tests; the temporary installation of devices; taking samples; or for any other purpose as agreed by the Minister. During this period, no other wind farm developer will be given approval for access to the same portion of a pastoral lease for a period of up to five and a half years in order to protect a developer's investment in the exploration phase.

During this investigation period, a developer must satisfy the Minister, after a period of two and a half years, that they have developed a plan for a wind farm on the land and are able to fund the completion of that plan. If the Minister is satisfied, a further three years for investigations will be granted.

Once a wind farm licence is granted the developer must reach two critical milestones. Within three years, a developer needs to demonstrate they have financing and have executed contracts for the construction of the major components of the wind farm. Within five years, the wind turbines must be erected and commissioning tests completed.

It is recognised that there are times when general economic and market conditions are uncertain for wind farm development and the Minister may choose to vary the milestone times mentioned provided genuine progress is shown by the wind farm developer.

It may also be important for an additional option to licence agreement to be negotiated with a wind farm developer on a case by case basis. This would allow for risk-based investment decisions to occur.

Sometimes, in the development of a wind farm, there is a requirement for more than one owner. For instance, one party may own the wind farm and another the connection line easement. In this case, the Bill makes allowance for more than one licence to be issued.

In issuing a licence there will be obligations on the licence holder to decommission and rehabilitate the wind farm area on completion of the operation period or on lapse of the wind farm licence.

Before a wind farm licence is granted the responsible Minister will consult with the pastoral lessee and any other persons who have an interest in the land. Before authorising the quantum of a wind farm payment, the Minister will also consult with interested parties.

A wind farm licence will not be issued until the applicant has entered into a land access agreement with the pastoral lessee. The negotiation of this agreement will give the pastoral lessee an ability to discuss sensitive areas such as water points, and to agree on the usage of common infrastructure such as access tracks.

If an application for a wind farm licence relates to pastoral land over which a mining tenement under the Mining Act 1971, or petroleum or geothermal tenement under the Petroleum and Geothermal Energy Act 2000 is held, a wind farm licence will not be issued until the applicant has entered into a land access agreement with the holder of the resources tenement.

It is recognised that resource exploration can coexist with a wind farm development and it may be possible also for resource production to coexist.

It is expected that a wind farm developer will provide to interested parties ongoing information pertinent to the development during each of the investigation, construction and operational phases of the project.

In the case of solar energy development, pastoralism and commercial scale solar energy production cannot coexist. In this case it is necessary for the land to be excised from a pastoral lease. Currently there is a provision in the Act for land to be removed from a pastoral lease. A developer will need to agree commercial terms with the pastoral lessee and land can then be surrendered upon ministerial approval. In this case a decision will be given within a one month period.

Once the land is surrendered it reverts to unalienated crown land and is dealt with under the Crown Lands Management Act and a miscellaneous lease can be issued under this Act.

In circumstances where agreement cannot be reached, there is a mechanism in the Act for resumption of land. The time for resumption in the Act is at least six months. The amendment will reduce this time to two months. Pastoral lessees are entitled to compensation if a portion of a leasehold is resumed.

The Government is reducing the resumption time in order to give some certainty to investors in processes over which it has jurisdiction. In cases where warranted, the Government will offer a lease to a solar energy developer for minimal rent in recognition of the costs associated with large-scale solar energy production. In the case of wind developers accessing pastoral lease land through the excision of part of a pastoral leasehold, a wind farm lease will be offered at a rent commensurate with that paid by wind farm developers to owners of freehold land. This rent will take account of the extra costs associated with development in remote areas.

If the construction of the solar energy facility has not been substantially completed within five years after the date that resumption takes effect, the Minister may choose to restore the excised area back to the pastoral leasehold.

According to the DefenceSA, the Woomera Protected Area is not suitable for wind and solar development due to interference with defence equipment. For this reason we will not be issuing licences or leases over this area for wind or solar developments.

No wind or solar energy development will occur on land subject to a mining lease unless associated with the mining tenement.

It should be noted that the intent of this amendment relates only to the Pastoral Land Management and Conservation Act and does not seek to alter any processes under any other Act. Developers will need to be cognisant of the requirements of all other relevant Acts.

In regards to the issue of native title, a wind farm licence will not be granted on pastoral lease land, nor land excised from a pastoral lease, until any native title issues have been adequately addressed as per the Native Title Act.

In summary, this amendment is designed to not only attract renewable energy investment to the State, but enable people with an interest in pastoral lease land, particularly in near proximity to transmission lines, to gain financially from this form of development. It should be noted that South Australia's success in attracting investment not only stimulates growth in the clean energy industries of the future, it provides employment and economic opportunities for many regional communities.

I commend this Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Pastoral Land Management and Conservation Act 1989*

4—Amendment of section 3—Interpretation

This clause inserts definitions for the purposes of the measure.

5—Amendment of section 4—Objects

This section is amended to extend the scope of the objects of the Act as a consequence of the amendments relating to wind farms operating on pastoral land.

6—Amendment of section 9—Pastoral Land Management Fund

This section is amended to facilitate the inclusion of 95% of any fee for an approval under Part 6 Division 4 to enter and occupy pastoral land and any wind farm licence fee in the Fund and to allow the Fund to be applied for the purpose of making payments under Part 6 Division 4.

7—Amendment of section 22—Conditions of pastoral leases

This section is amended to provide that a pastoral lease will be subject to the general condition and reservation providing for the lessee's obligation not to hinder, obstruct or interfere with the holder of a wind farm licence under Part 6 Division 4 who is exercising, or attempting to exercise, a right under the licence. A lease will also be subject to a reservation providing for the right of the Minister to grant a wind farm licence under Part 6 Division 4. The Minister may also give directions to a lessee in relation to a wind farm licence on the land.

The new condition and reservations will be taken to be a condition and reservations of existing leases by virtue of section 22(1a) of the Act.

8—Amendment of section 31—Alteration of boundaries

This section is amended to provide that pastoral land (that is, land that forms part of a pastoral lease) resumed for the purposes of a solar energy facility reverts to being pastoral land under that lease if construction of the facility has not, in the opinion of the Minister, been substantially completed within 5 years after the date on which the resumption took effect.

9—Amendment of section 32—Resumption of land

This section is amended to provide that a resumption of pastoral land for the purposes of a solar energy facility may take effect on a day falling at least 2 months after the date on which notice of intention to resume the land was given by the Minister.

10—Insertion of Part 6 Division 4

This clause inserts Part 6 Division 4 as follows:

Division 4—Wind farms

49A—Interpretation

Proposed section 49A inserts definitions for the purposes of the Division.

49B—Minister may grant licences

Proposed section 49B provides for the granting of wind farm licences.

49C—Applicant for licence to enter access agreement with resources tenement holder

Proposed section 49C provides for an applicant for a licence to enter into an access agreement with the lessee and any resources tenement holder.

49D—Interaction between Division and licence

Proposed section 49D deals with the interaction between the Division and a licence.

49E—Rights under licence

Proposed section 49E provides that a wind farm licence may grant such rights (in relation to the operation of the wind farm as a whole or specified aspects of the wind farm) as the Minister considers necessary for the proper functioning of the wind farm to which the licence relates and may include the right to exclude the lessee or any other person from infrastructure associated with the wind farm (provided that the licence must be consistent with an access agreement entered into in relation to the land).

49F—Minister to fix terms and conditions

Proposed section 49F provides for the Minister to fix terms and conditions of a wind farm licence.

49G—Waiver of conditions etc

Proposed section 49G allows the Minister to waive a breach of, or compliance with, a condition of a licence, or to waive, reduce or remit any licence fees payable under a licence or allow any licence fee, or part of a licence fee, to be paid at a time other than that specified in the licence.

49H—Dealing with licence

Proposed section 49H relates to the manner in which a licensee may deal with a licence.

49I—Cancellation of licences

Proposed section 49I provides for the cancellation of a licence by the Minister on certain grounds.

49J—Access to pastoral land prior to grant of licence

Proposed section 49J provides for a power of entry to pastoral land for a person who intends to apply for a wind farm licence to conduct certain activities or for a purpose authorised by the Minister.

49K—Payments

Proposed section 49K provides for payments to certain prescribed interested parties (who are defined) if an approval is granted under section 49J or a wind farm is to be constructed and operated on pastoral land.

49L—Appeals to Court

Proposed section 49L provides for a person dissatisfied with a decision under the Division to appeal to the Environment Resources and Development Court.

49M—Exemption from stamp duty

Proposed section 49M provides that the grant or renewal of a wind farm licence is exempt from stamp duty.

49N—Special provisions relating to Murray-Darling Basin and River Murray Protection Areas

Proposed section 49N relates to the Murray-Darling Basin and River Murray Protection Areas.

49O—Application of *Crown Land Management Act 2009*

Proposed section 49O relates to the application of certain parts of the *Crown Land Management Act 2009*.

49P—Rights under wind farm licence to prevail

Proposed section 49P provides that, despite section 62 of the Act, a licence or any other interest in land may not be granted by or under any other Act if to do so would be inconsistent with the rights of the holder of a wind farm licence under the *Pastoral Land Management and Conservation Act 1989*. However, it is also provided that the section does not prevent the renewal of a licence or other interest in land, or the grant of a licence or other interest in land that is associated with a licence or interest in land granted before the commencement of this Division or with the consent of the holder of the relevant wind farm licence.

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT (SACAT) BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

Mr TARZIA (Hartley) (15:46): As I was saying, there is currently a long list of specialist tribunals that have been accumulated, and I am happy to say that this proposed consolidated tribunal will certainly streamline the process. In recent years, it seemed like a regression back to the old writ system where you had such specificity that the process was very difficult to navigate. However, I believe that this tribunal will take pressure off the court system and will greatly increase access to justice. The consolidated approach will result in a more efficient system, and a cheaper process in an informal manner, which certainly will facilitate access for many more people. It has certainly been a long time coming and I am hopeful that the government will be proactive when it comes to implementing changes such as this in the future.

The most encouraging function of the tribunal will be its use of alternative dispute resolution (ADR). This is certainly an area that I have a particular interest in. I am passionate about providing support to assist parties in resolving disagreements outside of the formal mechanisms of a court. In many cases you will find that there is not actually need for litigation, and the long, formal, costly and drawn-out process that is associated with court proceedings can be detrimental. I am concerned that ADR will not be given adequate resources, however, and I think it is something to consider for the future. I would encourage the government to ensure that ADR becomes a central pillar of the new system.

In the legal sector, there is certainly greater emphasis in the wider community being placed on this approach. I note that this new approach in SACAT for South Australia will focus on matters that we have touched on, such as informality, accessibility to justice and those who are not necessarily specifically in the legal profession. It is important that the tribunal remains accessible to normal, everyday people who may not necessarily have the tools that they would if they went to court.

