LEGISLATIVE COUNCIL

Tuesday 5 April 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

TRAINING AND SKILLS DEVELOPMENT (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

TERRORISM (SURFACE TRANSPORT SECURITY) BILL

His Excellency the Governor assented to the bill.

PAPERS

The following papers were laid on the table:

By the Minister for Industrial Relations (Hon. B.V. Finnigan)—

Regulations under the following Acts—
- Railways (Operations and Access) Act 1997—Evidentiary Provisions

Rules of Court—
- District Court—District Court Act 1991—Civil—Amendment No. 16
- Supreme Court—Supreme Court Act 1935—Civil—Amendment No. 15

By-laws under Acts—
- Flinders University of South Australia Act 1966—
  - By-law 1—Definitions
  - By-laws 10 and 11—Vehicles, Traffic and Parking
  - By-law 25—Defences and Exemptions

Codes of Practice under Acts—
- Gaming Machines Act 1992—
  - Gaming Machines Advertising Code of Practice Prescription Notice 2011
  - Gaming Machines Responsible Gambling Code of Practice Prescription Notice 2011

By the Minister for Regional Development (Hon. G.E. Gago)—

Reports, 2009-10—
- Chiropractic and Osteopathy Board of South Australia
- Department for Families and Communities Addendum

Regulations under the following Acts—
- Tobacco Products Regulation Act 1997—Further Variation

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Acts—
- Liquor Licensing Act 1997—Dry Areas—
  - Long Term—Normanville
  - Short Term—Tumby Bay

OLYMPIC DAM

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:22): I table a copy of a ministerial statement relating to Olympic Dam made earlier today in another place by my colleague the Premier.

DEEPAK FERTILISERS AND PETROCHEMICALS CORPORATION LIMITED

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:22): I table a copy of a ministerial statement relating to Deepak made earlier today in another place by my colleague the Hon. Tom Koutsantonis, Minister for Mineral Resources Development.

FAMILIES AND COMMUNITIES REPORT

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for

Government Enterprises) (14:22): I table a copy of a ministerial statement relating to the Department of Families and Communities Annual Report 2009-10 addendum made earlier today in another place by my colleague the Hon. Jennifer Rankine, Minister for Families and Communities.

QUESTION TIME

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Urban Development and Planning, a question about demolition without planning approval.

Leave granted.

The Hon. D.W. RIDGWAY: Two months ago, the government began demolishing the sheds and tearing up the railway lines and sleepers at the site of the new Royal Adelaide Hospital. In fact, you can even watch it on YouTube. Uploaded by the Premier on 21 February 2011, it shows the Labor leader standing in front of the buildings as they are being reduced to rubble. The Premier obviously got his media team down there, got a taxpayer-funded cameraman and made a little speech to the camera. So far, this hugely expensive, publicly funded PR exercise has a total of 162 views.

Nevertheless, demolition of railway land infrastructure would require a proper development approval, and such a project would need a management plan lodged with that development application and, in this case, with railway sleepers that are half buried in contaminated soil, this would, by law, have covered the soil, transport and disposal mentioned in the management plan. The razing of the old railway sheds would also have required demolition approval.

The Adelaide City Council has informed us that the government made no application for demolition approval. In fact, councillor Anne Moran pledged that the city council should throw the book at the government and demanded that they be treated like any other bad developers for flouting the laws. However, the Lord Mayor, Mr Stephen Yarwood, said the council supported the RAH development and was willing to ignore the unfortunate oversight.

'It's really minor in nature and considering the intent of the policy...I'm certainly not going to sweat over it in any way', he said. 'Of course it's preferable to do things appropriately, but this happens in the planning system. It's really not worth losing any sleep over', he said. We were informed that the government intends to lodge a retrospective application. My questions to the minister are:

1. Why did the government choose to act illegally by demolishing the structures on the old railway site without proper approval?

2. Has the Premier, the minister or any of their representatives put any pressure on, or had conversations with, the Lord Mayor to ask him to describe this as an unfortunate oversight of a minor nature?

3. If any legal action is to be taken, as foreshadowed by councillor Anne Moran, will Mike Rann's YouTube video be used as evidence against him?

As you know, if you cannot trust somebody to knock down something properly, how could you trust them to build it properly?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:27): I will refer that question to the Deputy Premier or possibly the Minister for Infrastructure in another place and bring back a response. But how extraordinary that the question the opposition asks about the biggest health infrastructure project in this state's history is about a few tin sheds on the site and what has happened to those. It is Port Adelaide all over again. All they are worried about is rusty sheds. It is no wonder that the Leader of the Opposition in the other place is considering a reshuffle when these are the sorts of questions we get from the leader in this place.

Here we have the biggest health infrastructure project in this state's history: a brand new, state-of-the-art hospital, which will set up our health care needs for decades to come and will be a world-class facility—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. B.V. FINNIGAN: —of which all South Australians will be proud and which will serve us for many decades to come. The biggest objection or problem the opposition can come up with is about the demolition of some old sheds.

Of course, it is always important that the law of the states and nation be obeyed. In relation to what has happened to this particular item, I will refer it to my colleagues in the other place and bring back a response. It says a lot about the opposition in this place that, when it comes to a massive health infrastructure program, a brand new state-of-the-art public hospital, their big problem is that we knocked over a few sheds to do it.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway: You think you can break the law and get away with it and laugh about it. You should resign; you should leave.

The PRESIDENT: Order! The Hon. Mr Ridgway—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Has the Hon. Mr Ridgway quite finished?

The Hon. D.W. Ridgway: Not till he retires, no, I'm not finished.

The PRESIDENT: Okay. The Hon. Ms Lensink.

SHOP TRADING HOURS

The Hon. J.M.A. LENSINK (14:29): I seek leave to make an explanation before asking the Minister for Industrial Relations a question on shop trading hours.

Leave granted.

The Hon. J.M.A. LENSINK: In September last year the member for Adelaide in another place introduced a bill to recognise Rundle Mall as a tourist precinct, based on the same criteria as have established Jetty Road in Glenelg, and this was voted down last month by this government. I note that in opposing the bill, speakers say (and I quote from their speeches) that the current regime allows retailers more freedom to meet the needs of their customers while protecting workers and their families from fully deregulated trading hours and, further, that the bill would significantly disadvantage retailers and retail workers in suburban shopping centres. My questions are:

1. If the Labor Party agrees with the criteria used to establish Glenelg as a tourist precinct, why did it oppose that bill?

2. How does having one rule for city workers and one rule for the suburbs protect workers?

3. When will the government realise that the SDA is out of touch with working South Australians?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:30): I thank the Deputy Leader of the Opposition for her question. To borrow a line from the *Life of Brian*, 'There's just no pleasing some people.' Here we have the opposition constantly talking about how shop trading hours are too restricted in this state and asking, 'Why didn't you support a bill which would free them up?' We have allowed some exemptions so that trading can take place on a public holiday in the city because of the unusual nature of the circumstances and here they are attacking the decision. What is it that they want? How extraordinary that, at the same time they are criticising the government for not supporting a bill, they are turning around and saying, 'Well, why did you do that? Why did you allow some extra trading?'

This government has a proud record on the issue of shop trading hours. From recollection, we introduced changes in 2003 that allowed Sunday trading and trading to 9pm weeknights—the biggest expansion of trading hours for some time, probably since the 1977 act, but I am not certain about that. The government reviewed the position further when it asked retired judge Alan Moss to review the hours. He found that there was a balanced approached which suited the needs of the community, and so the government is satisfied with the existing shop trading hours regime. One of

the reasons we are satisfied with it is that it allows flexibility, and it allows for an ability to adapt and respond to particular circumstances.

This year I allowed trading early one Sunday morning (or it might have been my predecessor who signed off on that) because of cruise ships being in town. There was an instance when Centrepoint Target wanted some extra hours over the Clipsal weekend and an exemption was granted for that. On this occasion, because it is the first time ever that Easter and ANZAC Day have coincided over the same weekend, it did, in my view, provide an opportunity to make an exceptional circumstance decision to allow trading in the city from 11am to 5pm on Easter Tuesday. That is a decision this government has taken in this instance because we recognise that it is an unusual circumstance and that it would have resulted in a three-day closure for most stores across the board.

The government accepts that the act allows flexibility when it is required. That is why at Christmas different arrangements were made so that there were not staggered, stop-start closures. In this instance, we have recognised that it is an unusual circumstance and, while we do not think it is appropriate that all shops be given the opportunity to trade on the Easter Tuesday, we acknowledge that there is some benefit in having the city being able to trade, which will allow it to have a particular emphasis on drawing people in there. I am sure the council is considering things like parking measures and some sort of entertainment and activities so that it will be a successful day for the traders in Rundle Mall. That is what the act provides for—to enable us to adapt to particular circumstances.

STATE/LOCAL GOVERNMENT RELATIONS

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about state government consultation with local government.

Leave granted.

The Hon. S.G. WADE: In a media release, dated 11 February 2011, the minister declared that a new agreement had been put in place to improve consultation arrangements between state and local government. The minister went so far as to assert that the signing represented a new milestone in the collaborative relationship between the two tiers of government. Clause 7B of the agreement states:

> The state government commits to consulting with individual or multiple councils on issues affecting specific individual communities or groups of communities.

In the same joint press release, the President of the Local Government Association, mayor Felicity-ann Lewis, stated that:

> The agreement underpins the commitment of both parties to regular and effective communication, consultation and negotiation on the formulation and implementation of key policies, legislative proposals and significant programs and projects.

Last week, the month after the agreement was signed, the Mayor of Whyalla, Mr Jim Pollock, publicly complained that there had been a complete lack of consultation between the government and the council before the government announced an ammonium nitrate plant to be built at Port Bonython. In a ministerial statement tabled earlier today, minister Koutsantonis said that this is the beginning of the conversation. I ask the minister:

1. Does the minister agree with mayor Lewis that the agreement requires the state government to engage in the formulation of significant projects?

2. Does the minister consider that the failure to engage the Whyalla council on the formulation of the project was appropriate?

3. What steps has the minister taken to inform the cabinet of the commitments made in the agreement and counsel the Minister for Industry and Trade against the defend and deliver approach?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:36): As the honourable member has indicated, the Hon. Tom Koutsantonis in another place has made a statement today relating to the Deepak project and indicating that he will be having substantial discussions with the Whyalla council about that particular project.

What is important in relation to that project is that, from the honourable member's question, anyone would think that a final decision had been taken and the plant is going to open tomorrow. We know, in fact, that this is very much the beginning of a process. Cabinet has approved a proposal to lease land at Port Bonython to Deepak Fertilizers for three years, which will enable the company to undertake a multifaceted feasibility study for the potential development of an ammonium nitrate manufacturing plant in South Australia.

That will, of course, involve some role for my agency, SafeWork SA, given that it administers dangerous substances and explosives legislation in this state. Deepak is considering a site near Port Bonython, 20 kilometres or so east-north-east of Whyalla, as the location for the plant, so SafeWork officials will be involved, as will, I am sure, various environmental officials in assessing any potential application for this plant to go ahead. It is important to note that I am advised that SafeWork SA is yet to receive a licence application which would provide a lot more information that they would be able to assess in terms of the health and safety aspect. Similarly, I am sure environmental authorities would have a lot of work to do in relation to this project.

So, what the government has done is approve a proposal to lease land to Deepak Fertilizers for three years to enable them to do a proper feasibility study. Whether or not this plant will end up going ahead will be subject to a whole range of matters, including the health and safety aspects, environmental aspects, consultation with the community and with the council and, ultimately, the economic interests of the company and whether they will ultimately want the project to go ahead.

What is important, I think, to note is that, whether this particular project goes ahead or not, we all know that providing jobs and economic growth in regional South Australia is absolutely pivotal to the survival of particular areas. We know that there are quite a number of towns or cities in the north of the state that used to rely very heavily on one or two particular industrial plants there. While some of those plants are still going and provide a source of significant employment and economic activity, we know that there used to be many more thousands of people employed in some of those plants than there are now.

What is important is that the government facilitates economic development and growth in those regional areas to provide an employment base because, without that, you are really going to have difficulty in sustaining the communities and making sure that there are jobs for people to take up. I think it is fair to say that we have seen in the last decade that a lot of these areas like Whyalla, Port Augusta and Port Pirie have enjoyed something of a resurgence. They are largely doing better than they were in an economic sense, and there has been a lot of development both in residential and retail and in a whole range of areas.

If the company ends up making the appropriate applications to build the plant and to license it and so on, then of course there will be many assessments and licence provisions that will have to be complied with both from a safety perspective and an environmental perspective before any such project could go ahead, but ultimately we do want to see projects in regional South Australia that will provide economic activity and a jobs base.

STATE/LOCAL GOVERNMENT RELATIONS

The Hon. P. HOLLOWAY (14:40): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question.

Leave granted.

The Hon. P. HOLLOWAY: As members would be aware, there are many issues that are matters of priority to both state and local government that require the cooperation of both sectors to achieve a positive outcome. Will the minister update the council about the work that is underway to strengthen state/local government relations?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (14:41): I thank the Hon. Paul Holloway for his question and acknowledge particularly the role that he played as minister for urban development and planning in fostering good relations with local government and ensuring that development and urban planning in this state is done in a constructive and collaborative fashion.

The Hon. Mr Wade asked a question about state/local government relations, in particular drawing on the agreement that was signed by the Premier and me very soon after I took up the portfolio. The Rann Labor government has been committed to improving state/local government relations and that extends back, indeed, to our earliest days in office. The Minister's State/Local

Government Forum was established to progress key policy priorities that require support from both sectors of government.

As outlined in the terms of reference, the purpose of the forum is to advise me as minister, the Premier, the government and the Local Government Association on matters that are of significance to the state government and local governments that require a high level of cooperation between the levels of government for their objectives to be achieved.

Membership is drawn from high-level state and local government representation. The forum is chaired by me as Minister for State/Local Government Relations, and members include the Minister for Urban Development and Planning, senior state agency officers and union nominees as well. I have extended an invitation to my honourable colleagues in cabinet who have areas of responsibility involving local government, if they are able to attend at some point.

Local government representation includes the President of the Local Government Association, nominees from the LGA State Executive and senior officials from local government bodies. The activities undertaken by the forum have significantly strengthened working relations between state and local government and driven major work in addressing some longstanding problems.