This has certainly not been the first attempt to create a system that is generally informal in relation to legal restrictions being reduced. As one of my colleagues mentioned earlier, one example is the Family Law Courts, which was originally designed as an informal, cheaper and accessible model, but it developed into something different altogether. However, super tribunals in other states have certainly taken their statutory objectives of informality seriously and they have implemented tailored procedures to avoid unnecessarily legality and formality.

I believe that this bill will go a long way to reducing wait times, and we have heard during estimates and at other times that the court system is certainly under enormous stress at the moment. This bill will go a long way to reducing those wait times, as it will pool the resources of numerous tribunals and allow for greater efficiency in allocating those resources. A decrease in wait times and better accessibility to justice will certainly be gladly welcomed by the community overall. Concerns that have been expressed that specialist expertise may be lost as result of the establishment of SACAT, from the application of a one-size-fits-all approach, may be valid, but all super tribunal's have retained this specialist expertise by drawing members from a wide variety of varied disciplines. VCAT and QCAT, especially, have organised their work through what they call 'streams', which help to preserve that specialist expertise without fracturing the idea of a super tribunal.

As the member for Bragg pointed out, there certainly are amendments that need to be considered but I will not hold up the debate any longer than I need to; I imagine she will take them up in the committee stage. This is not a perfect solution, and I am sure it will require amendment down the track but, on the whole, I believe it is a step in the right direction. I will go even further than

that and say that I think it is the kind reform that South Australia has needed for quite some time. It is sad to have to say that we are the last state to implement such a thing, from what I can recall.

Of course, I would also like to claim credit on behalf of the Liberal Party. We have been calling for a reform of red tape for many years now and, credit where credit is due, I am glad to see that the government has finally opened its ears and listened to the needs of local businesses and hard-working South Australians, who want better and more affordable access to justice. It is a good first step in reducing red tape. Let us make it easier for our judges, let us make it easier for the people who require access to justice. I welcome the government bill.

The Hon. I.F. EVANS (Davenport) (15:51): I rise to speak on the SACAT bill, and I would like to make a few comments on it. The opposition welcomes the establishment of SACAT for the reasons put on the record by other opposition members. I really wish to encourage the government to consider going further with the SACAT bill, and what it can actually hear.

The Liberal Party took a policy to the last election of allowing appeals on land valuations to go to this particular body, and I think there might be amendments coming along those lines. It seems to me that the current land valuation appeals process is very cumbersome and very expensive, particularly when you go through the three stages. Stage 3 is that you can go to the Supreme Court if you wish to take on the government's valuation process, but by the time it gets to the Supreme Court there is usually another valuation in place for the next year, so you are arguing about a particular valuation at a particular point in time that is, quite often, 14 or 16 months previous. It just seems to me to be a very clunky, time-consuming and expensive way to conduct appeals based around land valuations.

There are two ways you could have SACAT take up the proposal. SACAT could be the final arbiter if you wanted, on that particular matter, or you could still go to the Supreme Court after the SACAT, and make SACAT stage 3 in the process and have a fourth process of going to the Supreme Court if you wished. However, you could limit the Supreme Court jurisdiction to matters of law only and not matters of valuation, which would significantly limit the number of cases ending up in the Supreme Court; I think 90 or 95 per cent of the work would end up at the SACAT proposal. It is quicker, nimbler, more cost-effective and gives a quick result for all parties. Certainly the business community lobbied us very hard on that particular issue, that the current process is way too cumbersome.

So we are hoping that the government might come to its senses, I guess, on this particular issue and support the opposition's principle that this SACAT should hear appeals on property valuations. I encourage the Attorney to think about that between the houses, because while the bill is before the house—and I dare say it will not be through the upper house before the winter break—the Attorney has six or seven weeks to consider the matter. I think if he consults the property industry and the legal fraternity that deals in this area they will widely support the opposition's proposal, or something close to it.

I also encourage the Attorney-General and the Treasurer, and indeed the opposition, to go one step further. My view is that SACAT should hear state tax appeals, that is appeals and objections made to the Minister for Finance in relation to decisions made by RevenueSA. These would include appeals regarding land tax, stamp duty, payroll tax and emergency services levy matters. So if that is not already covered by the bill I would encourage the Attorney to make sure they are all covered by this particular bill. They are my only comments.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (15:55): I thank each of the contributors to the debate. In reverse order, can I say to the member for Davenport that I acknowledge all of the points that he has made. It is our intention to cover in a phased way every one of the matters that the member has mentioned.

As members might recall, we established this thing last year without a jurisdiction. We appointed a president, a deputy president and a registrar so that they could get the thing into a ready-to-roll sort of condition. This is the first probably of five bills that we anticipate we will start decanting jurisdiction into the SACAT. I can assure the member for Davenport that those appeals to which he referred are intended to be moved in, not in this particular one because there are some complexities

about ongoing conversations with the agencies and drafting and suchlike, but it is intended that they will be going in there.

The point that has been made by both the member for Davenport and the member for Bragg about valuations is something that I will address specifically in a moment, but it was always my intention that they would be included in the jurisdiction of the SACAT. I think the only question really between the government and the opposition at this point in time is not whether these things are to go in, but when these things are to go in. In substance that is the main difference.

Can I say on what for me is something of a high note, an almost exhilarating note, that I have agreed for the first time today with almost everything the member for Bragg has said, and I do not know whether that means that she has a problem or that I have a problem. I say to the member for Bragg, as I indeed said quietly to some members who sit behind me while she was speaking, 'My God, she's got it. She's nailed it.' And she did. I say quite sincerely that I found myself in furious agreement.

There are one or two slight nuances, though, that I would like to add to the comments made by the member for Bragg. The first one: the member for Bragg made an observation about the similarity between the bill establishing an employment-specific tribunal, which has now been introduced, and this tribunal. If you look at both of the bills you will see that the architecture for both is almost identical. It may well be, in the fullness of time, that there is an appropriate moment for the two of those things to be merged.

I do point out, though, a couple of things which explain why we are doing what we are doing. The first one is that, as the honourable member would be aware—leave aside WorkCover—there is already a very busy schedule that has been planned for some time to fold jurisdiction into SACAT, and no work really has been specifically done about the workers comp jurisdiction, whatever that might eventually look like, being folded in there. That is point number one.

Point number two is that if the workers compensation reforms are to be given effect, they will be effective as of 1 July next year, so there is no time at all for SACAT, amongst everything else it is doing, to get itself completely tooled up to do yet another potentially very large body of work for which it has had no opportunity to prepare.

The third point is that every piece of work I have seen regarding these tribunals around the country says that the critical phase for these things is the cultural imprint that they develop at their genesis, and that cultural imprint needs to have time to settle and become solidified and to, in effect, manifest itself across the range of matters that are folded into it, rather than matters folding into it, altering the culture and mentality of the SACAT. In other words, it is a question of giving SACAT time to develop its own indigenous personality and its own culture without crashing, without much consultation, another quite strong and distinct culture into SACAT.

It may or may not be in the future that the sort of proposition that is being put by the member for Bragg has merit. I would not say for a minute it does not have merit, but given the timelines we are working on, whether it has merits later on or not, it is presently, in my opinion, impractical, for the reasons I have just explained, and it would put enormous pressure on those like President Parker, Deputy President Cole and Registrar Byrt, who are trying to get this thing established and get it running well. They are presently working with a schedule of five phases into which they have put a lot of time and effort to make them roll out appropriately.

I think we are on the right track with doing it the way we are doing it, although, as I said, I acknowledge the point made by the member for Bragg and I think in the perfect world, if we had an infinite amount of time, we might potentially have a look at doing things other ways, but the timelines for SACAT and the timelines for the workers' compensation reforms do not, in my opinion, create a reasonable opportunity for that to be appropriately and safely. So, that is why we are doing that in the way we are doing it.

Questions about guardianship and so on—I will not go into those in too much detail because the member for Bragg has said she is not as yet determining whether she is going to move an amendment or not in that space, but I would make a couple of comments about it. The first comment I would make is this: I am advised that, unlike other states, there is already a combination of a mental

health tribunal and guardianship board here in South Australia in the existing Guardianship Board, whereas in other jurisdictions you have this sort of separate notion. It is already collapsed, if you like, into one place, so all we are doing is moving that already collapsed thing from where it is to another place. We are not fundamentally changing the arrangements at all.

That decision was made some time ago when that jurisdiction was given to the Guardianship Board, so there is no sort of 'Eureka!' moment happening here in that space. If there is a problem, and I am not aware of there being one, but if there is, that has got nothing to do with this reform; it is to do with decisions made some considerable time ago about the Guardianship Board, and, quite frankly, I have not been made aware of people being bitterly disappointed about the way the Guardianship Board has done its job as a result of those changes. Anyway, I am happy to keep the dialogue going with the member for Bragg if she wishes on that topic.

I should also make the observation that I gather the government psychiatrist is supportive of what is being suggested. The other point I would make, too, to the member for Bragg is, parking to one side her point about the valuation point, if there are other little bits of fine-tuning and embroidery, as a former prime minister used to refer to, that we need to deal with—

Mr Marshall: Which prime minister was that?

The Hon. J.R. RAU: Keating used to talk about embroidery a lot. If there are other bits of embroidery that are required, we have already flagged that there are four more of these bills coming up over the space of the next 18 months, so it is not as if there will not be another vehicle that can be used to agitate other matters if it is necessary to do so. It is not like you have missed this bus and you will just have to hold your peace for god knows how long; we know there is going to more opportunity to have further conversations about the way this proceeds.

My sincere request is that we do as much as we can to cooperate with the hard work that is being done by very dedicated officers in the Attorney-General's Department and the existing staff of SACAT, who have been working very hard to make sure this is a smooth transition and a very successful beginning to what should be a great asset to our public administration here in South Australia.

I just wanted to mention a couple of brief things about the member for Hartley's speech. The member for Hartley made some comments about the ADR being good. Yes, we agree with that. We absolutely agree with that. Indeed, if you have a look at the fine grain of the way this thing is constructed, part and parcel of it being an inquisitorial jurisdiction is that it is intended to be able to get to the nuts and bolts of problems without being overly frustrated by formality and other bits and pieces that we all know attend the court process from time to time.

I take issue with one thing the member for Hartley said. The member for Hartley sort of made some remark that we were the last of these so-called 'supertribunals' in the country. He mentioned QCAT; he did not mention WACAT. He said he particularly liked VCAT. But, you know, sometimes it is not the first cat that is top cat.

The DEPUTY SPEAKER: And there is more than one way.

The Hon. J.R. RAU: If I can quote from a television jingle of the 1980s, 'The cats of Australia have made their choice,' and it is SACAT. In fact, it is better than that. Given the amount of work that has gone into crafting this, and given the fact that it has learned from every error made around the country, I can say with confidence that this tribunal is the cat's whisker.