The first meeting, I understand, was held in August 2002, and a further 18 meetings have been held since then. Specific issues that the forum has been instrumental in progressing have included the State-Local Government Relations Agreement, Community Wastewater Management Systems, stormwater management and flood mitigation, South Australia's Strategic Plan, climate change and women in local government.

More recently, the forum has met to discuss the state government's planning reforms, specifically the 30-Year Plan for Greater Adelaide. I am pleased to inform the chamber that the next government forum will take place in April. At this point, both parties have agreed in advance upon a set of agenda items. The matters that are to be discussed are matters of priority for both sectors of government and require the cooperation of both state and local government to reach effective resolution.

Items for discussion at the meeting in April will include regional planning strategies and participation in and implementation of the 30-Year Plan for Greater Adelaide. I look forward to updating the chamber about this matter after the forum.

EATING DISORDER UNIT

The Hon. A. BRESSINGTON (14:44): I seek leave to make a brief explanation before asking the minister representing the Minister for Health questions about the current review of eating disorder services in South Australia.

Leave granted.

The Hon. A. BRESSINGTON: Eating disorders have a traumatic impact within our community. Sufferers not only face the physical and mental trauma and the stigma and isolation that inevitably accompany such conditions, but also the very limited resources and services available, which become worse in rural and remote areas.

When the government announced that Ward 4GP would be closed last year the result was a public outcry, as evidenced by the petition submitted by the member for Morphett in the other place, which contains close to 3,000 signatures against the closure. In addition, health professionals who could see the value in maintaining the acute inpatient facility were also vocal in their belief in the necessity of retaining the ward.

In a suspected attempt to silence these professionals, a psychiatrist on Ward 4GP, Dr Randall Long, was threatened with disciplinary action for disseminating anti-closure material. Thankfully, this threat suddenly disappeared after it became public following an *Advertiser* article on 18 March, last month.

In the days prior to a rally organised by advocates, some of whom had suffered an eating disorder, minister Hill obviously buckled to the political pressure and announced the establishment of a statewide review of eating disorder services. It was my suspicion at the time that this review was simply a political cover for the minister and designed to distract those who had been so vocal against the closure.

An email forwarded by an advocate of Ward 4GP to my office confirms this. In it, the Director of Mental Health Operations, Dr Derek Wright, states:

> Once we have the outcome of the proposed Model of Care we will be clear about what elements of services will be required into the future. However if inpatient beds are recommended to stay at Flinders we do not see 4GP as being a suitable long term option.

An honourable member interjecting:

The Hon. A. BRESSINGTON: Never have a review unless you know what the outcome is going to be. Despite their attempts to portray to the public that no decision as to the future of Ward 4GP will be made until the report of the review, it is clear from this email that the government has no intention of heeding the calls of the public or the recommendations of the review, and Ward 4GP is to close. This would be why clients and carers have only had limited input into the review, with only one workshop being held to which they were specifically invited and given only five days notice, two of those being a weekend—

The PRESIDENT: The honourable member should get to the question.

The Hon. A. BRESSINGTON: —this is despite minister Hill saying:

> There will be full consultation, discussion and involvement with the clinicians and those who represent the users of the service.

My questions are:

1. Does the minister believe that one workshop for clients of eating disorder services and their carers, that they were given such short notice of the workshop and that it was held at a time when many were unable to attend to due to work and university commitments, is appropriate?

2. Does the minister concede that the government has no intention of retaining Ward 4GP, regardless of the so-called community consultation, professional opinions and the fact that the review is yet to report?

3. If this is the case, how does the Minister for Health justify the hope he gave to the 2,937 people who signed the petition when he announced the review of the decision to close Ward 4GP, giving the impression that the ward may be retained?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:48): I thank the honourable member for her most important questions and will refer those to the Minister for Health in another place and bring back a response. I would like to say that, indeed, this government is very committed to providing excellent health services to all South Australians in need, but, in particular, to those people with eating disorders.

The Minister for Health has made it very clear that the review of services is not going to result in a reduction of our commitment to provide services to people with eating disorders. It remains highly likely that a range of different types of services are likely to be required to meet the range of different needs for these people.

Eating disorders are very complex disorders and need a complex range of treatments and approaches to manage them. It can also be a very chronic problem as well that needs addressing over very long periods of time. It usually requires a combination of acute services and community-based services to help manage that chronic nature, but education, prevention and early intervention are also important aspects of eating disorders.

I think I have mentioned in this place before that I have visited Ward 4G previously, and it certainly is not an ideal therapeutic environment for the treatment and management of eating disorders. It is part of a complex that shares a ward and, currently, at one end of the ward are patients that can have serious mental illnesses, so it is quite a challenge currently to manage those two sets of clients within a single ward, albeit one set of patients seem to be at one end and another at the other. It is not an ideal therapeutic environment.

I know there are many people who have been treated in 4G and have a strong attachment to that ward. Of the hardworking medical and nursing staff, many have worked there for many years providing magnificent care and treatment for these patients. Of course, it is not just the professional services that are provided there; there are all those support services as well—the cleaners, cooks, clerks, etc.—so it takes a significant team of people to provide the level of care and amenity for good treatment of patients in this environment.

It is less than an ideal environment and, as a former nurse, I can say that quite categorically. I very much support the Minister for Health in the review that he is currently conducting—a statewide review on the best way to construct, design and manage treatment and services for eating disorders. He is committed to full and extensive consultation with all relevant stakeholders, and I believe that is currently being undertaken. As I said, in terms of the detailed responses, I will be happy to pass those on to the Minister for Health in another place and bring back a response.

PREMIER'S AWARDS

The Hon. CARMEL ZOLLO (14:53): I seek leave to make a brief explanation before asking the Minister for Public Sector Management a question about the public sector awards.

Leave granted.

The Hon. CARMEL ZOLLO: Since 2007, the Premier's Awards have been recognising outstanding work by both work groups and individual employees which has contributed to the achievement of the South Australian Strategic Plan objectives. Will the minister inform the chamber about last night's awards?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (14:54): I thank the honourable member for her most important question. Last night I had the pleasure of opening the 2011 Premier's Awards. The awards are about promoting excellence in the Public Service, and it was very pleasing to see that the awards received a high number of really impressive applications from a number of different agencies.

All of the finalists demonstrated that government can go about doing business in very unique ways. The finalists demonstrated creativity and innovation, strategic partnering and groundbreaking research that promotes South Australian nationally and also internationally. All of the initiatives exemplified the principles of the committed public sector. Awards highlighted the capacity of the workforce to approach their work with flexibility and adaptability to meet the evolving needs of the community and provide models for the way in which work can be constructed across the sector.

The initiatives demonstrate a high level of collaboration across not only the public sector but between the various employment sectors and the community itself. These collaborations are designed to gain specific outcomes for the public in the most effective and efficient manner. They show excellence in their initial conceptualisation and in the manner in which they are implemented.

Last night, six South Australian public sector work groups and one individual were honoured with the Premier's Award for their contributions to the state. Each winner related to a strategic plan priority area, and I would like to take this opportunity to outline, very briefly, the winners and, again, offer my congratulations on these remarkable achievements. The winners were:

- Growing Prosperity Award—Science and Information Economy Directorate in DFEEST for the 'AdamMax-Shining the Light on Broadband Blackspots';
- Improving Wellbeing Award—Children, Youth and Women's Health Service and Blood, Organ and Tissue programs in SA Health for the 'BloodSafe e-Learning' project;
- Attaining Sustainability Award—Science, Monitoring and Information Division, Department for Water for the Safeguarding South Australia's Water Supply Through The Management of River Murray Salinity Project;
- Fostering Creativity and Innovation Award—Office of the Chief Information Officer in DTEI for the StateNet Regional Broadband Program;
- Building Communities Award—Sustainable Systems Division within PIRSA for the SA Drought Support Program;
- Expanding Opportunity Award—Science and Information Directorate in DFEEST for the Remote Indigenous Public Internet Access—Oodnadatta Initiative.

Finally, the individual award winner was Luke Mosley of the Water Quality Branch of the Environment Protection Authority. Luke was honoured for his work, Assessing and Managing Water Quality Risks in the Lower River Murray and Lakes During Extreme Drought. Luke's project

helped to protect precious aquatic ecosystems and the community from harms that emerged from declining water quality as a result of the drought.

Work group award winners received a grant of $5,000 and the individual award winner received a grant of $2,000. The grants are to be used for the benefit of the work group, work of the initiative or the work environment. I am sure members would agree that these innovative and important projects are a testament to the good work being done by public sector agencies, and they are an example of the dedication and drive that exists within the public sector. They are indeed to be congratulated for their amazing efforts.

ROADSIDE VEGETATION

The Hon. M. PARNELL (14:57): I seek leave to make a brief explanation before asking a question of the Minister for Regional Development, representing the Minister for Environment and Conservation, about roadside vegetation.

Leave granted.

The Hon. M. PARNELL: In the highly modified, settled areas of South Australia some of the best and, in fact, often the only remaining vegetation is along our road reserves. Management of roadside vegetation is the responsibility of local councils and the department for transport, which must follow roadside vegetation management plans under the Native Vegetation Act. If they do this, they do not require individual clearance permits and they are not obliged to provide a significant environmental benefit in the form of replanting or protecting vegetation elsewhere or paying money into the Native Vegetation Fund.

In September 2009, amendments to the native vegetation regulations introduced a new regulation 5(1)(lb), a public safety exemption which allows for clearance of native vegetation to be exempt from the need to obtain a permit where that work is necessary to protect public safety. Vegetation cleared under this exemption is also exempt from the need to provide a significant environmental benefit. On the other hand, clearance for new roads or road widening continues to require both a permit and a significant environmental benefit to offset the clearance.

Transport SA, the Local Government Association and staff from the Native Vegetation Council have recently developed a framework that sets out where public safety clearance can take place, thereby avoiding the obligation on government to offset the clearance of native vegetation by providing a significant environmental benefit. The framework was endorsed by the Native Vegetation Council on an interim basis last December and will be reviewed at the end of this year.

The main fear of conservationists is that the removal of financial disincentives will see a massive increase in the removal of large trees on road reserves, under the guise of public safety, without proper consideration of alternatives, such as reducing speed limits in areas where trees grow close to the road. Some of these trees may be hundreds of years old. My questions are:

1. In developing the framework, how were the public safety risks of roadside vegetation assessed against the environmental costs of clearance and the cost of implementing alternative road safety measures, and how will that analysis be conducted as part of the review due later this year?

2. How much native vegetation does the minister expect will be cleared under this framework?

3. How much revenue in terms of contributions to the Native Vegetation Fund will be forgone under this framework?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:00): I thank the honourable member for his most important questions and will refer them to the relevant minister in another place and bring back a response.

RURAL ACCOMMODATION

The Hon. J.S. LEE (15:00): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about shortage of professionals and lack of accommodation in South Australian rural communities.

Leave granted.

The Hon. J.S. LEE: The Local Government Association President, Ms Felicity-ann Lewis, stated on ABC radio on 17 March that 'attracting professionals such as teachers, nurses and doctors out into the regions has been an issue for quite some time'. She adds:

> With the further challenge of providing housing and potentially having to get smaller housing rental rates are going to be obviously quite high because the market is small, is a great concern to us.

In addition, the Vice President of the Rural Doctors Association, Dr Peter Rischbieth, commented on ABC radio on 24 March that 'South Australia potentially may lose 50 per cent of its rural procedural doctors and this may happen in the next five to 10 years'. On 18 March, on the radio, Ms Wendy Campagna, CEO of the Local Government Association, stated:

> ...there was quite a bit of concern raised about housing to teachers, nurses, doctors and also police. What we're not clear about yet is the number of houses that will not be made available in the future and the impact that will have on certain council areas;...It is a major issue, we do need to make sure we have these professional people out in the country areas and we're really concerned about the decision that the government has made in this respect.

My questions to the minster are:

1. As the Minister for Regional Development, has she instigated discussions with the Minister for Housing to ensure there is sufficient and affordable accommodation for professionals to practise in regional committees?

2. In the interest of country people having access to adequate health care and education services, what programs will the minister advocate to attract professionals such as teachers, nurses and doctors out into the regions?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:02): I thank the honourable member for her most important question. The matter of housing is a responsibility for the Minister for Housing. I will refer her question to the minister, and I am happy to bring back a response.

There are just a few things I would like to say in relation to housing in regions. Indeed, it is a significant challenge for some of our regions. We know that attracting a skilled workforce is a particular challenge right across the state, as we have an ageing population and we know that there is a forecast of skill shortages in a number of areas that are rapidly expanding. So, it is a challenge for the whole state and, in particular, the regions find it even more difficult to tackle those particular issues.

There are opportunities for regional local councils and, for that matter, RDAs. RDAs have access to certain funding grants and initiatives that include housing opportunities, because the—

The Hon. J.S.L. Dawkins: You're taking the state government funding away from them.

The Hon. G.E. GAGO: The funding is not being taken away from the grants of the RDAs. That's just nonsense. As usual, the opposition misleads, and they provide incorrect information to this chamber. I am talking about the grants available to RDAs, and there has been no cut to those funding arrangements, so it is simply not true. There are grants that are available that, particularly, RDAs could apply for to look at developing housing initiatives, and other accommodation initiatives, to meet the long-term sustainability needs for their local regions.

I certainly encourage them to look through initiatives and to try to work with suitable partners to develop strategies. Often the solutions to these problems are to be found locally. They are about developing local opportunities that might be there and addressing local needs, and the best people to identify those are in fact locals. It is my job to make sure these communities are given the sort of access to information and expertise to enable them to develop up those programs.

For instance, we see in Mount Gambier a fabulous example of an initiative where an old nurses' home that had been abandoned or disused for some time is being developed into very lovely accommodation. It is a matter, obviously, for the Minister for Housing, and I will pass on the question to her and am happy to bring back a response, but there are other opportunities at a local level. I encourage local communities, who know and understand their own local situations better than anyone else and are more available to identify local opportunities, to work through those opportunities and explore possible outcomes to meet their housing needs.

ARCADE GAME MACHINES

The Hon. I.K. HUNTER (15:07): I seek leave to make a brief explanation before asking the Minister for Gambling a question on arcade game machines.

Leave granted.

The Hon. I.K. HUNTER: I understand that there have been some community concerns raised about arcade games, similar to gaming machines, being available to minors in amusement arcades. Will the minister inform the chamber of how the government is responding to these concerns?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:07): I thank the Hon. Mr Hunter for his question. The honourable member is correct in saying that community concerns were raised with my predecessor around the middle of last year regarding arcade games similar to gaming machines being available to minors in amusement arcades. The Hon. Mr Darley would probably know something about this, because I believe that he has raised the issue with the government before.

At that time the government responded that it intended to outlaw arcade games which are similar to gaming machines. On Thursday 24 March, I think it was, I released a consultation paper prepared by the Department of Treasury and Finance about unlawful instruments of gaming. Relevant government agencies and industry groups, such as amusement manufacturers, operators of arcades and organisations such as the National Amusement Machine Operators Association have been invited to participate in the consultation.

We seek to make a clear distinction between lawful and unlawful games by defining what aspects of arcade and other games are considered unlawful gaming and pose risks in terms of potentially tutoring people to develop problem gambling habits or to gamble when minors. Aspects under consideration include the value of prizes, the presence of spinning wheels and buttons and the level of control a player has over the outcome of the game. Clear definition will provide guidance to the industry, importantly to manufacturers, and reduce the chances of minors being exposed to gambling.

Skill-based arcade games are lawful, and I want to be very clear that it is not the government's intention to ban coin-operated, ride-on toys (such as we see at the local Coles or Woolies), video games, pinball machines, billiard tables, air hockey tables or claw crane machines, which are commonly badged as skill testers. These games are regarded as genuine recreational activities. However, games that involve an element of chance and offer valuable prizes, such as iPods, may offer unlawful gaming and can be declared unlawful instruments of gaming under section 59A of the Lottery and Gaming Act.

In 2010, a game called 'Road Trip' was removed from venues in South Australia after the distributors were advised that it met the definition of a gaming machine and must be removed from operation. Any venues found to be operating this device would be reported to the Licensing Enforcement Branch of the South Australia Police.

Following the consultation period the Department of Treasury and Finance will draft regulations and further public consultation will occur. Interested parties are encouraged to download the consultation paper from the Treasury website and make a submission via email or post by 13 May. I look forward to updating the chamber about this matter in the future.

Can I again stress that the government is certainly not interested in banning harmless recreational games that kids and old people generally play or ride—the sort of thing that we are all accustomed to seeing when we go shopping. However, it is very important that we ensure that children are not essentially taught the principles of gambling, particularly by machines that may be a toy pokie in disguise.

Indeed, I remember that when I was a child there was something a bit like the toy Senator Xenophon had here a couple of years ago. It was called a fruit machine but, in hindsight, of course, it was basically a toy pokie designed to encourage kids to learn the principles of gambling. Fortunately, it did not have any impact on me because I am not a player of the pokies at all. We certainly want to ensure that children are not coached to become future gamblers whilst ensuring that they are able to access legitimate and fun recreational machines.

MARINE PARKS

The Hon. D.G.E. HOOD (15:11): I seek leave to make a brief explanation before asking the Minister representing the Minister for Agriculture and Fisheries a question about marine parks in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: The most recent edition of *Fishing World* magazine quotes former South Australian Fisheries director, David Hill, as saying that the proposed marine parks process is 'a complete and utter sham' that will be unaffordable to manage. I was astounded to read that Mr Hill estimates that South Australian taxpayers will have to pay around $250 million per annum to manage the state's proposed 19 parks, in his estimation.

I note that Mr. Hill has other concerns and, in particular, has data from Tasmania showing that large no-take zones contribute to over-fishing and environmental degradation areas outside those zones. Mr Hill has also complained that the best evidence and research from marine scientists is being ignored by the department. I understand that one significant concern held by Mr Hill is that a submission by five senior marine scientists some two years ago which showed that the process used for declaring marine parks was flawed has been effectively ignored, in his view. My questions are:

1. Is the minister concerned that many senior marine scientists are strongly opposing plans to ban fishing in vast areas of South Australia?

2. Does the minister accept that the current marine parks proposal will be incredibly expensive to administer, as Mr Hill states?

3. Does the government accept that the former director's estimate of $250 million per year to administer the proposed 19 parks is accurate and, if not, what is the government's cost estimate?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:13): I thank the member for his questions and will refer them to the Minister for the Environment in another place and bring back a response. I would like to very briefly say that this government is very committed to the protection of our environment, and particularly our marine environment, and of course that is what the proposal for our marine parks is all about. It is about the long-term sustainability of our marine environment through preserving important parts of our marine ecosystem, and that is a very important part of our strategy for marine protection and, as a government, we do not apologise for that commitment.

The marine parks project has, indeed, been a very long one. It has probably been a policy area that has been more consulted on than any other that I can remember. Consultation has been occurring around marine parks, and various aspects of the marine parks, for at least five or 10 years. I am reminded that it was, in fact, the opposition—I think it was Iain Evans—who proposed marine parks in the first instance. So, it is now an outstanding—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —quite an outstanding proposition that the opposition—

Members interjecting:

The PRESIDENT: Order! The honourable minister.

Members interjecting:

The PRESIDENT: The honourable minister.

The Hon. G.E. GAGO: So, it is outrageous that the Liberal opposition would be opposing such a sound policy position, given that they initiated the proposal of marine parks in the first instance. Apart from that, I am reminded that it has been, in fact, almost 10 years (time flies!) since this government has been consulting with key stakeholders and the general public around marine parks. So, it is, as I said, one of the most extensively consulted policy areas that I can recollect.

There have been a number of different steps, a number of different stakeholder groups, a number of different public meetings. When I was minister for environment, I know that I actually

went out and met with crayfishers and oyster fishers. I met extensively with key stakeholders at the time and conducted a number of forums over the two years or so that I was minister; that was only one small part contributing to that consultation process, only one very small part.

So, it has been consulted on, as I said, extensively for many, many years. We have continued to listen to key stakeholders and the South Australian public, and we have considered different points of view in our development of marine parks. It is a project that is still underway. It has not been finalised yet. I understand that consultation is still continuing. I think, at this point in time, we are up to consultation around the no-go zones. As I said, we have involved key stakeholders and the general public at every step of the way.

We know that this is a very contentious policy area. It is contentious because it involves a wide cross-section of different interest groups who have a very significant financial investment in marine parks or the effects of marine parks. So, we know that those interest groups are very much supporting their own interests. As I said, there is a broad number of different vested interests. The government is working very hard to balance those, to position itself in the fairest way possible to all of those stakeholders and vested interests.

Some of those stakeholders involved have a lot of money invested in these industries. They are important industries to our economy as well, and we are very mindful and appreciative of that. So, it is about getting the balance right, and that is difficult. We continue to listen, but the environmental values are also very important to us and are also very valuable, not just in environmental terms, but also in economic costs in the long term.

We know that losing the diversification of our species makes us extremely vulnerable. Extinction of species can result in the wiping out of a particular sector overnight, a particular species that might be disease prone, so it is most important. It is not just about environmental values, but those environmental values can be expressed also in terms of economic values and, as I said, it is most important that we continue to work with and consult with the broad stakeholder groups with those complex vested interests. We try to get the balance right as best we can and that is what this government is committed to doing.

MARINE PARKS

The Hon. M. PARNELL (15:20): As a supplementary question, does the minister agree that it would be informative for all members to attend the Balcony Room at 4 o'clock this afternoon when Professor Hugh Possingham is putting the counter viewpoint as to why marine parks are good for South Australia?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:20): I thank the honourable member for reminding members of this very valuable forum.

MARINE PARKS

The Hon. R.L. BROKENSHIRE (15:20): As a further supplementary, given the minister's answer, first, can she confirm reports of last week that Yorke Peninsula will be the winner with a reduction in marine parks; and, secondly, can the minister advise the house why PIRSA Fisheries have advised members of parliament that there is no risk to fish stocks, unlike the reports coming out of the department of environment?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises) (15:21): I am very happy to pass on the honourable member's questions to the relevant minister in another place and bring back a response but, as we know, the marine parks strategy, according to my understanding, is not about preserving our commercial fish stocks. Those roles and strategies are conducted through PIRSA and we have a range of mechanisms in place to deal with that. The marine parks are about conserving environmental values and preserving high-value parts of our marine ecosystems. That is my understanding but, as I said, I will refer those questions to the appropriate minister in another place and bring back a response.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (15:22): I seek leave to make an explanation prior to directing a question to the Leader of the Government on the subject of WorkCover.

Leave granted.

The Hon. R.I. LUCAS: In an article in *Indaily* this week, the former CEO of WorkCover, Keith Brown, highlighted what he described as his political knifing by the incoming Labor government in 2002 and then went on to describe the fact that virtually the whole WorkCover board and his entire management team had left in what he described as an attempt by Labor to impose its own political agenda on the corporation. Further on, the article stated:

'So all that corporate memory went,' he says, identifying where he thinks the rot set in. 'In the commercial world...you run a very real risk when you do that of causing great problems to the business. Because there's no continuity, there's no understanding of where the issues are coming from, of how they are tracking. That was shoved out the door. What went wrong was their zeal for political change.'

Further on, he is quoted as saying:

'Also in terms of the impact on people, it's very clearly my philosophy that you work with the stakeholders, the workers and the injured workers. Get that equation right and the money will follow. If you focus entirely on the financial relationship then that's all you get. You get the consequences that I think they've suffered.'

The article further states:

Brown uses the carrot and the stick analogy to describe the culture that he thinks WorkCover should embrace again. 'Though both are available, we focused very, very heavily on the carrot. Because if you've got enlightenment rather than compliance, then you are more likely to be successful. People see it is good for business, it's good for relationships with their staff and they have a safe workplace, it's actually more powerful than the threat of some penalty for not complying.

My questions are:

1. Does the minister agree that Labor's attempt to impose its own political agenda on the WorkCover Corporation and its removal of virtually all of the corporate memory in WorkCover have been factors in the major problems we now see with the WorkCover scheme?

2. Does the minister agree that the Labor government's change in the culture of WorkCover, from a culture of working cooperatively with stakeholders, employers, workers and injured workers to a culture of focusing entirely on financial relationships, has also been a major factor in the problems that we currently see with the WorkCover scheme?

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:24): I thank the Hon. Mr Lucas for his question. The former executives or former board members of WorkCover may well have a view about how the corporation was run, how it should be run. They are entitled to have a point of view; it is a free country.

The government's responsibility is to make appointments to the board of people who it thinks are going to be in the best position to manage the scheme effectively to ensure that it is able to meet the demands made of it by claimants as well as play a role in ensuring that workers compensation runs effectively and efficiently within the state, and that workers are, wherever possible, kept safe at work and return to work quickly in the unfortunate event of an injury.

That is what the government takes into account when it makes appointments. The charter of the board is quite clear in that the role of the board is to manage the corporation and its affairs on a day-to-day basis. The government, under the act, maintains the responsibility not only of appointing the board but, ultimately, the responsibility for the performance of the scheme.

The board, the chief executive and the management of the corporation will, of course, make decisions from time to time about the staffing of the corporation, as any board or management would. I am certainly not convinced that it is accurate to say that the government has in some way put in place a regime to remove all of the existing staff at WorkCover.

I would be pretty surprised if it was the case that there is nobody working at WorkCover today who was working there in 2002. I would imagine that there would be quite a number of people who are still there, but there would be a lot of others who have left for one reason or another.

The Hon. Mr Lucas seems to be suggesting that, in a workforce of any organisation, corporation or management system, the staff, board, management, culture and everything about that corporation, business, scheme or agency should be frozen in time. That is a pretty absurd proposition and the government does not agree with it.

ANSWERS TO QUESTIONS

THEBARTON URBAN FOREST

In reply to the **Hon. J.M.A. LENSINK** (9 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Water has been advised that:

1. The handover of the remediated Thebarton site to the Adelaide City Council is expected to occur in the third quarter of 2011. Additional investigations were required in the development of the Remediation Action Plan. This has resulted in some delay in the commencement of the remediation works and the handover. The remediation work is targeted to be completed by June 2011.

2. The project cost as at 28 February 2011 is $1.194 million.

PUPPY FACTORIES

In reply to the **Hon. T.A. FRANKS** (11 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Environment and Conservation has advised that:

1. The aim of the South Australian Code of Practice for the Care and Management of Animals in the Pet Trade (the Code) is to ensure that persons or businesses that procure and trade in pets meet appropriate welfare standards while the animals are in their care. A review of the Code was undertaken following complaints about the practices of some pet sellers.

The scope of the review of did not specifically include breeding and puppy farms. If any dog breeder, whether a commercial puppy factory or a private individual, is found to be keeping animals in unacceptable conditions, there are adequate provisions in the Animal Welfare Act 1985 to address the situation and if appropriate, to prosecute the person responsible for their care. Animal welfare standards should not depend on the number of animals being kept.

2. There is currently only one large commercial puppy breeding establishment operating in South Australia. This establishment has been inspected by RSPCA officers who did not find any animal welfare concerns.

While the Government considers that the current provisions of the Animal Welfare Act 1985 are adequate to address the welfare of animals in commercial dog breeding establishments, a National Dog Code is currently under development. The National Dog Code is intended to apply to anyone keeping dogs and will cover all aspects of their care and welfare, including breeding and puppy factories. Once developed, the State Government will consider incorporating the requirements into regulations under the Animal Welfare Act 1985.

STATE HERITAGE

In reply to the **Hon. J.M.A. LENSINK** (24 November 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Environment and Conservation has advised that:

1. As part of the restructure of government agencies following the state election, a number of options for the location of heritage functions within government agencies were proposed. Following consideration of these options, the Minister for Environment and Conservation determined that the optimal outcome for Heritage Policy in South Australia was to retain all heritage functions within the Department of Environment and Natural Resources.

DISABILITY SELF-MANAGED FUNDING

In reply to the **Hon. K.L. VINCENT** (27 October 2010).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): The Minister for Disability has provided the following information:

1. As of 17 January 2011, a total of 44 people are participating in the Phase One: Self-managed Funding Initiative. Of these:

- 32 currently have a signed self-managed funding agreement and have commenced self-managed funding.
- 12 people are finalising their plans.

2. At this point in time, no one who has signed a self-managed funding agreement has withdrawn.

3. A decision for new self-managed funding arrangements will be made available once the evaluation of Phase One is complete and the service and policy development indicated by the outcomes of the evaluation and consultative process has been undertaken. The long term goal is for all disability service recipients to have the option of self-managed funding.

4. Extending self-managed funding to people who are clients of other disability services, not just Community and Home Support SA (formerly Disability SA) is a long term goal.