The DEPUTY SPEAKER: Just when we thought it couldn't get any sharper.

The Hon. J.R. RAU: That is my—

The DEPUTY SPEAKER: —contribution and you have finished.

The Hon. J.R. RAU: Anyway, I couldn't help myself with that. I just needed to get into it.

Mrs Vlahos: It's better than movie references.

The Hon. J.R. RAU: I was going to suggest he might have been a strange cat, but I—

The DEPUTY SPEAKER: They are not taking you seriously. Do you need some protection, Attorney?

The Hon. J.R. RAU: Yes. I was going to suggest to you he is a bit of a strange cat, but he is alright really. Anyway, back to the main game. As for these particular things that have been raised by both the Leader of the Opposition and the Deputy Leader of the Opposition about the valuations, firstly, I share their concern about them not being brought in—no question about that. Secondly, the only issue we really have is the question about how long it will take for us to adequately consult with the appropriate people and actually work out the appropriate legal vehicle to achieve what we agree is the appropriate outcome.

My offer to the Leader of the Opposition and Deputy Leader of the Opposition—and I indicate this on the record, obviously—is that, in this place, I will oppose the amendments that have been put forward, not because I have a fundamental disagreement with the desired purpose but because, without having confirmation from the Supreme Court and from President Parker and Registrar Byrt, I am not in a position to say that is the best way it can be done or that it can be done effectively by a particularly nominated date which has no connection with whatever it is they have to do.

All of that said, between the houses, as I have undertaken to the member for Bragg and I repeat on the record, I have asked the officers of the Attorney-General's Department working with SACAT to see whether they can solve whatever drafting issues and consultation issues are required with a view to, if possible, when the matter pops back up on the agenda in the other place in September, being able to accommodate the matter that has been raised by the Leader and Deputy Leader of the Opposition.

I just foreshadow that, whilst I will not be supporting those amendments today for the reasons I have just given, I have no fundamental objection to the proposition. If we can do it within a reasonable time frame and perhaps even the time frame they have suggested, it will be done. I have no problem with that as a matter of principle.

When we go into committee, just so that there is no ambiguity about it, I will be moving the amendments in my name, which are 17(1) and (2). These are, I am advised, just matters of drafting detail which needed to be improved after the—

An honourable member interjecting:

The Hon. J.R. RAU: Refinements, I think they are referred to in the euphemism of parliamentary counsel. Then there is the one that has been filed by my learned friend, the member for Bragg. She has two titles really. That one, for the reasons I have just given, we will not be supporting, but I do wish to continue to consider and converse with the member for Bragg and the Leader of the Opposition about those matters during the break.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

Clause passed.

Clause 2.

Ms CHAPMAN: I move:

Amendment No 1 [Chapman–1]—

Page 8, line 2—Delete 'This' and substitute 'Subject to subsection (2), this'

I refer to amendment No. 1. I do not propose to refer to each of the other amendments, other than in the sense of taking them in a block and to say this: the effect of this amendment is to introduce determinations or disputes under the Valuation of the Land Act to the SACAT from the current determination by the Supreme Court Land and Valuation Division, and for all of the reasons that have been canvassed in the debate.

I thank the Attorney for giving favourable consideration to advancing this, which apparently now is consistent with what was his intention in any event to bring it forward from stage 5 to stage 3, and so really it is a matter of sorting out the machinery of how that can be implemented. I accept that work will be done in his consultation with the president and/or Supreme Court justices who have the conduct of the current matters, and I am confident that, when he has apprised himself of that, this is a matter that can be achieved, and for the benefit and all the reasons that have been outlined.

The Hon. J.R. RAU: I thank the honourable member for her remarks and I think everybody in the chamber now understands exactly what is going on on both sides; and to all of those eager readers who will be thumbing through *Hansard* tomorrow, they will also be enlightened that we have a consensus position in effect. I restate what I said before, that I will be opposing it, but only for the reason that I explained.

Amendment negatived; clause passed.

Clauses 3 to 48 passed.

Clause 49.

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

Amendment No 1 [AG–1]—

Page 24, after line 9—Insert:

49A—Amendment of section 14A—Extension of time limit

Section 14A(4)(c)—delete 'and appeal'

49B—Amendment of section 23—Notices of determination

Section 23(2)(b)(ii)—delete 'and appeal'

49C—Amendment of section 25—Documents affecting inter-governmental or local governmental relations

(1) Section 25(3)(c)(ii)—delete 'and appeal'

(2) Section 25(3)(d)—delete 'or appeal'

49D—Amendment of section 26—Documents affecting personal affairs

(1) Section 26(3)(c)(ii)—delete 'and appeal'

(2) Section 26(3)(d)—delete 'or appeal'

49E—Amendment of section 27—Documents affecting business affairs

(1) Section 27(3)(c)(ii)—delete 'and appeal'

(2) Section 27(3)(d)—delete 'or appeal'

49F—Amendment of section 28—Documents affecting the conduct of research

(1) Section 28(3)(c)(ii)—delete 'and appeal'

(2) Section 28(3)(d)—delete 'or appeal'

49G—Amendment of section 36—Notices of determination

Section 36(2)(b)(iv)—delete 'and appeal'

49H—Substitution of heading to Part 5

Heading to Part 5—delete the heading and substitute:

Part 5—External review

49I—Substitution of heading to Part 5 Division 1

Heading to Part 5 Division 1—delete the heading and substitute:

Division 1—Reviews by Ombudsman or Police Ombudsman

There is a series of amendments here and I will very briefly explain the purpose of these amendments, because they are all basically the same thing. This amendment corrects an omission in drafting to make consequential amendments to the Freedom of Information Act in Part 7 of the bill.

The bill proposes that functions of the Administrative and Disciplinary Division of the District Court under the Freedom of Information Act 1991 be conferred on the tribunal.

Accordingly, the Freedom of Information Act, as amended by the bill, will only specify the new rights of review, not appeal. As the latter will now be set out at Section 71 of the South Australian Civil and Administrative Tribunal Act 2013, for this reason all references to 'appeal' in Sections 14A, 23, 25, 26, 27, 28 and 36 and the heading of Part 5 of the Freedom of Information Act are to be deleted. In other words, I am advised by parliamentary counsel that this was a matter to which they did not apparently turn their mind at the time and they have realised that there was this inadequacy in relation to these matters and for that reason they have suggested the amendments that I now move.

Amendment carried; clause as amended passed.

Clause 50 passed.

Clause 51.

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

Amendment No 2 [AG–1]—

Page 24, line 16—Delete 'seek a review' and substitute:

apply for a review under section 34 of the South Australian Civil and Administrative Tribunal Act 2013

The amendment relates to Clause 51 of the bill which amends Section 40 of the Freedom of Information Act. Clause 51 of the bill amends Section 40 to remove reference to the District Court and conferring the review function upon SACAT whilst retaining the status quo that such reviews are to be limited to a question of law which must be referred to a presidential member of the tribunal for consideration and determination.

Since the introduction of the bill it has been brought to the attention of the government that it would be prudent to clarify the nature of this review under the SACAT Act. This amendment achieves this by confirming a review, if granted by the tribunal, is pursuant to Section 34 of the South Australian Civil and Administrative Tribunal Act 2013.

Amendment carried.

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

Amendment No 3 [AG–1]—

Page 24, after line 26—Insert:

(4) Section 40(2)—delete 'appeal against the determination to' and substitute:

apply for a review under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* of the determination by

(5) Section 40(4)—delete subsection (4) and substitute:

(4) Where an application for review is made under Division 1, a review by SACAT under this Division cannot be commenced until that application is decided and the commencement of a review by SACAT bars any right to apply for a review under Division 1.

(6) Section 40(5)(b) and (c)—delete paragraphs (b) and (c) and substitute:

(b) in the case of a review by SACAT of a determination of an agency following an internal review or a determination made on a review under Division 1—the applicant for the internal review or review under Division 1;

(c) in the case of a review by SACAT of a determination that has not been the subject of an internal review or a review under Division 1—the applicant for the determination.

(7) Section 40(7)—delete 'appeal' wherever occurring and substitute in each case 'review'

Amendment carried; clause as amended passed.

Clause 52.

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

Amendment No. 4 [AG-1]—

Page 24, after line 30—Insert:

(1a) Section 41—delete 'appeal' wherever occurring and substitute in each case:

review

Amendment carried: clause as amended passed.

Clauses 53 to 108 passed.

Clause 109.

The Hon. J.R. RAU: Can I just observe that those in the Crown would be familiar with the notion of the model litigant, and, for those observing today, this is the model legislator—ditto, moving along smoothly, it's good. It's very good.

Clause passed.

Clause 110.

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

Amendment No. 1 [AG-2]—

Page 38, lines 11 and 12—Delete 'under section 34 of the South Australian Civil and Administrative Tribunal Act 2013'

This amendment provides that reviews under section 81 of the Mental Health Act 2009 of a community treatment order or inpatient treatment order made by a clinician fall within SACAT's original jurisdiction under section 33 of the act rather than its review jurisdiction under section 34 of the act.

During development of the bill, a policy decision was taken to distinguish between SACAT's treatment of reviewable decisions made by government and those decisions made by private persons or entities. This is reflected by the amendment to section 34 of the act in clause 180 of the bill. This amendment clarifies that a 'reviewable decision' for the purposes of SACAT's section 34 ordinary administrative review jurisdiction ordinarily means a decision made by the crown.

For the purposes of the Mental Health Act, this policy was given effect by specifically saying that reviews of relevant decisions made by clinicians lie to SACAT's original jurisdiction rather than to the ordinary review jurisdiction. The effect of this is that a further internal review by SACAT applies to decisions made by SACAT in its original jurisdiction.

This preserves the status quo whereby decisions of the Guardianship Board are appealable to the Administrative and Disciplinary Division of the District Court before a further appeal right to the Supreme Court. In other words, we are not cutting out any levels of review. Since the introduction of the bill, the reference in error to section 34 of the act in clause 110 of the bill was brought to the attention of the government and this amendment rectifies that.

Amendment carried.

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

Amendment No. 2 [AG-2]—

Page 38, after line 14—Insert:

(2a) Section 81—after subsection (1) insert:

(1a) For the purposes of the South Australian Civil and Administrative Tribunal Act 2013, a review under this section will be taken to come within the Tribunal's original jurisdiction.

This one is a ditto, as I just read out.

Amendment carried; clause as amended passed.

Remaining clauses (111 to 194) and title passed.

Bill reported with amendment.

Third Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (16:25): I move:

That this bill be now read a third time.

I again thank the Leader of the Opposition and the Deputy Leader of the Opposition for their helpful contributions in relation to the matter and I repeat that we will be open to conversation about how we can deal with their problems over the winter recess.