5. Phase One of self-managed funding is enabling Community and Home Support SA to develop and test mechanisms such as Personal Support and Expenditure Plans that support people with disabilities and their carers to have choice and autonomy in deciding what services best meet their needs. Once the evaluation and consultative processes are complete, Community and Home Support SA will be examining how these mechanisms can be applied more broadly to people who are not self-managing.

In addition to this, the Person Centred Active Support Model is progressively being implemented in Disability Services accommodation. Person Centred Active Support is a model which supports people living with a disability to be actively involved and participate in their own life. It is based on the principles of choice, decision making, engagement, empowerment, inclusion and citizenship. Implementation involves extensive staff training in these areas.

RESIDENTIAL TENANCIES TRIBUNAL

In reply to the **Hon. R.L. BROKENSHIRE** (23 February 2011).

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises): I am advised that:

1. There were 8,145 hearings conducted at the Residential Tenancies Tribunal in the calendar year for 2010.

2. The Auditor-General has not yet signed off on the Office of Consumer and Business Affairs financial statements. The 2009-10 Annual Report will be tabled when the financial statements are finalised.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

In committee.

(Continued from 24 March 2011.)

New Clause 50A.

The Hon. S.G. WADE: I move:

Page 21, after line 24—After clause 50 insert:

Part 18A—Amendment of *Natural Resources Management Act 2004*

50A—Insertion of section 173A

After section 173 insert:

173A—Water management authorisation is not personal property for the purposes of Commonwealth Act

A water management authorisation is not personal property for the purposes of the *Personal Property Securities Act 2009* of the Commonwealth.

If I could remind the council that at our last meeting the opposition foreshadowed a potential amendment and the government kindly undertook to engage the relevant parts of government that might be able to identify whether there were any problems foreseen with such an amendment. So,

with your leave, Mr Acting Chairman, I would ask the minister whether he has any further advice on the implications of the amendment.

The Hon. B.V. FINNIGAN: In relation to the amendment proposed by the Hon. Mr Wade, I can advise the amendment is not opposed by the government. Although section 6(4) of the Personal Property Securities (Commonwealth Powers) Act 2009 provides for the state to refer power to the commonwealth over security interests in transferable water rights, the water subgroup of the COAG Working Group on Climate Change and Water agreed that, to avoid inconsistencies between the water registers and the proposed national PPS register, security interests in water rights it should be excluded from the PPS register.

Given that nationally consistent registers are being established as part of the National Water Initiative and comprehensive legislative schemes for management of water resources (including how users acquire and transfer water rights) have been developed across the states, it is most unlikely that states will commence section 6(4) of the referral act. So the proposed amendment will have no effect.

I am advised that the Department for Water agrees that the amendments will not have any material effect, so they have no opposition to it. I thank the officials of the department for their prompt consideration of the matter.

The Hon. S.G. WADE: I would like to thank the minister for taking the trouble to get the advice and the officers for the advice; we welcome it.

New clause inserted.

Remaining clauses (51 to 67) and title passed.

Bill reported with amendment.

The Hon. B.V. FINNIGAN (Minister for Industrial Relations, Minister for State/Local Government Relations, Minister for Gambling) (15:33): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY OFFENCES (WEAPONS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. S.G. WADE: In relation to clause 1, I was wondering if the government could explain how this bill fits in any broader strategies that the government might have to reduce knife crime.

The Hon. B.V. FINNIGAN: I am not sure how that relates to the bill before the house. The government, as I believe we have mentioned on previous occasions, has invested heavily in our police force. We have expanded the number of sworn officers. We have a commitment to expand further, by some hundreds, the number of sworn police officers. The government is ensuring that police are well equipped to do their jobs, and that is something we will continue to be committed to.

There are a number of other crime prevention strategies and education strategies that are in place. We also, of course, encourage economic growth and jobs wherever possible, and it is understood that economic activity and people being in employment will generally ensure that they are less likely to get up to mischief than people who are long-term unemployed and unable to find work. Ultimately, I suppose, there is a whole range of measures or initiatives that the government supports in order to try to reduce crime overall. I am somewhat puzzled as to the nature of the question, unless there is some specific query the honourable member is making.

The Hon. S.G. WADE: I appreciate the minister is not the Attorney-General, so I do not reflect on him for not having the details of the broader strategy, but the reason for the question is that it is well known that knife control legislation such as this does not act in a vacuum. In that regard I would refer to the writings by Associate Professor Julian Bondy from RMIT University in Victoria, who stresses the importance of a multi-agency strategy to tackle knife crime, involving police, ambulance services, general practitioners, schools and local councils. The minister mentioned police and schools but again, on behalf of the opposition, I stress our hope that the government will not take a narrow approach to dealing with knife crime.

In relation to weapons there has been significant displacement, as I suggested in my second reading speech, from firearms to knives following the measures in the 1990s which received bipartisan support at the federal and state levels. Does the government expect any displacement as a result of the knife legislation and, if so, what measures are being taken to avoid that?

The Hon. B.V. FINNIGAN: I am not aware of any advice to the government from the police or anyone else that we anticipate any shift, but that is not to say such advice has not been received; I would not be in possession of it, if it was. I would say that, while this bill is intended to ensure that we have particularly stringent provisions in relation to knives, nonetheless the current Summary Offences Act does, of course, include a number of provisions which we believe are of general assistance in this regard. This bill, in particular, is designed to ensure that there is no doubt about some particular things being regarded as weapons.

Certainly, there are already provisions, and this bill seeks to strengthen the provisions, to ensure that people do not use other things—not knives, not guns—as offensive weapons. In winding up my second reading I went through the statistics relating to a number of things which some of us would probably not consider using as weapons, but nonetheless other people do, so the intention is to ensure that we have provisions which ensure it is an offence to use anything as a weapon, inappropriately, to commit violence or threaten another person or what have you. I am not aware that there is any anticipated shift from knives to some other form of weapon, but we would certainly want to ensure, through this legislation and existing legislation, that anybody who tries to use any object as an offensive weapon will face the wrath of the law.

The Hon. J.S.L. DAWKINS: On clause 1, I would like to take the opportunity to ask a question or two in relation to specific knife amnesties. The minister may recall that I have raised this matter in this chamber on a couple of occasions and, indeed, his predecessor, as leader of the government, responded to my question by saying that I had raised a matter of legitimate public concern. In the preparation of this amendment bill, did the department evaluate the knife-focused amnesties undertaken at least in the State of Victoria and in any other jurisdiction?

The Hon. B.V. FINNIGAN: I am advised that no consideration has been given that I am aware of in relation to an amnesty. I think certainly there are a number of knives that are already prohibited weapons (such as flick-knives and so on), so we would already be hoping that people do not have them in their possession, even though there may be some who do. Unless they have an exemption, they would be acting illegally. Particularly, this bill is ensuring that we address knives of any sort or, indeed, any weapons that are covered by the bill, being used in an illegitimate way, or being carried around without lawful excuse. I am not quite sure what sort of amnesty the honourable member envisages.

Certainly, we would not be suggesting an amnesty of butcher's knives, for example, because if you have a lawful excuse to possess one—whether that be in your home in a domestic context or for some professional reason—then it is not envisaged under this bill that you are going to have a problem. What we are trying to do is ensure that it is not lawful for people to carry a weapon such as a knife around on their person without lawful excuse. I am not entirely certain what sort of weapons the honourable member envisages would be captured by an amnesty, but I am not advised that any was considered. In addition, I am advised that we do have an amnesty power, but it has not been considered on this occasion.

The Hon. J.S.L. DAWKINS: I thank the minister for his response, but perhaps I could just clarify something. The information, which came, to my knowledge, from the Deputy Commissioner of Police in Victoria, Mr Kieran Walshe, was that a month-long amnesty in that state saw more than 800 weapons handed in, including: machetes; swords; hunting knives; butchers knives; and flick-knives.

I know that the minister asked why someone would hand in a butchers knife if they had a legitimate reason to have a butcher's knife, but it may well have been that people handed these things in as they had them because they had been handed down to them, and they did not have a legitimate need for them. I would speculate that there are probably a lot of knives out in the community which, if people had an opportunity to easily bring them forward and hand them in, they would do so. I suppose I would like to clarify (and the minister said at the end of his last response that there is a capacity for an amnesty): would the government consider a specific knife amnesty or a general amnesty focused on knives?

The Hon. B.V. FINNIGAN: I am advised that this bill provides an amnesty power. As I have indicated, I do not believe one is currently contemplated, but I am happy to refer it to the Attorney-General and the Minister for Police. If the honourable member wants to provide further information about what happened in Victoria, he may well be right that there might be people who have a knife or some such stashed away that they would be happy to offload if they had the opportunity to do so. I am happy to seek further advice from the appropriate ministers as to whether they think it is appropriate that there be an amnesty on knives or weapons generally put in place following the passage of this bill. There has been no decision to plan to have one at this point.

The Hon. S.G. WADE: To make a brief comment, I was derelict in my clause 1 comments in not thanking the minister and the Attorney for their assistance with this bill. Not only did we receive a briefing but we also received detailed answers to questions by the minister at the end of the second reading. We were provided with a draft of the regulations, and I am sure the information provided will mean we get a better bill as a result.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. S.G. WADE: I move:

Page 3, line 21 [clause 5, inserted section 21A(1), definition of criminal intelligence]—

After 'suspected' insert:

serious and organised'

This is the first of the amendments related to criminal intelligence. The amendment proposes to change the definition of 'criminal intelligence' by focusing it on serious and organised criminal activity. This is an issue that has come before the house in a number of forms in recent months. I suggest that this clause should be treated as a test clause for two other amendments—[Wade-2] 6 and [Wade-2] 8. Since the bill was tabled, the Legislative Council has rejected the formulation of criminal intelligence that is reflected in this bill. It did so in consideration of what is commonly known as the criminal intelligence bill.

Just as the council accepted the opposition amendments to the criminal intelligence bill, I urge the council to do the same here. The issue of criminal intelligence is being looked at by the Legislative Review Committee. It would be logical for the Legislative Council to maintain consistency between the criminal intelligence bill and this bill and maintain its position while the Legislative Review Committee undertakes its inquiry.

The Hon. B.V. FINNIGAN: The government opposes the amendment and the consequential amendments in relation to criminal intelligence. We have been over this ground a number of times before. The government, acting on the advice of the police, believes that the wording of the criminal intelligence provisions is appropriate. However, given that this matter has already been referred to the Legislative Review Committee, I do not propose that we divide on this. I do not agree with the honourable member's supposition that, because the Legislative Review Committee inquiry on this is under way, we should just continue to knock these provisions out of legislation until that happens.

It would seem that, if we are to continue to remove these clauses from bills regardless, I am not quite sure what is the purpose of the Legislative Review Committee inquiry. In any event, the government's position is unchanged that we oppose these amendments. However, for the sake of expeditious progress of the bill and, given what other members have said in the past in relation to this going to a Legislative Review Committee inquiry, we do not propose to divide.

The Hon. D.G.E. HOOD: Subject to the debate that ensues, I anticipate that Family First will support a number of amendments today, but we will not be supporting this one. We voted against a changing of the definition of the criminal intelligence provisions in previous legislation. We remain consistent with that position and, as such, we will not be supporting this amendment or the two consequential amendments.

The Hon. S.G. WADE: I respect the Hon. Mr Hood's position, and I suggest that it would be appropriate for all members to maintain that consistency. I acknowledge the minister's eagerness to facilitate the debate by not dividing.

The Hon. M. PARNELL: The Greens will be supporting the amendment.

The Hon. A. BRESSINGTON: I will also be supporting the amendment.

Amendment carried.

The Hon. S.G. WADE: I move:

Page 3, line 26 [clause 5, inserted section 21A(1), definition of dangerous article]—

Delete 'regulation' and substitute:

Schedule 2 Part 2

This is the first of the amendments which I would describe as addressing the relationship between the act and the regulations. The amendment proposes to put the list of dangerous articles in a schedule to the act rather than the regulations. I should mention that this was not, if you like, the actual trigger; the trigger for consolidating in the schedule was actually consideration of exemption of prohibited weapons, which I will explain in a minute.

I hope this is more helpful than confusing, but I suggest that this is a test clause for four other amendments: [Wade-2] 5, [Wade-2] 13, [Wade-2] 15 and [Wade-2] 44. I acknowledge that the government bill is a significant improvement in the act. For example, over the years section 15 has become complex and cumbersome and the bill is useful in making the law clearer and more accessible. However, the opposition is concerned that the parliament should maintain an adequate oversight in the development of the law into the future.

In that context, we are particularly concerned about the proposal to transfer the exemptions for prohibited weapons that are currently in the act and put them in the regulations. There is a range of other exemptions that currently sit in the regulations, so the proposed approach in the bill does have the benefit that it brings all the exemptions for prohibited weapons into one place. However, it also has the disadvantage that a range of important exemptions, which are currently in the act and require parliamentary approval for any change to them, are put in the regulations and therefore could be amended by executive action alone.

We propose that a new schedule (schedule 2) be established which consolidates the exemptions for prohibited weapons in the schedule to the act and enumerates dangerous articles and prohibited weapons in the schedule. This particular amendment relates to dangerous articles. Through this consolidation, we submit that we would improve the clarity and accessibility of the law, we would preserve statutory protection of exemptions that currently have it, and enhance the statutory protection of a group of exemptions which do not have significant conditions on them. We are mindful of the need for the government to be nimble in relation to dangerous articles—prohibited weapons, in particular—and so we would not want to reduce the flexibility of the government in responding to developments with weapons.

I can remember that, in recent years, we had such a need to develop the law in relation to lasers. However, we do not believe that they would inhibit flexibility by putting them in the act because we propose subsequently to amend section 85 such that those exemptions without specific conditions will be the only ones that could not be amended by regulation. So, in other words, if a condition is currently in the regulations and has detailed conditions, that would continue to be able to be amended by regulation. The only exceptions to that would be those that do not have significant exemptions, for example, those to police officers, those to delivery to police officers and those in emergencies. So, I urge the committee to support my amendment.

The Hon. B.V. FINNIGAN: I never wish to be accused of not being nimble. The government opposes this amendment which amends section 21A(1) of the act so that a dangerous article is defined as a thing or article declared by schedule 2 part 2, 'to be a dangerous article for the purposes of this Part'. This amendment is the first in a series of amendments designed to move, from the regulations to the act, the list of weapons that are declared to be dangerous articles, the list of weapons that are declared to be prohibited weapons and the exemptions for prohibited weapons. Indeed, as the honourable member has indicated, this amendment should be treated as a test amendment for a number of others.