Bill read a third time and passed.

PARLIAMENTARY COMMITTEES (ELECTORAL LAWS AND PRACTICES COMMITTEE) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 4 June 2014.)

Mr MARSHALL (Dunstan—Leader of the Opposition) (16:27): I rise to speak on the Parliamentary Committees (Electoral Laws and Practices Committee) Amendment Bill 2014, and I indicate to the house that I will be the lead speaker. I fully appreciate that this bill will more than likely pass the house today, but we will not be offering our support to it to pass because we do not believe that this should in any way supersede the bill that we currently have before the house to establish an independent inquiry into electoral reform here in South Australia.

It is fair to say that, following on from the election, there have been a number of things which have occurred to us in the Liberal Party that need to take place: we believe that there needs to be a review of the election itself; obviously we are required under our laws here in South Australia to review the electoral boundaries; and we unequivocally believe that there also needs to be some overarching reform of our system here in South Australia. I will briefly address those three areas.

After the election, in another place a select committee was established to review the 2014 election. This was done on 4 June. It is very disappointing, I think, that on 5 June the Labor members who had been appointed to this committee resigned. This select committee was specifically established to review the election result. Until 5 June it had enjoyed support from across all parties here in South Australia—certainly all those represented in this parliament—and it was extraordinarily disappointing that the government decided to act in what I think was a very disrespectful way towards that select committee that was established. I encourage the government to place representatives back onto that select committee, because I think there is a very genuine need for a review of the election.

I also highlighted that under our laws here in South Australia there has to be a review of the electoral boundaries. I will not harp on that today but it is something that needs to be done, and it needs to begin within 24 months of an election. I am not convinced that leaving it for 24 months to begin the review is ideal, because if that review starts, let us say, in the 24th month there may be some months taken for the determination to be made, or there may be an appeal. Quite frankly, I think there needs to be work done as soon as possible on that matter.

The Hon. J.R. Rau interjecting:

Mr MARSHALL: The Deputy Premier informs me that that used to be the case. I am not sure why that changed—

The Hon. J.R. Rau: Neither am I.

Mr MARSHALL: And neither is he. That is something we should definitely look at. We certainly need to have electoral reform here in South Australia, because we have a system which,

although compliant with our law, is not really producing an outcome which is in accordance with the democratic view of the people.

Some people might suggest that I am raising this only because it is the Liberal Party that won the majority of votes in the election, and that I am somehow a sore loser. No; I am in here, in this parliament today, to champion the cause of democracy, because it seems like there are not many other people around this place who would like to champion the cause of the people of South Australia, who have been denied their democratic will with the election result here in South Australia in 2014.

Throughout history South Australia has used a variety of electoral systems. For example, between 1857 and 1929 we used the first-past-the-post electoral system here in South Australia. That would have produced a different result in the election. Between 1929 and 1936 we used the contingency voting system. I am not particularly familiar with this system, but it would have to be a better system than the one we currently have. Of course, from 1936 onwards we have used the preferential voting system here in South Australia.

We have also had differing requirements for the number of members per electoral district here in South Australia. For example, from 1888 we had 27 electorates which returned two members each; from 1901 one seat returned five members. So we had a variety of electoral systems here in South Australia over an extended period of time. At the moment, of course, our electoral system elects 47 individuals to the House of Assembly across 47 separate electoral contests. It is the individual, not the party, who holds the seat, and it is groupings of individual members that form the majority in the House of Assembly, which determines the government. Therein, of course, lies the problem.

The electoral system is not designed to award parliamentary seats on the basis of statewide support for parties or groups. However, there is a strong democratic argument, with solid community support, that the party with the highest statewide vote should govern.

This argument has been made by both South Australian major parties for more than 50 years here in South Australia. The two-party preferred vote is often used as the measure of statewide support, despite the fact that the vote has only an incidental relationship to the outcome of the 47 separate contests.

The combined outcome of the 47 separate contests determines the two PP; the two PP does not determine the outcome of the 47 separate contests. In the most extreme circumstances, it would be possible to win an assembly majority and government under the current electoral system with just 25.6 per cent of the statewide vote. It is true: 50 per cent plus one vote in 24 seats. Therein lies the problem for us here in South Australia.

Both the Labor Party and the Liberal Party have expressed their concerns about the electoral system. The year that I was born (1968) Labor won 52 per cent of the first preference votes but the Liberal Country League won government with the support of a country independent. Premier Dunstan at the time—after whom my electorate is currently named—said that he could 'only regret'—

The Hon. S.W. Key: What do you mean 'currently'?

Mr MARSHALL: Well, it was previously Norwood, when I was elected.

The Hon. S.W. Key: You're not going to change it, are you?

Mr MARSHALL: Perish the thought.

The Hon. S.W. Key: Good, just making sure.

Mr MARSHALL: I am just saying that it is currently Dunstan and it was previously Norwood. Mr Dunstan could:

> ...only regret that Mr Stott has seen fit to make a statement of this kind which ignores the fact that the government has the support of the majority of electors and that Mr Stott was elected in Ridley on the preferences of those who wished the [Labor] government to remain in office.
>
> For the six weeks between election day and the first day of sitting when Labor lost a vote on the floor of the house and lost government, Labor waged a one vote one value campaign—

Sounds good to me—

…[which referred] to Labor's disadvantage due to the overconcentration of its support in safe seats, as well as to malapportionment.

At four of the last seven South Australian elections, governments that did not win the majority of the two-party preferred vote have been elected. Following the 1989 election—members of this place would remember in that election that Labor was re-elected despite the Liberal Party winning 52.1 per cent of the two-party preferred vote—the fairness clause was inserted into the Constitution Act 1934 by a referendum.

This required that distributions (1) be held after every election and (2) ensure as far as possible that boundaries are fair between groups of candidates, such that a group that wins the majority of votes at the election should win the majority of seats. This has clearly not been the case since 1989, and I have canvassed those thoughts in a previous contribution I made to another bill which is before the house at the moment.

I am not suggesting that the challenge of redistribution is an easy one. The Electoral Districts Boundaries Commission (EDBC) needs to essentially predict population changes. It also needs to predict voting intentions. These are not easy things to do. Of course, variability of swings has a major outcome. They are not uniform. This again, with our current electoral system, provides another layer of complexity, as does the conduct of Independents.

In our current parliament, of course, the three Independents all reside in seats with extraordinarily strong two-party preferred preference to the Liberal Party over the Labor Party. Yet, in our current situation, the member for Frome and the member for Waite have decided to support the Labor Party to form government. Poor choices as they be, they are completely legal.

The fairness clause in the Constitution Act has not delivered the fairness in electoral outcomes that was hoped for. While the Liberal Party needs to achieve what we can in upcoming redistributions, we need to be realistic about the limitations of the electoral system, the limited capacity of prospective redistributions to deliver fairness, given the concentration of majorities in Liberal seats at the moment.

If the party considers that the statewide vote should determine who governs, then fundamental reform of the electoral system needs to be considered. That is our party position, and that is why we believe unequivocally that we need to establish a statutory inquiry into our electoral system so that we can review the overall system. This is not what is being proposed by the bill currently before the house, and that is why I have made those comments. That is why we will not be supporting the bill here today, but we certainly appreciate that it will pass this house.

We have considerable concerns regarding this bill. We believe that once the overall electoral reform is effected here in South Australia, a standing committee of the parliament would be ideal to monitor that, but we do not believe that this body which is being proposed by the government will have the requisite skills and independence to come up with a system which is fair for all South Australians.

Do not forget we are not here as parliamentarians to design the system which is going to suit the government of the day or, for that matter, the opposition of the day, but for the people of South Australia we want a truly democratic outcome here in South Australia, and I think the people of South Australia have been denied this for an extended period of time. We have concerns regarding the membership of the committee as proposed by the government.

The Hon. J.R. Rau: You can be on it.

Mr MARSHALL: Whilst the Deputy Premier has offered me my own personal seat on this, whether he moves an amendment to enshrine my position on this committee permanently or not remains to be seen. We have had some indication from the government today that they will be moving an amendment to their own bill which essentially deletes the reference to a minister of the Crown being eligible and essentially substituting it with a clause which states that a minister of the Crown is not eligible to be appointed to the committee.

There will be, under this bill, four members elected from each house. One of those members must be from the opposition but with the government numbers, of course, it is likely that three members of the four from this house will be from the government. This means that the government will essentially have a minimum of four members on this eight-person committee. The government to date has been silent about whether the presiding member of the committee will have voting rights or just rights to break a tie in the unlikely case that we have three on each side and an abstention. So, we need to get clarification on that, because we certainly would not be supporting a government-controlled committee in this area.

The Hon. J.R. Rau interjecting:

Mr MARSHALL: The Deputy Premier raises the question of the select committee in the other place which is looking at the 2014 election and conducting a review, and again, I say to the Deputy Premier—he is complaining because there is no government representation on this committee. Well, let me tell you, that is not by design. That is completely and utterly the responsibility of the government, which appointed members to the committee on 4 June—

The Hon. J.R. Rau interjecting:

Mr MARSHALL: Well, presumably—I am not going to reflect on a vote in the other place, but I would just make the point that on 4 June the committee was established and there were Labor members appointed. On 5 June, those Labor members who had been appointed just 24 hours earlier—maybe even less than 24 hours—resigned. They were exhausted by the work that they had done in that year, and I think that they made it clear that their work there was done.

It is extraordinarily disrespectful of this government, which won less than 36 per cent of the primary vote at the election, and extraordinarily arrogant that a party that received less than 36 per cent should say, 'We are not even going to participate in a legitimately constituted select committee to look at the election.' It is extraordinary, yet this is what they want.

The Hon. J.R. Rau interjecting:

Mr MARSHALL: The deputy leader continues his disparaging remarks regarding the other place. He has made them over an extended period of time; they are legendary. Anyway, we certainly support the select committee which has been established in the other place, and we certainly support the establishment of a parliamentary inquiry into electoral reform here in South Australia. We will not be supporting this bill in this house. We appreciate that it may well pass today, and we will then look at what happens with regard to the progress of our bill currently before the house before we make a decision on exactly how we may or may not support the government's bill in the other place.

Mr WILLIAMS (MacKillop) (16:46): I will try not to repeat what our leader has just said, or necessarily go over the exact same ground, but let me take the opportunity also to quote something that the late Don Dunstan said in 1968, following the election where the Labor Party clearly won the two-party preferred vote but narrowly failed to have enough seats in the house to form government.

The Hon. J.R. Rau: Gerrymander.

Mr WILLIAMS: That is the second time the Deputy Premier has used the word 'gerrymander'. I thought that the Deputy Premier would actually understand a little more about electoral matters in South Australia. Prior to 1968, there was not a gerrymander in South Australia: there was a malapportionment.

The Hon. J.R. Rau: One man's gerrymander is another man's malapportionment.

Mr WILLIAMS: No. If you look at where the word—

Members interjecting:

The DEPUTY SPEAKER: Order! Everyone needs to be quiet. It is unparliamentary to interject. I want to hear the member for MacKillop in silence.

Mr WILLIAMS: Thank you, Madam Deputy Speaker, for your protection. Let me explain to the house the difference between a malapportionment and a gerrymander, or more particularly explain what a gerrymander is. A gerrymander is where you draw electoral boundaries to advantage yourself. That is what a gerrymander is; that is not what South Australia had before 1968.

South Australia had a malapportionment where we had the state divided into two zones—the metropolitan zone and the country zone—and the seats in the country zones had fewer voters putting one member into the house than the city-based seats had; that was a malapportionment. Lo and behold, it was the Liberal Party under Steele Hall that recognised the unfairness of that and started the reform. What we have in South Australia today, quite clearly, is a gerrymander. It is quite clear that the boundaries are drawn such that one party is advantaged over the other.

Let me go back to where I wanted to start before the Deputy Premier interjected with that fine political term 'gerrymander', which is one which is very important and I may utilise more in my contribution. Don Dunstan, in 1968, made this statement: 'In order to win, we have not only to get the majority of votes, we have to beat the system.' Not only do we have to get the majority of votes, we have to beat the system. That is the exact situation that the Liberal Party finds itself in in South Australia today: not only do we have to get the majority of votes, we have to beat the system.

To illustrate my point, following the 2010 election where the Liberal Party won 51.6 per cent of the vote, the Electoral Districts Boundaries Commission redrew the boundaries, notwithstanding clause 83(1) of the Constitution Act, which basically says the party that wins 50 per cent of the vote plus one vote—and this is the two-party preferred vote statewide—should have an even chance of forming government. That is, they should have an even chance of winning enough seats to maintain a majority on the floor of the house. That is what the constitution says.

Notwithstanding that, the Electoral Districts Boundaries Commission in their report of 2012 which established the boundaries under which the most recent election was held drew up the new boundaries, then re-threw the votes from the 2010 election, box by box, on those new boundaries. If that commission was seriously addressing section 83(1) of the Constitution Act, it would have said that we have made a mistake, because what they came up with was, notwithstanding that the Liberal Party had won 51.6 per cent of the vote, when they applied that vote to their new boundaries the Labor Party still won 25 seats out of a 47-seat house.

To my mind, the commission got it terribly wrong and the commission knew it got it terribly wrong, because they have said as much in the report. The reality is that those of us who looked at that report at the time when it came out in 2012 said, 'Well, it is going to get harder. We have won 51.6 per cent of the vote, but now we are going to have to win damn near 54.6 per cent of the vote to have an even chance of winning'—not of winning, but to have an even chance of winning. Lo and behold, if you look at the figures from the most recent election, that is what transpired. The Liberal Party, to have won the additional seats to enable them to form government would have had to have won 54.6 per cent of the vote at least. That is the reality.

That is because the boundaries are drawn in such a way that Liberal Party votes are locked up in seats like the seat that I represent and Labor Party votes are spread more evenly over a wide number of seats, allowing the Labor Party to pick up more seats with a lower vote. I am delighted that the Deputy Premier introduced the word 'gerrymander', because that is a classic gerrymander. South Australia has a classic gerrymander. In South Australia, it is more difficult for the Liberal Party to win an election in this state than it ever was for the Labor Party to win an election in the days of Joh Bjelke-Peterson in Queensland. That is the reality.

Another thing that the Deputy Premier is wont to say with regard to the election in South Australia is that there is no such thing as the two-party preferred vote—that it is a mathematical construct are the words that he used. I will accept that, for instance, in 1968 when Don Dunstan said that not only did the Labor Party have to win the majority of votes but they had to beat the system as well, in those days the two-party preferred vote was a mathematical construct.

It was a mathematical construct because there was no way of determining exactly what the two-party preferred vote was, for a number of reasons, one being that a number of seats were not contested, so it was very hard to determine exactly what the vote would have been in those seats. Another was that the Electoral Commission, when it was counting the ballot, did not do an exhaustive count, and it did not distribute all of the preferences. Once it got to a point where they were able to declare a winner, they stopped distributing the preferences so nobody really knew what the two-party preferred vote was. But that did not stop Don Dunstan from declaring that he had won the two-party preferred vote.

Today, the Electoral Commission does indeed do an exhaustive count of the ballot. They keep counting the votes and keep distributing the preferences until there are only two candidates left. The Electoral Commission publishes those figures which give a very, very, very accurate representation of the two-party preferred vote.

For the Deputy Premier to suggest that it is a mathematical construct absolutely ignores the reality. We have a preferential voting system. How can we have a preferential voting system when people cannot indicate their preference? In the Constitution Act, in the law of the state, we have Clause 83(1) which says that the two-party preferred vote should be used by the Electoral District Boundaries Commission in redrawing the boundaries after each election. How would that be possible if there was no such thing as the two-party preferred vote?

The reality is the Deputy Premier, along with all his colleagues on that side, is very happy with the current situation. They are very happy to live and operate in a state where there is a gerrymander which supports them in government. They are very happy to accept the advantage that the electoral system in South Australia delivers to them.

We have seen, historically, how unhappy the Labor Party was when the electoral system of the day advantaged their opposition. We saw for years how unhappy the Labor Party were, but as soon as the electoral system advantages the Labor Party the Labor Party is very happy. Don Dunstan spent many years arguing 'one vote one value' and having the same number of electors in every seat—he spent years doing it.

When the Electoral Districts Boundaries Commission in the mid-1980s wrote to the then premier and to the then leader of the opposition and said, 'By the way, I think that parliament should change the law to allow us to do a redistribution because the numbers in the seats have got way out of kilter'—we had the seat of Elizabeth with about 15,000 voters and the seat of Fisher with 27-odd thousand voters—what did the Labor Party do? It did absolutely nothing, because they knew that they could take advantage of that situation in the upcoming election.

Lo and behold they were returned to government in 1989 without a majority of the two-party preferred vote: something like 48 per cent, as opposed to the Liberal opposition's 52 per cent. Bear in mind that the public backlash at that time was much greater than it is at the moment, because the debate that had happened not that many years before was still fresh in people's minds, the debate that had happened through the late 1960s and into the mid to late-1970s. It was still fresh in people's minds and the community were motivated to argue for reform, and that is what we did following the 1989 election and we saw the introduction of the fairness clause.

The select committee that was established by this house which brought about the introduction of the fairness clause in the early 1990s also recommended that we look at another scheme, another system, if we found that the fairness clause did not deliver what it should—and that is what is known as a top-up system. That was recommended by the select committee which was chaired by Don Hopgood, I believe, and it was recommended that they look after the ensuing election. Of course, the 1993 election was the State Bank election and you could not take very much out of that election—the swing was so great against the then sitting Labor government and, obviously, nothing has happened since, except that it has been proved election after election after election that the fairness clause does not work.

My concern with the bill before us today is that the government is not serious about electoral reform. The government is very happy to stick with the gerrymander. I have not heard one member of the government make one comment acknowledging that the people of South Australia want a different government. I have not heard one member of this government acknowledge that the people of South Australia wanted a different government in 2010 and they wanted a different government in 2014. It is the people of South Australia who have been dudded by this gerrymander.

Interestingly, one of the political commentators who has probably had more to say about electoral matters in South Australia than anybody else, Dr Dean Jaensch, wrote in his article in *The Advertiser* in I think the week following the March 2014 election that we have a serious problem with our electoral system and he suggested that we look across the Tasman at the system in New Zealand.

I can report to the house that, indeed, I went to New Zealand a few weeks ago and had a meeting with their electoral commission. I have been briefed and got a lot of information on their system. I am now working through that information, which includes a royal commission report into their system which was produced in the late 1980s.

They had the exact same situation that we have here in South Australia today. They had a situation where the will of the people was not reflected in the outcome of the election, in seats won and lost by the various parties. They instituted a royal commission and came up with a system of MMP, a multi member proportional system, in that country.

The Hon. J.R. Rau: What a system that is.

Mr WILLIAMS: It is an interesting system. I agree with the Deputy Premier that it is an interesting system. But what I can tell the Deputy Premier, and I think it is obvious to anybody who looks at the electoral history of South Australia, is that the system we have in South Australia does not deliver what the people of South Australia are asking for.

The concern the opposition has with the bill before the house is that we do not believe that the government, in proposing this, is serious about addressing the problems that we have with our electoral system. We believe that this is a bit of window-dressing designed to divert attention away from the key problem, that is, that we have an electoral system that does not allow the people of South Australia to get the government that they want. Just as importantly, it does not allow the people of South Australia to get rid of the government that they do not want.

We find ourselves in South Australia with no serious political competition. The Labor Party knows very well that it is almost impossible for it to be unseated and thrown out of government under the current electoral system, and it governs with that knowledge in the back of its head. That is why South Australia now enjoys a position, amongst the various jurisdictions of this nation, below Tasmania when you look at some of the key economic indicators.

That is why unemployment in South Australia is now below that of Tasmania, I would argue, because we do not have serious political competition. We have a government that has become both arrogant and tired, and the people of South Australia deserve something a hell of a lot better. They deserve something a hell of a lot better than somebody standing up and saying, 'Everything you are saying is wrong because the two-party preferred vote is a mathematical construct. There is no such thing, really.'

The reality is that the majority of people in South Australia know that the electoral system here is wrong, because they want to get rid of this government and they have been wanting to get rid of it for eight years. There is no better demonstration of a flawed system which thwarts the will of the people, and that is what we have got in South Australia. It is a classic gerrymander.

The Hon. T.R. Kenyon: It's not a gerrymander. You don't know what a gerrymander is.

Mr WILLIAMS: It is a classic gerrymander. A gerrymander is when you draw boundaries to advantage yourself.

The Hon. T.R. Kenyon: Yes; we don't draw them.

Mr WILLIAMS: I know you don't draw them. Let me quote what the electoral commissioner told the Legislative Council select committee last week. She said:

> The Westminster system of government requires that the party that wins the most number of seats or districts forms government, not whether they have won most of the two-party preferred vote.

Well, hello, Electoral Commissioner! Have you not read section 83(1) of the Constitution Act, which says that the party that wins 50 per cent of the two-party preferred vote, plus one vote, should have an equal chance of winning government?

In South Australia, the Liberal Party has to win over 54 per cent of the vote before it gets within cooee of having an equal chance of winning, and the Labor Party can win less than 46 per cent of the vote and still win government. I do not think anybody in their right mind would suggest that that is not a gerrymander.