As already indicated in the other place, the government believes that the regulations are, and have always been, the most appropriate place to put this kind of detail. It allows the law to respond quickly to changing circumstances without having to return to parliament to amend the act. In order to facilitate the consideration of the bill, a copy of the proposed regulations was provided to the opposition in advance.

The honourable member may argue that he has addressed this with one of his later amendments, as indeed he did, in amendment 44, which provides that the regulations may:

...vary the provisions of Schedule 2 (other than clauses 5 to 7 inclusive and 19 to 25 inclusive) by including provisions in, or deleting provisions from, the Schedule.

Clauses that allow for the amendment of an act by subordinate legislation are generally objectionable and should only be used in unique cases such as in the Cross-border Justice Act. What we have here is not a unique case. The current act allows these matters to be prescribed in the regulations, as they should be. It is not appropriate for the regulations to be able to vary the act in this manner. All it does is make the legislation more complex and difficult to understand for the average person.

So, again, while there is always a balance to be struck between what is in the act and what is in regulations, it does not make sense to the government to put what is proposed to be in regulation in the act on this occasion. In particular, I do not consider that it is good legislative practice to allow essentially the amendment of the act by regulation, in effect.

The Hon. S.G. WADE: I do not disagree with the minister that it is not normally good legislative practice to allow an act to be amended by regulation but it is not uncommon. The minister refers to cross-border justice, but I would also draw to his attention an act in his own portfolio: the Workers Rehabilitation and Compensation Act 1986 is an act that can be so amended, as is the Environment Protection Act 1993, the Local Government Act 1999 (which is, in fact, also in the minister's portfolio), the National Parks and Wildlife Act 1972 and the Health Practitioner Regulation National Law (South Australia) Bill 2010. So, I would suggest that, whilst it is something that the house should think twice about before it does it, it is not something that is inherently offensive.

In relation to the issue of accessibility for citizens—and I think the council is maintaining a strong interest in accessibility of the law to citizens—I would suggest that this actually improves accessibility for the citizens because, rather than having to look for the dangerous articles, prohibited weapons and exemptions in three different places, they only have to look in one place. In that context, I would stress that I think that citizens would care little as to the mode of future amendment of a clause they are looking at.

So, the complexity for both the parliament and for the government in terms of how future amendments is implemented is an issue that, I think, our professional officers can professionally manage. I think it has no detriment to the citizen whatsoever.

The Hon. D.G.E. HOOD: We will be supporting this amendment and the consequential amendments to it. The reason for that is quite simple. I think the government has a good point when it says that it is, generally speaking, not ideal to put regulations into legislation because regulations are more flexible.

However, in the case we are dealing with here, specifically with respect to weapons, and in particular knives in some cases, knives have not changed a lot in thousands of years, so I do not see the flexibility of regulations as being a particularly significant issue in this particular case. For that reason, I think we are inclined to agree with the Hon. Mr Wade that it is more accessible for members of the public, and certainly just plainly simpler to follow, to have them in the bill, and for that reason we will support it.

The Hon. A. BRESSINGTON: I indicate that I will also be supporting the Hon. Stephen Wade's amendment.

The committee divided on the amendment:

AYES (13)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Franks, T.A.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G. (teller)		

NOES (6)

Finnigan, B.V. (teller)	Gago, G.E.	Gazzola, J.M.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Stephens, T.J.	Holloway, P.

Majority of 7 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I move:

Page 3, after line 32 [clause 5, inserted section 21A(1)]—After the definition of 'knife' insert:

lawful excuse—see section 21E;

This is the first of the amendments related to lawful excuse. The amendment proposes to define lawful excuse in terms of the new clause 21E that is proposed in [Wade—2] 12. I would suggest that this clause is a test clause, therefore, for [Wade—2] 12 and I propose to address the issue of lawful excuse at that point.

Under the current law a range of offences provide a defence of lawful excuse. Section 21C(1), for example, provides a lawful excuse when carrying an offensive weapon. Section 21C(2) provides a defence of lawful excuse when in possession of a dangerous article, and section 21C(3) makes it an offence to carry an offensive weapon in the vicinity of a licensed premises without lawful excuse. Section 21E relates to knives in schools and public places without lawful excuse.

The government does acknowledge that a defence of lawful excuse is necessarily included so that people who innocently and legitimately possess and use knives are not in breach of the law. The changes proposed by this bill significantly expand the impact of weapons offences on South Australians, including law-abiding South Australians. It does so particularly by expanding the use of the concept of possession as opposed to use. Accordingly, the need for lawful excuse is significantly increased.

The term 'carry', which has been particularly the focus of offensive weapons in the past, means to have an offensive weapon on or about your person, or having it under your immediate control. The term 'possess' has a wider meaning than 'carry'. It could include, for instance, having the article in one's locker at school, in a locked car on school grounds or in a public car park. The Attorney-General in his second reading explanation in the other place said:

> The bill does not target people who have a legitimate reason for the possession and use of a knife in a public place. It is squarely aimed at those who misuse knives. The new offences and enhanced police search powers should discourage such people from possessing or using knives in public places unless they have good reason for doing so.

From the opposition's point of view, the moot point is: what is a good reason? The need for a lawful excuse puts a burden on the citizen. It is not a reversal of the onus of proof in the normal sense, but, as the government's own knives discussion paper states:

> If the accused person claims to have a lawful excuse then he or she has to prove it.

The paper cites the case of Poole v Wah Min Chan, a case from 1947. The government position on lawful excuse, as I understand it, can be summarised as follows: lawful excuse and similar defences are intended to allow the accused to explain possession of the thing by reference to his knowledge or intent. The onus is on the accused person to prove a lawful excuse and, generally, self-defence will not be a lawful excuse to carry a knife.

What constitutes a lawful excuse will depend on the circumstances. The act does not define 'lawful excuse' as it would be impossible to set out every circumstance that would amount to a defence of lawful excuse. It could result in the law becoming too inflexible in its application and provide offenders with a ready-made list of excuses.

The government goes on, in material available in both houses, including the answers to questions which the minister put on the record at the end of the second reading, to suggest that the police can decide in each case whether to charge the person. The explanation given by the person

when questioned by the police will be relevant to the decision whether to prosecute. The opposition's concern is the jeopardy in which ordinary law-abiding South Australians are placed. The government said that the police would not charge a person if they think that the explanation is credible and the reason for possessing or carrying it is lawful.

They gave us some reassurance in that the government asserted that a parent or guardian, who can provide a legitimate reason for carrying a knife, has a lawful excuse. But it ends up being a bit circular: if you need to have a legitimate reason to have a lawful excuse, then what is considered a legitimate reason?

They reassured us that a child who has a fruit knife in his lunchbox, and can show it is for the purpose of cutting fruit, would have a lawful excuse. I hope he has his answers ready when he is questioned. A child who carries a Stanley knife in his art kit for the purposes of participating in an art class at school would have a lawful excuse.

But the government's reassurances fade dramatically when you get to what I would call the more fringe cases—for example, whether a person has a lawful excuse if they possess a knife on their way to school or for use in an activity beyond the school. The government tells us that would depend on the circumstances. If the person is participating in an activity beyond the school that requires the use of a knife, then that would likely constitute a lawful excuse, particularly if the person was travelling straight from school to that activity. If the person is prosecuted, the person bears the onus of proving that he or she had a lawful excuse for possessing the knife with reference to his knowledge or intent.

In conclusion, the government said that the court must determine on the evidence and its credibility whether the accused has a lawful excuse. So the government says that 'those without a legitimate reason for possessing a knife in a public place or school would have nothing to fear.' But this position is somewhat naive. Ordinary law-abiding South Australians will fear; they will worry whether or not their use will be seen to be lawful. In the opposition's view, the government's position puts ordinary South Australians in an unnecessary fear of prosecution. Law-abiding citizens are more likely to be stressed by the risk of prosecution and unnecessarily restrict their practices. It is our view that we need to give South Australians more confidence that they are not breaching the law. So the opposition proposes that 'lawful excuse' be partly codified in the proposed new section 21E.

We say that because, when we are significantly expanding offences beyond carrying weapons to include possession, we need to provide a high level of clarity as to what is a lawful excuse. I stress that the amendment No. 12 (Wade 2) which proposes to insert a new section 21E will not limit the excuses. Subsection (1) specifically provides:

> Nothing in this section limits the circumstances in which a person will, or will not, be taken to have a lawful excuse for the purposes of this Part.

My amendment will not guarantee a defence; it will still be a matter for courts. But it means that citizens would have to rely on more than two words: 'lawful excuse'. They will have some guidance as to the content of those words with reference to the act.

Members might be asking themselves what the origin is of section 21E. Proposed section 21E(2) to (4)(c) correspond to the elements currently enumerated in section 15(2a)(b) to (f) of the current Summary Offences Act that relates to exemptions for prohibited weapons. Proposed section 21(5) relates to section 15(2a). These provisions provide content to 'lawful excuse' in terms of possession and use of weapons. Section 21D and E are drawn from New South Wales legislation which are also provided in the context of lawful excuse.

In terms of specific examples of lawful excuse, I have mentioned the fruit knife after school. I stress that these are not just the fanciful imaginings of a Legislative Councillor late at night. They were brought to the attention of the government as a result of the consultation that resulted in relation to the knives discussion paper which, if I remember rightly, was in 2009-10.

In that context it is worth considering the submission of Scouts SA which asks whether a scout or a young person in public, on an organised and supervised hike with an organisation, might be a lawful excuse to carry a knife. Wildcatch Fisheries SA mused whether possession of knives in public places, at boat ramps, is an essential part of their normal commercial activity. They asserted that possession of knives in public places, at boat ramps, is an essential part of their normal commercial activities and should not be curtailed, and they raised concerns that that be addressed by a lawful excuse.

There were other concerns raised by organisations such as the Royal Caledonian Society, but we believe they are indicative of the level of concern that would be in the broader South Australian community if there was, if not complete codification, at least some clarification as to what constitutes a lawful excuse.

The opposition does not assume that the set of lawful excuses is exhaustive, and we will be moving an amendment to section 21M so that, by regulation, the government can provide clarification that provisions do not apply to specific classes of person. In that sense we believe that a wise use of the exemption power, in concert with the lawful excuse clarification, will provide more reassurance to South Australians that this legislation should not unduly interfere with law-abiding citizens going about their business.

The Hon. B.V. FINNIGAN: I thank the honourable member for that thorough contribution. The government opposes the amendment, which inserts the definition of 'lawful excuse' into the bill. As the honourable member has indicated, the defence of lawful excuse is intended to allow the accused to explain his or her possession of the thing by reference to his or her knowledge or intent. It is currently a defence to a number of offences in the Summary Offences Act, including the offensive weapons and dangerous articles offences.

What constitutes a lawful excuse is not defined in the act as it would be impossible, in our view, to set out all of the circumstances in which a person might have a lawful excuse. Instead, whether an excuse is lawful or not will depend on the circumstances surrounding the offence. Setting out what might constitute a lawful excuse also has the effect of providing offenders with a ready-made list of excuses.

The government believes a lawful excuse should remain undefined unless a substantive issue arises in the future concerning how lawful excuse is defined or interpreted. If that occurs, the government can address it through a regulation, as 21M(a) of the bill already provides that the regulations can prescribe the circumstances in which a person will or will not be taken to have a lawful excuse in relation to an act or omission referred to in section 21C or 21E, so the amendment is opposed.

I find it interesting that it seems we have legislative philosophy turned on its head here where for many years the trend has been to put everything in statute, rather than leaving things to the common law. People like the Hon. Mr Wade and the Leader of the Opposition in the other place have long railed against this government, particularly the Premier and the former attorney-general, for always trying to talk down the courts or not trust the courts and not let judges make decisions, and for constantly talking tough on law and order.

What we have here is the opposition saying, 'We don't trust the police in relation to whether or not they are going to use their judgement about whether charges are laid, and we don't trust the courts to interpret a perfectly regular, normal, common term that is used in all sorts of statutes which we trust the court to interpret properly.'

Instead, what we have here is the opposition saying, 'We have to lay down in minute detail what something means because we can't trust the courts to interpret something, even though it has been a standard phrase used in common law for, probably, centuries.'

It seems extraordinary that the government, which has often been accused of not having due respect for the courts and the law by left-leaning lawyers like the Hon. Mr Wade, is now being told that it is not good enough to let the courts interpret whether or not you have a lawful excuse, and it is not good enough to let the police use their judgement. Instead, we are going to have to lay down, in statute—in excruciating detail—exactly what that term means.

The Hon. S.G. WADE: I would stress to the committee that I made no comments in reflection on the courts or the police. In fact, in my contribution, except for quoting the government's statement as to what the police would do, I do not think I mentioned them. My focus was and remains the minds of South Australians. South Australians may well, in response to a lack of clarity, inhibit their activity—whether that is fishing, school, employment, or whatever. They might overly react to this legislation because of its lack of clarity and curtail it in a way that the police would never be interested in and the courts would never regard as questionable. So, it is a matter of providing some reassurance to South Australians.

I do not accept that this is codification. The new subsection 21E(1) says that it is not. It says that nothing in this section will limit lawful excuse. So, the Hon. Mr Finnigan and, wherever his lawyers lean—I do not know; Labor lawyers seem to lean all over the place depending on where

the polls are going—those lawyers can continue to use the common law and lawful excuse. It is just that this statute, with this clause, will have some clarity so that ordinary South Australians going about their business can have some reassurance that the police are not interested in their activities.

The committee divided on the amendment:

AYES (13)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Franks, T.A.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G. (teller)		

NOES (6)

Finnigan, B.V. (teller)	Gago, G.E.	Gazzola, J.M.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Stephens, T.J.	Holloway, P.

Majority of 7 for the ayes.

Amendment thus carried.

The PRESIDENT: It would save time if some of the minor parties and Independents indicated what they were doing.

The Hon. S.G. WADE: I move:

Page 4, lines 3 to 9 [clause 5, inserted section 21A(1), definition of offence of violence]—Delete the definition and substitute:

offence of violence means an offence where the offender uses a weapon, or threatens to use a weapon, against another for the purpose of committing the offence, or escaping from the scene of the offence;

Under section 2G of the bill the commissioner may issue a weapons prohibitions order against a person if the person has been found guilty of an offence of violence. An offence of violence is defined in section 21A as where a person uses a weapon or inflicts serious harm or threatens to inflict serious harm on another. The bill does not require that a person has used a weapon, and my understanding is that it would include common assault without a weapon. In that sense it could even involve threats made without a person being physically present.