The noise that is coming from the Deputy Premier and his cheer squad over there only convinces me more that the matter that he has put before us today is designed to be a smokescreen. It is designed not to get serious reform of our electoral system in South Australia. It is designed to stop the people of South Australia from getting their will at the ballot box. That is what this matter is designed to do, and that is why the Liberal opposition believes that it cannot support it here and, when it gets to the other place, we will be submitting a number of amendments.

Time expired.

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business) (17:06): Very interesting remarks by the member for MacKillop, whose understanding of our electoral system I think is basically—I do not want to call it naïve because I think that would be unfair.

The Hon. J.R. Rau: To the naïve.

The Hon. A. KOUTSANTONIS: It would be unfair to the naïve. So I suppose I will pose a hypothetical question to the member for MacKillop: what if the Australian Labor Party only contested 24 seats and won them? Would he have the Electoral Commissioner then overturn the result because we were unable to achieve a majority of the two-party preferred vote, even though we won a majority of the 47 seats in the House of Assembly?

That little light bulb moment he just had then—well, hopefully he did—makes you realise that this is not about the two-party preferred vote—it never has been—and that is why the Liberal Party is consigned to another four years of opposition. It makes the mistake that it has made for generations, that is, not understanding how to campaign in marginal seats.

I do not think it is the member for MacKillop's fault, because he actually won his marginal seat. He knocked off a former Liberal leader when it was marginal and then made it safe, so he is good at winning marginal seats, he is just bad at doing it anywhere outside regional South Australia. When all this is over—and halfway through their fourth term of opposition—there may be some quiet reflection about why they are in the predicament that they are in.

Perhaps, rather than looking to blame the Electoral Commissioner, the volunteers on election day, the Australian Labor Party, Family First or anyone else, they may have a moment where they think to themselves: 'What was our internal party structure? Who were the people in the room making the decisions about what policies we would have and who we were targeting? Was it wise to target all our expenditure and tax cuts at an elite group of people who are already voting Liberal? Was it perhaps not the right approach to choose candidates not on the basis of their appeal locally but because of their appeal within the Liberal Party?'

Perhaps then the member for MacKillop will have what alcoholics have, which is a moment of clarity, when they realise that everything they have been doing for the last 16 years has been a failure, and it has been a failure not because it is anyone else's fault but because it is theirs. It is in my interest for you to continue to blame the Electoral Commissioner. It is in my interest for you to continue to blame everyone else but yourselves. The last thing I would want you to do is to ever look inwards and say: 'Ah, here is the real problem!'

I prefer your model: lash out at the world, blame the Electoral Commission, make stupid submissions to the Redistribution Committee like you always do, campaign badly in marginal seats—continue—spend money in seats you are never going to lose, by all means. I can tell you that if I caught my party secretary spending a dollar in the seat of MacKillop, we would sack him. But you all championed it. I can imagine afterwards, after the election, in their party room: 'Look at my margin; it's 26 per cent!' You are a genius; what a genius. You lost Ashford though, you lost Elder. You are geniuses.

Of course, it is never your own fault; it is always someone else's. Then you go to the high moral ground about principles of democracy, and you accuse the Electoral Commissioner of corruption. Then you say it is a gerrymander. Well quite frankly, if your honest, intellectual argument to this parliament is that there is an imposed gerrymander on the Liberal Party you have lost the idea of why you keep on losing elections; you do not understand the basic principles of marginal seat

campaigning and our system of government. You just do not understand it. My moment of clarity is that when your opponent is making mistakes, do not get in their way.

An honourable member: Sun Tzu.

The Hon. A. KOUTSANTONIS: Sun Tzu; he was absolutely right. My guess is that you will continue to make these mistakes because you go down this moral argument of 'We've got more votes than you and therefore we deserve to win.' If it were a PR ballot you are right, but it is not a PR ballot. It is a series of ballots in a series of districts, and you have to win a majority of them. It is that simple. If you do not understand that then I cannot help you, no-one can.

Perhaps another four years of sitting in opposition, idle, might make you fundamentally realise that you are not the smartest guy in the room, and that you have been doing something wrong for the last 16 years. My guess is that you will not, because the one smart guy in the room is leaving. What is left? The same strategists, the same people; you promote the same, old tired voices to your front bench and they give you the same old strategy. You leave your young ones on the backbench to be squandered, to get lazy. That is what you do; that is the Liberal Party way. You have good leaders and you tear them down. Why do you tear them down? No particular reason: you are bored—

The Hon. T.R. Kenyon: Don't like them.

The Hon. A. KOUTSANTONIS: You don't like them; there is some feud that went on 30 years ago, whatever it might be. I have to say that I was listening to the cries, in my office, of the Leader of the Opposition, quoting Dunstan when he was winning, I think, 53 per cent of the primary vote—not the two-party preferred vote—and losing. I heard this at the 2010 election as well. When they count through Independents, they cannot win their own seats and they count their votes as theirs, it astonishes me that they can actually make an honest, intellectual argument and keep a straight face. My guess is that the new breed, the ones sitting quietly at the back, the member for Bright, the member for—

An honourable member: Hartley.

The Hon. A. KOUTSANTONIS: No; I said the new breed, not the accidental MPs.

An honourable member: Schubert.

The Hon. A. KOUTSANTONIS: Schubert, the member for Mitchell. These are the ones who will watch the mistakes of the last 16 years, and it will be 16 years by the time they face another election. I suspect what will happen with the Liberal Party is that they will enter that campaign with the same mindset that they were robbed, with the same mindset and the same policies as last time—

An honourable member interjecting:

The Hon. A. KOUTSANTONIS: 'We have to do nothing to win. It's our turn and we'll curl up into a small ball, make the government the issue and we'll be elected by default.' That will fail. Of course, we can lose and we may lose, but I tell you what: if we lose because we did not win a majority of votes in a majority of seats none of us will complain. All the seats are roughly the same size, all the seats have roughly the same amount of population, and the Electoral Commission has done its very best to give you every opportunity; but we cannot help your own incompetence.

With those few remarks—I think balanced remarks, unbiased in my time here—I will finish up by saying one thing. When I was first preselected, the Liberal Party held 37 seats in this chamber. I was preselected in 1994. Then the member for Torrens passed away and we won that by-election. That by-election triggered a series of events that are still having a domino effect today in the Liberal Party; they are panic and fear. What you have seen is a premier torn down, another premier torn down, a leader of the opposition and then subsequent leaders of the opposition torn down, until we have got to this point where you have gone to an election with everyone—the media, the business community, the public—all expecting you to win, and you lost.

I think eventually there will be a reckoning within the Liberal Party. I am looking forward to watching it from the sidelines and watching you actually work out what is going on, but I suspect that they will not. That is why your colleagues in Canberra and interstate think you are a joke. Again, the worst thing that has ever happened to you guys is that the one smart guy in the room is retiring. He

is leaving. He is leaving because he is probably fed up and has had enough of watching all of you lose.

I am glad you have promoted Rob Lucas. I am glad there has been minimal change to the shadow cabinet. I am glad that the campaign strategists who have got you to this point are still calling the shots, and I am glad that you have not changed the Leader of the Opposition.

The Hon. I.F. EVANS (Davenport) (17:15): I just want to comment on this particular piece of legislation. I will comment on the Treasurer's remarks simply in this context. Of course, the winners can always rewrite history about why they might have won or why oppositions have lost, and there will be much analysis of that from both the Labor and Liberal point of view. What the Treasurer is arguing, of course, is that they played the game better under the existing rules. There is no doubt about that, they won the game.

I want to speak today about whether the existing rules serve the South Australian voter. I am not going to comment about whether there is a gerrymander or a malapportionment, or whatever the various descriptions might be; to me, that is irrelevant. To me, there is just a very simple principle: is the voting system serving the South Australian voter? The answer to that is no. It is a very simple test. Go and ask the public. If the majority of South Australian voters vote for a particular party, do they want that party to govern?

The answer from the public is yes. So I argue that while the Labor Party and the Liberal Party have won government under the current rules in various ways, the current rules do not serve the South Australian voter, because the current rules allow for errors of judgement to be made by people in authority, or people providing information to the people in authority, which can lead to outcomes that are more difficult for one side than the other.

I just make the very simple point that Australia has a GST and the majority of Australians voted against it. Mr Beazley got the majority of the Australian vote against Mr Howard on the GST election. So how does the Labor Party, which opposed the introduction of the GST, reconcile its position that the majority of Australians, having voted against the GST, deserved to get it? They deserved to get it for what reason? According to the Treasurer, who just spoke, they deserved to get it because under the rules of the game, as long as you win enough of the electorates—

An honourable member: Because they formed government.

The Hon. I.F. EVANS: Then they formed government, yes. I ask the philosophical question: is that the way forward for the voter of South Australia? I say that it is not the way forward. I say that the system does not serve the voter. What the member for West Torrens has just told this house—and go and read the Attorney-General's speech when I gave a speech on this previously— what they have said to the house is that they are never going to campaign in seats they cannot win. That is fine. I am glad that that is on the record because it strengthens my argument.

The reality is that the current system disengages the majority of South Australians from the ballot. The reality is that, if you take what are known as safe Labor seats and what are known as safe Liberal seats, they are not campaigned in to any great extent. So, people living in Port Adelaide who vote Labor or Liberal will never in their lifetime impact the outcome of government—never. Port Adelaide will be a Labor seat for as long as it exists, for the next hundred years. I think that is generally acknowledged.

The Hon. T.R. Kenyon: Except when it's won by an Independent.

The Hon. I.F. EVANS: Who is a former Labor guy—give us a break. The reality is that it would serve the voting public—and the member for Newland laughs, that's fine. If I was on the winning side, I might be as arrogant as to ignore the errors in the system as well. The reality is this: if you went to a system that said that the government will be formed by the party who wins the statewide vote, political parties would have to campaign in the seats they currently do not campaign in, because all of a sudden a Liberal vote in Port Adelaide or a Labor vote in Burnside could impact the outcome of government.

What it would do is reinvigorate the whole electoral process. Why should the public accept the Labor Party position that is now formally on the record by two of their senior ministers? They are simply not going to worry about the Flinders, the MacKillops, the Barossa Valleys, etc. Why should

the voting public accept that, and why is that good for democracy? It is not good for democracy. Democracy demands that the voter is engaged in the process, that there is a battle across the state, and I accept the fact that the Labor Party have been better at running campaigns under the current system. I put that aside; I am not arguing that point. I am arguing that the current system does not serve the voter, because surely the one principle of democracy is that, if the majority of the state vote for a particular party, that party should govern.