The government misleads us in the second reading on this point. This is reflected in both the Attorney-General's second reading explanation in the House of Assembly and in the second reading explanation in this place by the minister representing the Attorney-General in another place. The relevant section reads as follows:

As part of its election platform the government pledged to introduce weapons prohibition orders modelled on the firearms prohibition orders legislation, which enable police to ban persons with a known propensity for violence and with a history of carriage of weapons from possessing or accessing prohibited weapons in a public place. Sections 21G to 21J of the bill implement this election commitment.

I draw the council's attention to that phrase. The government told us that it would relate to people with a history of carriage of weapons. That is not my understanding of the operation of the clause. This statement is not true; the bill does not require a history of carriage of weapons.

It is the opposition's view that there should be a clear nexus between a person's behaviour and the restrictions we propose to put on them. The government has offered no evidence of a correlation between a person's propensity to make threats, a person's propensity to inflict harm and a person's propensity to use a weapon. In the absence of some evidence, the opposition thinks that a preventive tool like this arrangement is best applied to those who have shown some predisposition to abusive weapons. I urge the council to support the amendment.

The Hon. B.V. FINNIGAN: As already indicated in the other place when this was dealt with, the government opposes the amendment. The amendment limits the application of a weapons' prohibition order to people who have committed an offence of violence with a weapon. The government believes the amendment is too narrow and that the circumstances that the bill is addressing are serious enough to warrant the broader definition that a weapons prohibition order can be issued for an offence involving the use of a weapon or an offence where the offender has inflicted serious harm on another person. Members may be aware that this was the subject of some debate in the other place. While reiterating that the government opposes the amendment, I do not propose to spend a lot of time on it.

The Hon. D.G.E. HOOD: Family First opposes this amendment. We believe that this is very serious indeed, and we do not want to limit the potential for orders to be made in the rare cases where it may be relevant to make such an order where it was not involving weapons. So, for that reason—and, I might say, it is a somewhat difficult decision because it is obviously a very significant issue—we do, on balance, oppose this amendment.

The Hon. A. BRESSINGTON: I indicate that I will be supporting the amendment.

The Hon. T.A. FRANKS: I indicate that the Greens will be supporting this amendment.

The Hon. K.L. VINCENT: Opposing.

The committee divided on the amendment:

AYES (9)

Bressington, A.	Dawkins, J.S.L.	Franks, T.A.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Wade, S.G. (teller)

NOES (10)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V. (teller)
Gago, G.E.	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Vincent, K.L.	Wortley, R.P.
Zollo, C.		

PAIRS (2)

Stephens, T.J.	Holloway, P.

Majority of one for the noes.

Amendment thus negatived.

The Hon. S.G. WADE: I move:

Page 4, after line 12 [clause 5, inserted section 21A(1)]—After the definition of *offensive weapon* insert:

official ceremony means a ceremony conducted—

(a) by the Crown in right of the State or the Commonwealth; or

(b) by or under the auspices of—

(i) the Government of the State or the Commonwealth; or

(ii) South Australia Police; or

(iii) the armed forces;

I apologise to the council for tabling this amendment late. It is consequential. It is necessary to give clarity to lawful excuse. The term 'official ceremony' is used in the lawful excuse, which is 21E. The concept of official ceremonies looks familiar to members, of course, because you have seen it in the schedule. It is exactly the same definition as in the schedule. It is just that it needs to do work, not just in the schedule in relation to exemptions; it needs to do work in the act in relation to lawful excuse. So, it is consequential to the previous division on [Wade-2] 3, in relation to lawful excuse.

The Hon. B.V. FINNIGAN: The government opposed the insertion of the definition of lawful excuse, so logically we oppose this amendment as well, but we do not propose to divide on it.

The Hon. S.G. WADE: With all due respect, I accept that the minister is not going to divide, but if a clause has been put in which the government does not support, I would have thought it was logical to not actually sabotage the clause by allowing a definition to be inserted. So, I appreciate there is no division, but I would ask the minister to think about good legislative practice. If you have lost the vote to put the clause in, do not denude it by not allowing it to be defined.

The CHAIR: The honourable minister, we have not heard from the minor parties or the Independents. Somebody might indicate where the numbers are and there might not be any need to divide. That is probably what the minister is talking about.

The Hon. B.V. FINNIGAN: Sorry, Mr Chair, if I may. Given that we are talking about good legislative practice, this was filed, I think, half an hour ago, so you could hardly expect that I would have had time to consult the law lords and the man on the Clapham bus about an amendment that you have just filed. So, I do not think you should be getting upset because we are not saying we are going to support it. We have indicated that we did not support the insertion of the definition and I have said we would, therefore, logically oppose this. It was the will of the council to insert the definition of lawful excuse, ergo, the council is, of course, free to add this to it. As I indicated, we will not be dividing on it, but I do not see that we should be obliged to support something we saw about half an hour ago.

The Hon. S.G. WADE: I draw the committee's attention that the minister is moving from argument to argument.

Members interjecting:

The Hon. S.G. WADE: I am sorry. The minister is suggesting to the committee that he and the government members are going to vote against this legislation—

The CHAIR: That is the minister's prerogative.

The Hon. S.G. WADE: —on the basis of good legislative practice because he says that, if we opposed the clause, then we should oppose any definition that relates to it, any consequential amendment; that is not how consequential amendments work in this place. Now the minister is arguing that it was inappropriate for me to table the amendment late. I have already apologised to the council for that.

The CHAIR: Hear, hear! So you should.

The Hon. S.G. WADE: I am more than happy for the committee to report progress and further consideration to be given, but we have now shifted from the argument about whether or not the government wants to be consistent in its support to an argument about whether the government has had an appropriate time to consider it. If the government wants to allow this to go through without giving it due consideration, well, that is a different argument.

The CHAIR: It is their prerogative.

The Hon. S.G. WADE: I just think the committee should be clear as to what the government is saying.

The Hon. D.G.E. HOOD: I understand this is consequential to [Wade-3] 2?

An honourable member: Yes.

The Hon. D.G.E. HOOD: Yes, okay. Well, we supported that amendment and we will be supporting this one.

The Hon. B.V. FINNIGAN: I believe it is quite common for ministers to indicate that we oppose consequential amendments because we opposed the test amendment, but we will not divide on them for the purpose that the council has expressed its will and we accept that.

The CHAIR: The Chair appreciates that.

The Hon. B.V. FINNIGAN: I did not say it is inappropriate. The Hon. Mr Wade can file any amendments he likes, as any other honourable member is free to do. However, on behalf of honourable members, we do not believe we have had time to consider this properly and so, for that

reason, as well as for the reason that we opposed the definition insertion in the first place, we will oppose the amendment. Other honourable members are free to do as they wish. As I well imagine that they wish to insert this, then they can do that. I have indicated that we will not divide on it on that basis, so I am not quite sure what the honourable member is unhappy about.

The Hon. M. PARNELL: The Greens support the amendment.

The Hon. A. BRESSINGTON: I support the amendment.

The Hon. J.A. DARLEY: I will be supporting the amendment.

The Hon. K.L. VINCENT: Support—it is a lot of trouble to go to for one word, but thank you.

Amendment carried.

The Hon. S.G. WADE: I move:

Page 4, line 13 [clause 5, inserted section 21A(1), definition of *prohibited weapon*]—Delete:

'regulation' and substitute:

Schedule 2, part 3

I would suggest to the committee that [Wade-2] 5 is consequential on [Wade-2] 2.

The Hon. B.V. FINNIGAN: At the risk of incurring the ire of the honourable member, the government did not support the original proposition, but we do accept that this is a consequential amendment, so we will accept its passage.

Amendment carried.

The Hon. S.G. WADE: I move:

Page 4, after line 15 [clause 5, inserted section 21A(1)]—After the definition of *school* insert:

serious and organised criminal activity means criminal activity involving 2 or more persons who are reasonably suspected of associating for the purpose of organising, planning, facilitating, supporting or engaging in serious criminal activity (within the meaning of the *Serious and Organised Crime (Control) Act 2008*);

I would suggest to the committee that [Wade-2] 6 is consequential on [Wade-2] 1, and I seek the committee's support.

The committee divided on the amendment:

AYES (10)

Bressington, A.	Dawkins, J.S.L.	Franks, T.A.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W.	Vincent, K.L.
Wade, S.G. (teller)		

NOES (9)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V. (teller)
Gago, G.E.	Gazzola, J.M.	Hood, D.G.E.
Hunter, I.K.	Wortley, R.P.	Zollo, C.

PAIRS (2)

Stephens, T.J.	Holloway, P.

Majority of 1 for the ayes.

Amendment thus carried.

The Hon. S.G. WADE: I move:

Page 4, after line 18 [clause 5, inserted section 21A(1)]—After the definition of 'suitable for combat' insert:

'vicinity of licensed premises' means—

(a) the area within 50 metres of the boundary of the licensed premises; or

(b) an area—

(i) in which people are queuing to enter the licensed premises; or

(ii) for carparking specifically provided for the use of patrons of the licensed premises,

(whether or not lying within 50 metres of the boundary of the licensed premises);

I believe that I should move this amendment because it relates to the definition of 'vicinity of licensed premises' in section 21C(3). The reason why I am being cautious about that is because the opposition is somewhat attracted to the amendments of the Hon. Ann Bressington in relation to 'vicinity of licensed premises' in section 72A(9). Considering that the Hon. Ann Bressington has not moved an amendment to this clause, I believe that I still need to move [Wade-2] 7 standing in my name.

What this does is insert the definition of 'vicinity of licensed premises' in the definition clause, and it has work to do outside of section 72A in the context of 'carriage' in section 21C(3). So, I acknowledge that there will be an inconsistency between the two definitions of 'vicinity of licensed premises', if other members are attracted to the Hon. Ann Bressington's amendments, as we are.

I would suggest to the council that if, in fact, that is the result, then we may want to recommit this clause at the end. If, in fact, the council is not attracted to the Hon. Ann Bressington's amendment at a later stage, then we will be persisting with our amendment because we believe it is better than the act as it stands.

In neither section 21C(3) or section 72A(9) is 'vicinity of licensed premises' defined. Whether in relation to an offence or in relation to the exercise of search powers, it is important that there is clarity as to the geographic boundaries. It would assist the police so that they know more clearly when an offence has occurred and when they can use the enhanced search powers, and it is important that the community knows when they are in the vicinity of a licensed premises. It will help keep people with weapons away. It will let people know that they will be more liable to be searched for weapons.

The definition that the opposition proposes at this point, and in relation to section 72, is a combination of two elements: one, a reasonable distance, which is 50 metres. I appreciate that is reasonably arbitrary, but it is a reasonable distance. Secondly, it includes relevant portions of the definition of a prescribed area in the Controlled Substances (Miscellaneous) Amendment Act 2010.

I note that the government actually had a definition of 'vicinity of licensed premises' in its 2009 bill, and I seem to recall that the government was suggesting, at that stage, 500 metres. That was clearly ludicrous. If you had a radius of 500 metres around each licensed premises you could basically carpet the whole of metropolitan Adelaide. We do not agree that the government's current approach to leave it undefined is constructive. I urge the council to support my amendment.

The Hon. B.V. FINNIGAN: The Hon. Ann Bressington's amendment, as I understand it, was filed today, so I am not in a position to advise the government's position on that at this time. I am happy for progress to be reported but, if any other honourable member would like to put a view, then perhaps now would be a good time to do it. From the government's view, that would be a more sensible approach rather than deal with an amendment that we may then wish to pass a different amendment in lieu of if we would be happy to support either of them.

Progress reported; committee to sit again.

CHILD EMPLOYMENT BILL

Adjourned debate on second reading.

(Continued from 10 March 2011.)

The Hon. D.G.E. HOOD (16:51): Family First supports the second reading of this bill. It is designed to offer increased protection to children engaged in employment. There is an important juggling act in this area of law because Family First sees a benefit to children being engaged in beneficial employment, but at the same time it is important to ensure that children are kept safe and never exploited in our workplaces. I believe that everyone here would echo those sentiments.

Last year the Adelaide Entertainment Centre saw the Crusty Demons' Australian tour. The Crusty Demons definitely do some impressive motorbike stunts for those who enjoy that sort of thing. However, when they came to Adelaide last year, a six-year-old boy was slated to jump over a bus on a motorbike as part of the performance. Child welfare bodies across Australia were activated and stopped the stunt from occurring. In the process, it became apparent that our SafeWork officers were limited in what they could do if something like this occurred.

In the end, as I understand it, an informal compromise was reached where the child could ride his motorbike around the entertainment centre but the organisers agreed that he would keep two wheels on the ground at all times. This episode made it clear that there was a gap in our laws with respect to children in the workplace that certainly needed fixing, and this bill is an attempt to do just that.

I take the opportunity to thank the minister for a very informative briefing being provided to Family First by his staff. The point was strongly made—and it is a point that we accept—that there is a gap in our employment and workplace safety laws when it comes to children. Every mainland state, bar South Australia, has a section either in their child welfare laws or in their workplace safety legislation dealing with children in the workplace.

One former SafeWork SA officer who briefed us indicated that he was forever getting inquiries, in his own words, from parents and employers regarding the legal requirements regarding children in the workplace. All that he could tell them was that, in the absence of any legislation, there are no rules specifically provided that children were not missing school pursuant to the Education Act. Obviously that answer is not very satisfactory to either parents or employees, or employers for that matter, who need more direction.

ABS data indicates that close to 50,000 young workers aged 15 to 19 are currently employed in South Australia. Indeed, 12,000 children aged between five to 14 also performed work of some sort—most likely, I would presume, in family businesses. We know that most children are employed in the retail sector, and the accommodation and food service industry sectors. When I was young I worked, as I am sure many members did, in various jobs and I believe it certainly was a positive character-building experience for me, as it is for young kids.

As I alluded to earlier, there are risks that must be weighed against the benefits children derive from experiencing worthwhile employment. Children need to be protected against dangerous work and exploitation. The union movement is rightly credited for ending much of the abuse of children in the workplace during the Industrial Revolution and, indeed, after that.

John Spargo's *The Bitter Cry of Children* published back in 1906 comes to mind as probably the most influential, progressive-era exposé regarding child labour. I will read some of this onto the *Hansard* record. It is certainly a very dramatic account of the situation many years ago, and I think it clearly shows the value of rigorous laws designed to protect children in the workplace.