I say to the Treasurer, he may well be lucky I am leaving, because if I was in a position of influence coming to the next year's budget, what I would do is defeat the budget unless the government agreed to a referendum on that principal question. The principal question is: if the majority of the state vote for a party, do you want that party to form government? Let me tell you, my view is that the public—both Labor and Liberal, Green, Democrat—would vote for that principle in a landslide. Because if you think of the principle of democracy, the principle of democracy has to be that the majority rules.

The quaint system we have, brought out of England under the Westminster system, when everyone was on foot, when Robin Hood was a boy, when there were no cars, no phones, no electricity—of course they had natural electorates and had their local representatives, because that was the way it had to work because of the construct of the community. These days, of course, with modern transportation, modern telecommunications and modern information systems, you have to ask the question of whether that system actually serves the voter.

I say to the government: I would tread very carefully on your arrogance on this issue, because we should not be designing the system to suit one party or the other. We should be designing the system to deliver to the voter the government they want. Go to a referendum and ask the public one very simple question: do you want the party that wins 50 per cent plus one of the vote—the majority of the vote—to form government? The answer to that question will be yes.

If the government and the opposition do not have the guts to stand up for that principle and want to try and manipulate the system to favour one party or the other, or indeed the two major parties, then I think the public will have their say at a ballot in the future. What I would do is force the parliament into having a referendum on that question before the next election, and then have the legislation drafted to take effect from the 2022 election to give everyone a chance to adjust to the new system.

The reality is: why should electorates be ignored by the party in government? 'I am going to totally ignore your electorate. You are not relevant to me because I can win these 24 here.' That is the way the system is played at the moment, and I accept that. They have outgunned us on that—I accept that—but I just make the point: how is that good for democracy?

I do not argue the point about whether there is a gerrymander or whatever. I argue that the point is the parliament sets the rules, and do the current rules serve the voter? It does not matter which way you cut and dice it, there is only one answer to that question. The voting public are not getting the government they vote for.

They did not get it when Beazley beat Howard in the GST election. Here is a party in government—the South Australian Labor Party—that have riled against the GST. They hate the GST. Former Labor governments, since the introduction, refused to change it, of course, having opposed it. They did not reintroduce a different system; they were quite happy to leave it there. The reality is, having opposed the GST, they are now going to sit back and say, even though Australia voted against the GST, they deserve to have it because that is how the game is played.

I think the question needs to be asked: do we need to change the way the game is played? I think you have to go back to fundamental principles. If the majority of South Australians vote for a particular party, that party should form government.

The Hon. J.R. Rau: That is true, but that is not what 2PP is about.

The Hon. I.F. EVANS: In reality, it is. The reality is that, whatever you have to do then to introduce that system, if it is a top-up system, which I personally favour—I spoke about it in 2010 after that election and wrote some *Advertiser* editorials on it—

The Hon. T.R. Kenyon interjecting:

The Hon. I.F. EVANS: Op-eds, yes. I wish I could write *The Advertiser* editorial; it would be very handy. I personally favour some form of top-up system, but there are other methods. Whatever the evil of those systems, it is less than the evil of having a system that allows the majority of the state to be outvoted by the minority of the state. Name me another organisation that exists where the minority can outvote the majority. The reality is, if you were setting up an organisation, you would not allow that to happen in a membership-based organisation.

I argue that what the government is doing with this is, as the member for MacKillop says, a smokescreen and a stalling position. I would encourage those who are thinking about this issue seriously to really lay down the gauntlet to the government.

This is not the Liberal Party view. As people know, I am not here for much longer, but it would not faze me if the government were forced to have a referendum on this matter in the next 12 months because I think the public will vote for a change, and then we could put the change in place and have it in place for the 2022 election, which would give everyone six years to be educated about the new system and put all the procedures in place.

I speak on this as a matter of principle. The current rules do not reward the voter. They do not reward the voter because they do not get the government they vote for. Political parties openly admit that they ignore vast slabs of the state because there is not a vote there for them. How is that good for democracy? If you translate that to the cabinet room, they would be saying, on expenditure, 'We will not spend money here, there or there because there is not a vote for us. We will spend it in the marginal seats.'

If you went to a system, as I am advocating, where the principle of the statewide vote wins, then there is no such thing as a marginal seat. All of a sudden the expenditure at the cabinet level is done on the economic and social merits not on the political merit. It is folklore that Frank Blevins as Treasurer used to take in the voting pattern for all the booths and when cabinet submissions came up from his colleagues he would say, 'What are we spending money for, they don't vote for us.'

At the end of the day I simply ask the question, 'How is that good for the voter?' So now this debate is before the house I think we have to ask the question, not who is best at playing the existing rules—that is a bit like arguing why did Norwood win the '78 grand final, you can argue that all day, that does not matter—but, more to the point, does the system serve the voter?

I stood my first polling booth when I was eight. I have been involved in every election campaign for 46 years, federal and state, and I have served in cabinet and I have seen how it works. My view is that the current system does not serve the voter. It is time for the parliament to deal with it. We can put it out one or two elections so that everyone has time to adjust, but I would love to have a public meeting and debate anyone on the other side. I will argue that the majority votes should win, and they can argue that the minority votes should win, and I think the town hall will be on the side of, if the majority votes for a particular party they should form government.

The South Australian public understands that principle, they want that principle, and I think the parliament is duty bound to put in place a process to deliver that principle. If the government does not want to do it, then I am hoping that the other parties will have the courage to do whatever is necessary to force the government into a referendum on that question, because I think the public knows there is something wrong with the system and they want a clear direction to fix it.

Mr PICTON (Kaurna) (17:31): I was particularly interested in the comments from the member for Davenport who I think has been slightly more sensible in some of his remarks than some of his colleagues on the opposition side in that he is actually talking about some ideas on what he would like to do for the current system. I would bring that back to the content of this actual bill which is to establish a committee to look at the election process for South Australia.

Let's support this committee, let's set up an institution of this parliament that is a permanent body to examine the electoral process for South Australia and examine the conduct of elections and a whole range of other matters, and the Liberal Party can bring their ideas to that body to consider. The Labor Party can brings its ideas and minor parties and Independents can bring their ideas, and

examine relevant witnesses from a whole range of fields including the Electoral Commissioner, and develop recommendations and reports to improve democracy in South Australia.

That is unfortunately not the position of the Liberal Party in this chamber at this time. They are not supporting this bill which would improve the accountability of our democratic system in this place. What they are actually supporting is an Upper House inquiry that is completely one sided. It does not have government appointees on it; it is a Liberal-devised and Liberal-run committee which is established basically to give them the answer that they desire and to allow them to grill on all of their pet issues.

There are not any bipartisan attempts to look at the electoral process in South Australia and seek improvement and, bizarrely, we have members of this house arguing that members of the House of Assembly should not be involved in that process, and members of this house arguing that we should be excluded from examining the conduct of our elections and our democracy in South Australia, and that we should leave it all up to the Legislative Council to look at, and no-one here has a contribution to make at all.

Whereas what I think we have in this bill is a balance of houses—four from the Legislative Council and four from the House of Assembly. We have a balance of government, opposition and minor party Independent members who will all look at this matter, and we have a similar system to what happens in the commonwealth and other states and territories around the country where you have a permanent body that has a long-term view of improving the system, not a haphazard select committee approach as has happened in recent parliaments.

I have been disappointed, I have to say, that since coming into this parliament—and I know other new members on this side have been disappointed as well—that we have heard speech after speech through Address in Reply, Appropriation and Supply bills, of complaints and whingeing from the opposition about the electoral result. They have not been producing ideas for what they want to do for the state—what challenges we face and how we should address them—but there has been a whole lot of whingeing about the result of the 2014 election.

Of course, their ideas have almost all been entirely around the premise that we have some other system in place in South Australia than the one we currently have, but there are very few policies on what system we should have. There has been this general idea that the two-party preferred vote should determine what the government of South Australia is but no actual idea or plan—apart from the member for Davenport who has apparently written lengthy articles on this process—but very few actual proposals from the opposition.

What we have in South Australia is the Westminster system. It is the same system that is in place in almost all the other states in Australia apart from Tasmania which has a Hare-Clark system, and I do not hear anybody from the opposition calling for the Hare-Clark system—that would see a huge range of minor parties enter this House of Assembly.

We have the same system of single-member electorates which can result in people winning 24 out of 47 seats without winning—as the Attorney has put it—the theoretical construct of the two-party preferred vote. And it is a theoretical construct for a number of reasons: one is that, as the Treasurer has mentioned, there is no requirement that parties need to run in every seat.

We have made a decision as the Labor Party to run in every seat and the Liberal Party has made the decision to run in every seat, but that does not need to be the case at all. We could run in 24 seats and we could win 24 seats and form government and that would give a very low two-party preferred vote. It would mean that we have campaigned in those seats and represent the majority of the seats of South Australia. That is the same system that is in place in Victoria, New South Wales, the commonwealth, or the United Kingdom.

Also, we do not necessarily always have to have a two-party system. Just look at the United Kingdom parliament which has three major parties—although one is going into huge decline after aligning with the Conservatives there, but they do have three major parties that compete to be the government there, and there is no reason why, necessarily, we would have two parties. So I do not know how you would devise a constitution around two particular parties that might not always be the

case, in 20, 50 or 100 years time. But I would love to see them devise and put to this committee a proposal for how you could do that, because I do not think it is possible.

The other thing it does not take into account is Independents. We know in the result from the 2014 election that had the Liberal Party won its traditional seats of Frome and Fisher that I would not be standing here. I would probably be back where the member for Bright is right now on the opposition benches because they would be in government. They would have won 24 seats out of this parliament if they had just won the traditional seats that they have held over a long period of time. Instead, there have been Independents elected, and we welcome that. There should be the absolute right for Independents to run in our parliament, and I do not think it would be possible to devise such a system that could change that back.

I also thought it was particularly interesting to hear the member for Davenport raise the 1998 election which is, of course, when the Howard government won a majority of seats despite not winning a majority of the two-party preferred vote. Apparently, the member for Davenport did not oppose the GST and did not support the re-election of the Howard government in 1998. I have been busily searching the records of *Hansard* and *The Advertiser* to try and find the member for Davenport's complaints at the time that the Howard government was re-elected—

The Hon. T.R. Kenyon: When he was a minister.

Mr PICTON: That's right, when he was a minister. I have been struggling to find that. The fact is that he supported the Howard government at that time and he is now conveniently saying that he did not support their re-election because it suits his argument at this time.

What we have got is the Liberal Party supporting an upper house inquiry, which is a complete stunt. It is one-sided, dominated by the Liberal Party and does not involve both the houses. No member in this house gets to have a say in the conduct of that inquiry, and it is not a permanent inquiry. It is not something that is going to be able to build a collective knowledge of improvements for the electoral system, as opposed to our standing committees which work over a long period of time and develop a good body of work to base their reports on.