> Work in the coal breakers is exceedingly hard and dangerous. Crouched over the chutes, the boys sit hour after hour, picking out the pieces of slate and other refuse from the coal as it rushes past to the washers. From the cramped position they have to assume, most of them become more or less deformed and bent-backed like old men. When the boy has been working for some time and begins to get round-shouldered, his fellows say that 'He's got this boy to carry round wherever he goes.'
>
> The coal is hard, and accidents to the hands such as cut, broken or crushed fingers, are common among the boys. Sometimes there is a worse accident: a terrified shriek is heard, and a boy is mangled and torn in the machinery, or disappears in the chute to be picked out later smothered and dead. Clouds of dust fill the breakers and are inhaled by the boys, laying the foundations for asthma and miners' consumption.
>
> I once stood in a breaker for half an hour and tried to do the work a twelve-year-old boy was doing day after day, for ten hours at a stretch, for sixty cents a day. The gloom of the breaker appalled me. Outside the sun shone brightly, the air was clear, and the birds sang in chorus with the trees and the rivers. Within the breaker there was blackness, clouds of deadly dust enfolded everything, the harsh grinding roar of the machinery and the ceaseless rushing of coal through the chutes filled the ears. I tried to pick out the pieces of slate from the hurrying stream of coal, often missing them; my hands were bruised and cut in a few minutes; I was covered from head to foot with coal dust, and for many hours afterwards I was expectorating some of the small particles of anthracite I had swallowed. I could not do that work and live, but there were boys of ten and twelve years of age doing it for fifty and sixty cents a day.

Thank goodness we have progressed past that era, and credit is due to the union movement that fought exploitation along these lines all those years ago. We have certainly progressed from the exploitation of children in the workplace so evident in the past, certainly the last century and indeed beyond that. Nevertheless, certain instances of exploitation continue to occur. Children are

inexperienced when it comes to understanding their rights in the workplace and come to employers with an unbalanced bargaining position.

From the press accounts, the six-year-old child mentioned previously in the Crusty Demons account I gave was apparently quite eager to perform stunts on his motorbike, but I believe we need the power to say no when most reasonable persons would deem that type of work simply too dangerous for children. This is what the regulations accompanying this bill, no doubt, would provide.

The bill provides that certain types of occupations will be deemed, depending on age, as inappropriate for children. One or two types of occupations are specified directly in the bill. Restrictions regarding nudity, for example, are explicitly set out in the bill. The bill bans employers from requiring or permitting a child to work naked. There is an exemption for nappy commercials and similar things, where babies aged less than 12 months can appear naked in advertising nappies and the like. Family First regards this ban as being entirely appropriate and supports it.

The main operative provision is found in clause 7. This clause specifies that children must not be required, as far as is possible, to perform work that might be harmful for their health, safety or development, or adversely affect their schooling. There are also restrictions on work that will be prescribed by regulation or working in a prescribed manner. These will be outlined in regulation, but from the briefing we understand, for example, that children might be banned from using dangerous tools such as angle grinders on construction sites and the like.

Occupations that might be banned in regulation may be such things as children engaged directly in heavy industry or mining. These certain restrictions on dangerous occupations, if correctly specified, seem reasonable to Family First. Clause 6(3) excludes ordinary family businesses from the ambit of this bill, although all incorporated entities or partnerships will likely fall within the definition. This may have some unwanted consequences for some entities that would consider themselves family businesses but that are structured in a more formal way, and we will need to explore this more in the committee stage.

There is certainly more paperwork and red tape for business as a result of this bill, and that is not something that my party would generally support. Clause 9 refers to additional paperwork required to be given to children before they are employed in certain types of work. Our understanding is that a Fair Work Information Statement is already required under the Fair Work Act. As members might be aware, from 1 January last year all employers covered by the national workplace regulations system have an obligation to give each new employee a Fair Work Information Statement before, or as soon as possible after, the employee starts employment. It is proposed, as I understand it, to make the information required by this bill an addendum to that already required paperwork.

Codes of practice will also need to be developed. It is anticipated these will be prepared on a tripartite basis with the government, employer and employee associations jointly preparing these documents. Further, as yet another layer of red tape, a system of child employment inspectors are anticipated in clause 13 of this bill. We are assured however, that the current SafeWork SA inspectors will simply take on this role, with few, if any, extra resources being required to police these new requirements.

It is fair to say that Family First does have some questions about some specific details in this bill which we will explore during the committee stage. There is clearly an increased administrative burden which, in principle, is something we would not normally support. Nevertheless, the benefits to us do seem to be significant, particularly given that we are dealing with children who can be vulnerable and come from unequal bargaining situations.

Family First certainly supports the second reading of this bill. In principle, it seems a good move, and we look forward to the committee stage. We are aware of amendments being foreshadowed by the opposition, and we look forward to debating those at the committee stage.

The Hon. R.I. LUCAS (17:01): I rise to support the second reading of the bill and indicate, as the Hon. Mr Hood has indicated, that we are in the process of drafting amendments to the bill which we will seek to discuss during the committee stages of the debate. I intend to, at least, briefly outline some of the arguments for some of the amendments that we will be putting forward during the committee stage of the debate.

In speaking to the bill at the second reading, I indicate that we have consulted widely with a significant number of stakeholders and, in particular, industry associations. I think it is fair to

summarise that the majority view probably is that they believe that most of the protections should already be covered in existing statute law anyway, and I guess their argument is best summarised by the submission that some members may have seen from Business SA late last year. I will summarise briefly their arguments.

Business SA firstly acknowledges that young workers should be provided with a proper and safe working environment, as should all workers should; that should be given. They also acknowledge that Business SA is fully aware of the difficulties faced by young people in obtaining employment and, at a later stage, I think we may well put on the record the most recent figures, which do show that the youth unemployment rate in South Australia is significantly higher than most, if not all, other states. Therefore the employability of young South Australians needs to be at the top of mind, in addition to their health, safety and welfare, when we consider the Child Employment Bill.

If there is anything we do in legislation (as some of these industry groups are claiming) which will reduce the opportunity for young people to be employed in the future, then we need to be cautious about that, and I think we need to look at mechanisms where collaboration and cooperation between all the stakeholders can be fully exhausted before we have to move down the heavy legislative approach. Business SA also argues that:

> …inappropriate legislation could jeopardise a young person's prospects of acquiring employment if employers deemed it was too burdensome or confusing to employ a young person.

Business SA supports young workers being protected from exploitation in the workplace, but they raise this issue: where is the empirical evidence of widespread or systematic exploitation of young workers in the workplace?

We can all go back decades or centuries through the history books to the times of child slave labour and the various inappropriate attitude of the employers to the employment of young children during those particular years. My question to the minister up-front, when he responds to the second reading, is: other than the isolated example the Hon. Mr Hood has had quoted to him, which we have all had, can the minister indicate the evidence that there is widespread and systematic exploitation of young people in the South Australian workplace?

Even if it is not widespread and systematic, I guess there are further examples of the sorts of areas where this legislation will tackle or prevent similar exploitation in the future. As Business SA points out, we need to bear in mind that we do now have a Fair Work Act, we now have a situation where all private sector employees are covered by federal legislation as opposed to state legislation and, whilst it is right that the federal industrial relations mechanism does envisage child employment laws (and they exist in a number of other jurisdictions), there are very strict and tight restrictions on what we in the state can legislate for in relation to child or young workers' employment. The minister's second reading speech makes that quite clear. The minister says:

> …the commonwealth industrial relations laws make it clear that child labour laws made by a state or territory jurisdiction cannot deal with matters that are provided for in the national employment standards or that may be included in a modern award or agreement, for example, rates of pay.

I foolishly asked my office to give me a copy of the national employment standards, and there are 40 or 50 pages of national employment standards covering a whole range of minute detail in relation to young people's employment.

We in the state are not allowed to legislate on anything that is covered in the national employment standards or anything included in a modern award or agreement, for example, rates of pay. So, whilst a lot of issues may well be raised about young people's employment in South Australia, the current structure of industrial relations means that we have no authority over rates of pay, working hours or all those sort of things that are covered in awards or in the national employment standards. We are off covering something other than all those critical issues. Indeed, the minister says:

> This bill will not duplicate general industrial regulation already provided by industrial awards and agreements, statutory minimum employment standards, unfair dismissal laws, occupational health and safety statutes, workers compensation laws and anti-discrimination legislation.

So, again all those areas cannot be traversed by the state's Child Employment Bill. Indeed, a number of the industry groups have raised these issues. We have the Fair Work Act and occupational health and safety laws that cover all workers, including young workers, irrespective of their age. All those occupational health and safety laws apply to all employees and all workers within our workplace. Finally, Business SA in its submission also says:

...to remember that determinations of the Industrial Relations Court of South Australia have established precedents that clearly impose a higher duty of care on employers towards young and inexperienced workers.

Business SA is pointing out to us that not only do we have the Fair Work Act and occupational health and safety laws but also we have decisions of the Industrial Relations Court and have provisions (I omitted to mention this) in the Education Act (to which I will return later) which make it quite clear already that it is an offence for an employer to do anything in relation to a child's employment which might render the child unfit to attend school or participate in an approved learning program, and there is a penalty of $5,000 already for that under the Education Act.

The argument from Business SA (and from virtually all the industry associations I spoke to, to varying degrees) was saying, 'Hey, look, we understand why you're doing this in the end as a state parliament, but if you are actually looking at it rationally virtually all the field is covered already.' It is for the minister to come back to the chamber and highlight to us the examples of exploitation of young workers that will be fixed, potentially, by this legislation—not exploitation of young workers that will be fixed by the Fair Work Act, occupational health and safety standards or the various provisions of national awards because they already exist, those protections are already there. What we need to hear from the minister is: what are the specific areas that this particular bill will correct if it comes into force?

As I said, that is the general position of the employer groups. I think that those groups believe that, having put these views to the government through the Industrial Relations Advisory Council (IRAC), and having had various other opportunities to put their view to government, the government and, therefore potentially the parliament, nevertheless will proceed to implement some version of child employment laws. They have argued strongly to those prepared to listen to them that there needs to be significant amendment made to the legislation.

In particular, what they are saying is that the general theme or premise of the provisions is to try to ensure that we do not traverse areas we are not meant to traverse and already covered by the Fair Work Act or occupational health and safety legislation or, indeed the Education Act, and that in some way, if we are to make changes, they are consistent with those particular provisions and not in conflict with the provisions of the Fair Work Act, occupational health and safety and the Education Act.

As I said, I am having amendments drafted and we will go out to consultation on those during the period between this week's sitting and the next week of sitting. From the upper house's viewpoint, we will not be in a position to proceed to the opposition amendments until the next sitting week of parliament. That is our proposed course of action. I now intend to highlight a number of the areas that have been canvassed with us and that we are currently looking to amend. The first one relates to the objects of the act and covers a number of other areas within the legislation, as well; that is, under object 3A children are not required to undertake work that may be harmful to their health, safety or development.

There is no challenge in relation to health and safety as to what we understand by those terms. We have occupational health and safety laws, etc., but there are very significant questions being raised as to what is meant by and what the courts would interpret as the 'development of a young worker'. Evidently, the original drafts did talk about physical, mental, moral and social development but, after concerns were expressed, those descriptors were removed from the legislation and just the word 'development' was left. The same issue from the employer associations is, 'Therefore, that means all those potential descriptors are adequate, and it might also mean spiritual development, or development right across the spectrum in terms of a young person's development.'

Obviously, from an employer's viewpoint, they argue that in many respects the key influences on a young person's development will not be the employer (for whom they are working for a limited number of hours per week) but parents and friends, family and other influences within that young person's environment. Employers are fearful because there are penalties under the act if anything they do is deemed to have interfered with, affected or is harmful to a young worker's development.

We are certainly looking at the issue of development and potentially looking to remove the word 'development' and leaving it as health and safety and talking about what we were told was the key aspect of this—namely, subclause (b), work that does not adversely affect children's schooling, and that is consistent with the Education Act; that is, nothing in a child's employment should adversely affect a child or young person's schooling, his or her education.

That was the focus of the Education Act, and that is potentially the area that the Child Employment Bill covers that the Fair Work Bill and the occupational health and safety bill, etc. do not cover. The opposition recognises that that is, in significant part, the work of this bill if it has any significant work to do at all, that is, ensuring, as the Education Act has sought to do, that employment of a young person does not impact on their schooling. So, from our viewpoint, we can see the argument for not impacting on schooling.

We certainly see the argument about health and safety although, again, that is covered by occupational health and safety laws anyway, but we have a significant question mark about the inclusion of the word 'development' because of its impreciseness and because it evidently lacks certainly legal precedent as it relates to a young person and a young person's development. We seek, I guess, explanation from the government as to how it might be interpreted and what significant additional impost this might mean on employers employing young people.

I do not intend to raise all of the issues that will be raised in the committee; just the major ones. A key issue for most employer groups is the issue of what is a child. The government's view is that anyone under the age of 18 is a child, and the Child Employment Bill will relate to anyone under the age of 18. Certainly, the view of virtually all of the industry associations is that, if this is to be consistent with the Education Act requirements, the compulsory age of schooling ought to be the provision in the Education Act; that is, that you have to be at school up to the age of 16.

As you know, for the next year, you need to be either earning, learning or in a job, or whatever it is. I forget the government's catchphrase but, in essence, you need to be at school, in a training program or in a job, up to the age of 17. You are required to be at school up until 16, and the Education Act therefore must apply to you up until the age of 16. If this bill is to be consistent with the Education Act, it obviously makes more sense if it relates to the compulsory age of schooling, which is the age of 16.

I think it does raise some issues. The Hon. Mr Hood raised an issue which obviously the advisers from the government have raised with him, that maybe the regulations are going to ban children—that is, under the age of 18—from using angle grinders. Now, there are any number of 17-year-old apprentices out there at the moment who would be using angle grinders or a range of other pieces of equipment which the government's advisers might deem to be too dangerous for a child.

There is obviously going to be an argument that, at the age of 13 or 14, it is clearly potentially going to be too dangerous. Some of us would have the view that, if you are in the workplace as an apprentice at the age of 17 or 18, you should be able to, and somewhere you draw the line in between. The government says, 'No; it's going to have to be the age of 18.' I think that is an issue in relation to the government's definition of a child being someone under the age of 18.

It will come back through other provisions in the bill as well, because of the definition of 18, there will potentially be impacts on things which many of us would accept as perhaps reasonable and defensible employment practice for 17-year-olds in the workplace. What we might see from this bill is that being outlawed or banned and penalties being imposed on employers in those circumstances. So, that issue of the age of a child is a critical aspect of the legislation, and we will be looking at amendments in that area as well.