We have also heard a lot of discussion about the fairness clause which is in place in our constitution. Despite what the member for MacKillop was angrily saying in his remarks, the fairness clause does not say that people who win the majority of the two-party vote should form government. It says that that should be what the boundaries commission uses in its determination in making the boundaries, which is exactly what it does.

If people do not like the determination that the boundaries commission makes—independently of government, including a Supreme Court justice sitting on that panel—they have the right to appeal that, which the Liberal Party did not do prior to the last election, despite their complaints about that process now.

What we have is this fairness clause in the constitution, which is quite unique to South Australia. You see a lot of commentary (including from commentators such as Antony Green) that this is unique and an oddity for South Australia to have this clause, but we do have this clause, as opposed to other states that use community of interest to determine their boundaries. If the Liberal Party wants to get rid of the fairness clause and go back to community of interest, then I would, for my part, welcome that discussion.

I think the Labor Party would absolutely welcome that and we would see some better results for voters on the ground who have very odd boundaries set upon them such as people just outside of my electorate in Sellicks Beach who, if they want to go and visit their local MP's office, have to travel all the way to Victor Harbor, as opposed to where they used to be in the electorate of Kaurna, which was located much closer. People raise that with me all the time.

That is a decision that the boundaries commission has made to juggle the weightings and the votes in particular electorates. What we do not have is that clause in other states, in the commonwealth or in the United Kingdom. It was a clause devised by the Liberal Party, proposed by them and pushed for by them after the 1989 election.

So, what we are hearing is criticism of a system that the Liberal Party helped to devise, which I think really says it all, and without any proper proposal for how it should be fixed. If they do have a

proposal, they should support this bill, support there being a proper review mechanism for this parliament to look at elections and put it to the committee to discuss and get an airing in the public. Otherwise, if they do not want to do that, they should use time in this chamber to debate the important issues of how we can improve the lives for South Australians.

The Hon. T.R. KENYON (Newland) (17:43): I will be very brief, I think, in my comments. As usual, the member for Davenport makes a decent contribution to this chamber, and I suspect he will be sadly missed, but I will make some more comments on that at the appropriate time. However, I have a problem with his concept that the 2PP vote should be the basis for the statewide vote.

The 2PP basis is set up to allow the boundaries commission to do its job, but the very much reduced participation of the Labor Party in safe Liberal seats means that it is a vote that is not an accurate reflection, necessarily, of how people would vote in the event that it was a statewide election, which is partly the point the member for Davenport was making on the effect of including all seats or campaigning broadly across all seats.

The fair way, or the way that just about everybody else uses, to calculate a statewide vote—a nationwide vote, in some cases—is, first, proportional representation, which some people may support but I certainly would not, because it is very difficult for governments to be formed, and governments that can actually do anything, and I would not support a PR vote. You either do proportional representation, which is a percentage of first preference votes, or a first past the post. That is the accurate way to determine the statewide vote.

Interestingly, the seat of Newland would have been won by the current member for Newland (myself) in either definition of first past the post or 2PP, but the 2PP vote is not the correct calculation to be using, because it is distorted. I accept his argument insofar as he is attempting to bring other seats into the equation, but he is basing the need for it on a vote that is distorted by the Labor Party particularly conforming to the current rules and the current laws. He is saying that, because the Labor Party conforms to the current laws and uses them as well as it possibly can to achieve an election result, the system is flawed because the vote does what it is intended to do.

There are some interesting points to be made. I think the committee that this bill proposes to set up is actually the place to be having those debates, because they can be drawn out over a long period of time and given greater consideration than perhaps a debate in parliament might allow us. However, there are some flaws in the member for Davenport's argument that need to be taken into account. I think both Labor and Liberal safe seats do come into the equation: you need to protect your base to secure electoral victory. To secure government you protect your base, but if you ignore your own base it becomes open to an Independent.

In fact, the member for MacKillop got into this place by running as an Independent in what has traditionally been a Liberal-held seat, then he eventually went back to the Liberal Party. People in safe seats count, but for different reasons and in different ways. I do not think there is ever a position where people do not count. I certainly find that if there are cuts proposed by the state Labor government, for instance in health care in regional areas, that is an issue that people in my electorate take to heart. I have had street corner meetings repeatedly where health care in country areas has come up as an issue of concern to my electorate. So, the concern of people in the electorate and the broader electorate is not just localised; they also have a concern for their fellow South Australians and for the state. With those words, I very strongly support this bill.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (17:48): I thank all members for their contributions in relation to this bill. I want to make a few very quick points. First of all, like other speakers who have spoken in the last few moments, I do acknowledge the clarity with which the member for Davenport examined this question and the way in which he was able to extract fundamental principles out of it. He actually elevated the conversation, albeit, I think, with some errors in his contribution, but I will come to that in a minute.

I do make it clear that, as far as I am concerned, the government is very, very interested in electoral reform—very interested—and we are interested in reform to the Electoral Act as well. That is why we are asking to have a committee, which is a committee of both houses of parliament, so that both houses can participate in the preparation of recommendations for us all to consider.

The opposition has a position where it is asking for an independent inquiry. Some members have been here for a little while and some have been here for longer than me, but there is something I have learned about this place in the time I have been here, and that is that anybody who thinks they are going to tell members of parliament how to run parliament from outside—in other words, not a peer but some other person—has got rocks in their head. All you will be doing is wasting everybody's time. It would be the equivalent of the Catholic Church appointing an academic to report on how it should deal with difficult and complex theological issues: (a) it would never happen, and (b) whatever the report said it would be ignored and thrown straight into the bin, and quite rightly so.

This is what we are dealing with here. The absurdity of appointing someone like, with the greatest respect, Mr Mackerras or Professor Dean Jaensch—or perhaps even the compere of *Hey Hey It's Saturday*, who knows—someone external, to do this inquiry and make recommendations is absurd and ridiculous. It would mean that the report would be doomed to failure, because when it got here everyone would go, 'What would that clown know about it?'—and quite rightly so.

That is the dumbest idea I think I have ever heard in this place, and that is a big statement. If we are going to get any buy-in from the parliament for electoral reform, the parliament has to be involved in the evolution of those ideas. If it is not then we are wasting our time and we are just kidding ourselves.

My second point is that any reference to the select committee in the other place and anything relevant to progress in this space is purely accidental. The idea that a kangaroo court established on the basis that members of the government were actually appointed without even being asked, and were then pilloried for having resigned once they discovered they were stuck on a committee they did not want to be on, that pretty well says it all. There we have the upper house committee appointed to look into this house. Goodness me; at least we are saying a committee of both houses to look at the whole lot. We can work out our own stuff out without having people in the other place work out solutions for us.

The other point I would like to make is that I cannot let the member for MacKillop's contribution go without a couple of remarks on it. Again, particularly for the newer members, the member for MacKillop has absolutely classic comic timing. A lot of the stuff he is saying to us is tongue in cheek, you need to understand this. I think he even might be auditioning for *The X Factor* or one of those programs, in the comedy skits. He is very good, he keeps a straight face. There are a couple of things—

The Hon. S.W. Key interjecting:

The Hon. J.R. RAU: I am coming to that. There are a couple of things about Tovarich over there that people do not know. The first point is that he is a river to his people. In fact, 76.7 per cent two-party preferred (not first preference, but two-party preferred) actually preferred him. As best I can recall, except for the members for Stuart and Flinders, he is the most popular democratically elected person since Saddam Hussein—and that is a very big statement, because Saddam used to get in the 90s regularly.

I am not suggesting, by the way, member for MacKillop, that there is anything approaching his electioneering tactics being employed there. I know it is genuine affection, because I have been to your part of the world and enjoyed it very much, and I know that you are held in very high regard. However, what the member for MacKillop was suggesting is that there is some conspiracy going on here to lock the Liberal Party out—which, incidentally, is not what the member for Davenport was saying.

He is acknowledging that there is a set of rules, and they know what they are and we know what they are; we just happen to have been fortunate enough to have played better than them, and he was big enough to say that. What the member for MacKillop was suggesting is that there is some conspiracy out there. That is out there with Area 51 and *Apollo 11* being filmed in Universal Studios. If you believe that then you believe that Harold Holt is living in Penola with Elvis and John Lennon. It is just not right.

The situation, as far as I can see it, is this: we have to accept, at a very fundamental level, that when people go to vote, are we going to say 'You cannot vote for a person; you have to vote for a party'? I tell you what: just as people in this room have been saying 'Oh, if you asked anybody they

would say a majority of votes,' well yes, a majority of votes, literally, yes. Two party preferred: does that equal a majority of votes? We have already canvassed that. No; it does not.

But ask those same people, member for MacKillop, 'Do you want to have the right to pick your own person to represent you or do you want to have a party list served up to you by a bunch of faceless men and women who reside in Leigh Street or somewhere else? Do you want this group of faceless people? You don't even know who these characters are. You just get to tick the box—do I like the People's Progress Party or the Democratic Party of Korea, or whatever?' Tick, tick; is that all they get?

The list system and all of that may get you away from the possibility of the two-party preferred vote which, as I said, is of limited value as an indicator of anything. It may get you away from that, being out of sync with the electoral outcome, but I will tell you what it does not do. It does not hand over—in order to solve that perceived problem—control of who goes into the parliament to faceless people who compile lists for party-list purposes.

What about the Independents and what about the other parties that are not part of the two parties that get to be in the two-party preferred show? What about them, who speaks for them? You cannot move away from single-member electorates without confronting all of those problems, but again, thank goodness this committee will be able to deal with all those complexities. I do not know the answer to those things but I do know that this committee is the way to solve them. I thank everyone for their contribution.

Bill read a second time.

Sitting extended beyond 18:00 on motion of Hon. J.R. Rau.

Committee Stage

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 3, lines 33 to 35 [clause 4, inserted section 15Q(2)]—Delete subsection (2) and substitute:

(2) A Minister of the Crown is not eligible for appointment to the Committee.

Ms CHAPMAN: I indicate that, as has been confirmed by the leader, we are not supporting this bill. One of the defects that we see in the composition of the committee is the opportunity for members of the ministry to be on it and that it be a paid committee. So, in respect of at least the former we see it as an improvement to not allow ministers of the Crown to be members of the committee, so we support the same.

Amendment carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendment.

Third Reading

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Housing and Urban Development, Minister for Industrial Relations) (17:58): I move:

That this bill be now read a third time.

Bill read a third time and passed.

At 17:59 the house adjourned until Thursday 7 August 2014 at 10:30.

Answers to Questions

REGIONAL IMPACT ASSESSMENT STATEMENTS

In reply to **Mr GRIFFITHS (Goyder)** (17 June 2014).

The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy, Minister for Small Business): 'This matter is Cabinet in Confidence, however Regional Impact Assessment Statements form an important part of Cabinet deliberations.