There are some specific technical issues in relation to the definition of a guardian into which I will not go into detail now. We have had discussion with parliamentary counsel, and I would be hopeful, perhaps, that when the government sees our amendment there, it might be prepared to support it. As I said, I will not delay the second reading by going into the detail of that change at this stage.

The next significant area is in relation to the consistency of penalties. Under the Education Act that I referred to earlier, the current maximum penalty for an employer, in essence, adversely affecting a child's schooling is $5,000. For virtually the same offence here, particularly if we take out the word 'development', the penalty will be $20,000. The opposition is open to the argument as to whether it is appropriate that it be $5,000, $20,000 or perhaps some number in between, but it would just seem logical that it be consistent.

If it is the government's view that it should be increased from the $5,000 in the Education Act at the moment, then perhaps the Education Act penalty ought to be lifted to a new figure of somewhere between $5,000 and $20,000 or, if the government is insisting on $20,000, perhaps we ought to be seeking to amend the Education Act provision because, for the same offence, it does

not make any sense to have the financial penalty in this bill four times the level of the financial penalty in the Education Act. It ought to be consistent and, as I said, we in the opposition, in the Liberal Party, have an open mind in relation to how that might be achieved and at what level.

Regarding the significant concerns of industry groups, I have not spent a lot of time today reading up to eight or nine submissions from different industry groups because there is a similarity in many respects to many of them. I do not want to underestimate or understate the degree of concern that many of the associations have about the legislation just because I have not taken the opportunity to read onto the record all the concerns they have highlighted. We are obviously hopeful that perhaps some reasonable amendment can ensure that some of their concerns can be allayed.

One of the significant areas that I hope members would have a look at is in the industrial relations area. There has been a very useful tripartite process through the Industrial Relations Advisory Council (IRAC), where employers, worker representatives or unions and the government have been able to discuss and agree on changes that relate to industrial relations law, or at least there is the opportunity for consultation.

I am advised that, under the occupational health and safety legislation, any changes in relation to regulations, I think, require a recommendation from IRAC. So, basically, before we see the regulations, business and worker representatives and the government need to have seen them and agreed upon them, and then they can be implemented by the government. I would have thought that, to most members in this chamber, that might sound like an eminently sensible process. It actually means consultation and agreement by all those affected stakeholders before it is implemented and before we come to a position where we have to confront the situation of potentially disallowing a regulation or something along those lines.

We are certainly going to be looking at a couple of amendments in that area—that is, amendments that will relate to regulations, which of course either house of parliament will still retain the right to disallow but, prior to that, that the IRAC process should be followed and that a new regulation should be on the recommendation of IRAC before it comes to be implemented. I think in that way we might be able to ameliorate or allay many of the concerns of the industry groups. They say to me, 'Well, look, there is very wide regulation-making power here.'

The Hon. Mr Hood has outlined this in his contribution based on advice from government advisers. 'This will be in the regulations, that will be in the regulations,' and they are saying, 'Well, what are the regulations?' I am sure that the government's answer is going to be, 'We haven't done the regulations yet.' We had this debate before. In this particular area, if we establish the IRAC process as being the initial filter and approver of the regulations, we may well be able to allay the concerns of many of the industry associations and industry groups as well.

We have not yet formally gone through our own Liberal Party process, but, similarly, I believe that we will propose that the codes of practice—and the Hon. Mr Hood referred to this—would be on the basis of the recommendation from IRAC as well, and again, as the Hon. Mr Hood referred to, the devil will be in the detail. There can be quite explicit codes of practice and, if they can be agreed between unions, businesses and government beforehand, that makes good sense, in our judgement anyway, and we will be proposing an amendment along those lines. Again, we are hopeful that members will be prepared to consider those.

As the Hon. Mr Hood referred to, there are some quite explicit provisions in the bill that relate to restrictions relating to nudity. On the surface of it, we support a significant part of those amendments. I cannot recall too many other pieces of law that are quite as explicit as this that we are considering. For example:

> An employer must not require or permit a child to work if—
>
> (a) the child is naked; or
>
> (b) the child's sexual organs or anus are visible; or
>
> (c) in the case of a female child aged five years or more—her breasts are visible.
>
> Maximum penalty: $20,000.

So, it is quite an explicit provision in the legislation. The Hon. Mr Hood has indicated general support for the provision. It is certainly one which, obviously, has some support.

I have raised with government advisers, and at this stage this is just a personal view, that on the surface it seems to indicate that there is to be a penalty if a six year old female child in the

entertainment industry is employed in a film or commercial, for want of a more appropriate word, 'topless' at the beach.

As a father of four, and certainly with friends who have many more daughters than we have, there have been any number of occasions where young daughters, or girls, of six, seven and eight, certainly well under the age of puberty, have been quite happily running around on the beach just with their bottoms on, if I can put it that way, the bottom part of their bathing suit, or topless, as this particular legislative provision might refer to.

The question is: is that the intent of the legislation? Clearly, there is a line where a female child, her breasts being visible, is inappropriate, and this particular provision will be supportive, but are we talking about a six year old? Are we talking about a seven year old, in relation to a six year old or a seven year old's breasts being visible?

Not all government ministers are parents, not all government ministers have daughters, and therefore their life experience in relation to some of these things may be different to the life experience of those who are parents and, indeed, have had daughters, or still have daughters of that particular age. I raise the question, and it is an issue that I intend to explore in the committee stage.

This whole provision, and I am not talking now about the nudity aspect, I am talking about the child employment aspect generally of the entertainment industry. My colleague Rachel Sanderson, the member for Adelaide, as many would know, was a very successful small business person in her own right prior to entering parliament and actually runs one of the more successful modelling agencies in South Australia.

Ms Sanderson has indicated to me—and, again, I hasten to say that I am not talking here specifically about the nudity provision that I have raised—that she has spoken to a number of managers of modelling agencies in South Australia about the overall provisions of this bill and says that none of them have been consulted and none of them are aware of the provisions of the legislation.

I can, in part, understand that because I presume that the government's advisers have worked through industry associations. I understand that there is no specific modelling and advertising agency-type industry association. There is one that represents the workers, the media alliance, whatever its long title is, and we have consulted with them, but in terms of the people who actually run these businesses, the ad agencies, photographers, modelling agencies, all of those, and in particular modelling agencies, but there would be theatre agencies and all of these sort of academies of the moment, where a lot of young people, in particular in the modelling area, defined as children (under the age of 18) in this bill, are employed.

There are any number of successful models—particularly young females, but occasionally young males—who are successful models on the national and international stage under the age that this government is going to define as a child. There are any number of those successful models under the age of 18 who will be making life choices in terms of future career options which, for a part, will impact on their schooling. In some cases, they make decisions as child actors or child models to defer, delay or affect in some way their education or their schooling.

There are provisions in the legislation in relation to parental approval but, again, this is one of the issues where I think you come back to this issue of whether the child definition is appropriate at age 18 or is it more appropriate at age 16, which is the compulsory age of schooling? After age 16, no-one can compel a young person to stay at school (or go to school for that matter), so they have that flexibility in terms of what they do with their lives from the age of 16. Yet this bill is saying that will not be the case up until the age of 18 and that these particular provisions will apply to any young person up to the age of 18.

My colleague Rachel Sanderson is further consulting with modelling agencies and others, and we will certainly be indebted to any information she can share with us for our debate in the Legislative Council and see whether or not there needs to be appropriate amendment to sensibly cater for what occurs relatively often in relation to young people (or children, as defined by the government under the age of 18) being employed in the modelling, acting or advertising industries—sometimes for a brief period of time.

Your time in the spotlight might be for a year and then your look is not the appropriate one or your body shape does not become the appropriate one or they move on to somebody else in terms of who is the flavour of the month in terms of being the child actor prodigy of the future. All of

those things can change and change quickly, and that is why—appropriately, of course—we need to ensure that appropriate education options remain, particularly under the age of compulsion for young people.

The next revision I raise generally is one of those raised by the Hon. Mr Hood, and that is that the employer must provide the child worker with certain information. Again, the point the Hon. Mr Hood raised is that under the Fair Work Act every employee has to be provided with written information in terms of their rights and responsibilities, and this will just be another piece of paperwork and red tape where the young person will get all the paperwork under the Fair Work Act and then they will get all the paperwork under this proposed child employment act as well. Certainly, we are looking at amendment in relation to that as well.

There are a number of other areas, which are more technical issues, which I will leave to the committee stage of the debate. In particular, there are some issues and questions to be raised in relation to the functions of inspectors, although parliamentary counsel have come back to me in the last 24 hours with advice that the functions that we are proposing to give to the inspectors here are the same or very similar to functions that we have given to a range of other inspectors in recent times in other statutes. So we will certainly have a look at the parliamentary counsel response in relation to that. There is a technical issue in relation to the 'no double jeopardy' provisions and proceedings for offences which we will raise at the committee stage.

The final major point that I would make is that under the regulation-making power provisions there is a provision that 'the regulations may regulate children's working hours'. Again, the minister has already outlined to us that this legislation should not traverse the Fair Work Act, the national employment standards and the national awards. We are told that working hours for all employees, including children, are covered under those particular areas.

It certainly has caused some concern that the government is saying here that it wants the regulations to be able to regulate children's working hours when, as has been indicated, that is already covered under the provisions of other statutes. We will be looking at making some amendments to that particular area. I can understand it if the government's intention is to try and ensure that an employer not be allowed to employ a young person up until 3am through the week because that might impact on the young person's schooling; it is certainly parliamentary counsel's view that that is already covered under other provisions in the bill. It is already covered under the Education Act and it would be covered under other provisions in the bill; that is, it would be an action taken by an employer that had an adverse effect on a young person's schooling.

So, a specific regulation-making power which provides you have to regulate children's working hours is not required, in the view of parliamentary counsel. On the surface of it, that would appear to be my argument as well. If that is the government's intention, which I understand it is—that is, we might want to see a set of circumstances where it is not allowed to have a young person working at 3am at the local takeaway outlet because it impacts on their schooling—then, even if we remove this regulation-making provision, the government would still be able to achieve that goal through the other provisions in the legislation. It does not open up the potential for the government to use this bill to impose broader regulations in relation to children's working hours.

That is one of the issues we are consulting on at the moment, and potentially we will bring back amendment on it as well. With that, I have just highlighted the more significant of the amendments and issues that have been canvassed with the opposition already. As I said, we are having amendments drafted and, as soon as we have concluded our consultations, we will circulate those amendments to all members and we will be in a position, hopefully soon after we resume in three weeks' time, to go through the extensive committee stage of the legislation.

The Hon. CARMEL ZOLLO (17:38): First of all, I place on record how very moving a section of the Hon. Dennis Hood's contribution was. It certainly speaks to us, I think, of the importance of recording history in case we, as a society, should ever forget. I congratulate the government on bringing this bill to the parliament, introducing stand-alone child employment legislation. As has been placed on the record by minister Finnigan, this bill will complement existing workplace legislation, whilst enhancing the protection of children in employment.

With the compulsory education age being 16, it will also provide clearer boundaries for employers and children to assess the balance between education and employment. It should also be stressed that this bill will not duplicate general industrial relations regulations already provided by industrial awards and agreements, statutory minimum employment standards, unfair dismissal

laws, occupational health and safety statutes, workers compensation laws and anti-discrimination legislation.

Whilst this legislation complements existing legislation and could be considered a given, what is a surprise to me is that data from 2006 tells us that over 12,000 children aged from five to 14 had performed work for some form of reward in the preceding 12 months. Not surprisingly, these figures include work in a family business or farm. As a migrant child, I saw a lot of it whilst growing up, but did not realise that it was still as prevalent as this. Also, perhaps as to be expected in the 15 to 19 aged groups, some 50,000 young workers are presently employed, with a majority in the retail, accommodation and food service industries.

I am certain that we have all heard or know of a young person who has been exploited. Examples include having to work long shifts on school nights, being forced to sign unfair workplace agreements or threatened with termination, the use of unpaid trials—I remember that, for one of my sons, his trial seemed to continue for a very long time at the time he was undertaking it—or being exposed to unsafe working conditions. While I emphasise that these practices have only been carried out by a small minority of employers, there is an important requirement that our most vulnerable workers are given adequate protection under the law.

I understand there has been wide consultation in relation to this bill—some two years, I am advised. I am aware that there has been some opposition, as has already been mentioned, ranging from the legislation not going far enough to suggestions that it duplicates existing legislation. The bill before us is an enabling piece of legislation which provides for the establishment of employment arrangements through regulations and industry-driven codes of practice. The government has made a commitment to stakeholders that codes of practice will be developed through extensive and inclusive consultation prior to being brought back to parliament. Essentially, the bill fills in gaps where the existing laws have proven inadequate. It provides greater certainty to both the wider business community and young workers of South Australia.

The SDA, of which I am a member, has for many years stood up for the rights of our young workers. It has been leading the charge when it comes to the need for increased recognition of the contribution that young workers make to our economy, a recognition which is well deserved.

The bill gives a clearer definition of employment terms in relation to work and spells out what it excludes, for example, domestic chores, acting as a carer, charity collection or work carried out as part of an approved learning program. There is a special definition for children working in the entertainment industry, and that work will include standing-in, modelling and public speaking for advertising or entertainment purposes.

I believe that other key features of the bill include employers' duties, in that they must ensure that each child in their employ is not required to take on work that is harmful to the child's health, safety and general development, or has a detrimental effect on the child's schooling. In relation to child nudity in the workplace, the bill states that children cannot be required to work if they are naked. Concerning employee rights, all of the children's employment rights and obligations must be given to the child in writing before they start their employment.

Another feature that I think is worthwhile highlighting is enforcement. The bill extends the power of workplace inspectors to enforce provisions under the Child Employment Act, allowing them to investigate complaints of non-compliance with the act, as well as carry out audits of employers. In relation to double jeopardy, employers alleged to have committed a breach of the Child Employment Act will not face multiple prosecutions for the breaches if they are already provided for in either the Education Act 1972 or the Occupational Health and Safety Welfare Act 1986.

Our young workers under the age of 18 who are in the workplace for various reasons are the most vulnerable workers, and I am pleased to support this legislation.

Debate adjourned on motion of Hon. J.M. Gazzola.

At 17:45 the council adjourned until Wednesday 6 April 2011 at 14:15.