LEGISLATIVE COUNCIL

Tuesday 3 May 2011

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

STAMP DUTIES (INSURANCE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (PERSONAL PROPERTY SECURITIES) BILL

His Excellency the Governor assented to the bill.

PAPERS

The following papers were laid on the table:

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

Professional Standards Council—Report, 2009-10
Reports, 2010—
- Department of Further Education, Employment, Science and Technology
- Office of the Training Advocate
- Training and Skills Commission

Community Visitors Scheme in South Australia—Report to Parliament, 6 April 2011.
Police Complaints Authority Report on Annual Compliance Audit, 1 February 2010—31 January 2011
Regulations under the followings Acts—
- Fisheries Management Act 2007—
  - Blue Crab Fishery
  - Demerit Points
  - General—Classes of Fishing Activities
  - Marine Scalefish Fisheries
  - Prawn Fisheries
  - Rock Lobster Fisheries
- Local Government Act 1999—Financial Management
- Motor Vehicles Act 1959—Registration
- Road Traffic Act 1961—Miscellaneous—Photographic Evidence
- Spent Convictions Act 2009—Definition of Justice Agency

QUESTION TIME

ROYAL ADELAIDE HOSPITAL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave—on, incidentally, 3 May, the International Day of Trust—to make an explanation before asking the minister, and the Leader of the Government, a question regarding misleading information provided to this parliament about the Royal Adelaide Hospital.

Leave granted.

The Hon. D.W. RIDGWAY: In this place, on 7 April I asked the minister representing the Minister for Health about utility and electricity charges at the new Royal Adelaide Hospital. I explained that the health minister, the Hon. John Hill, had earlier claimed that the consortium, not the taxpayer, will be 'responsible for the electricity side of the operation'. The health minister further asserted that the consortium would be 'responsible through the contract over the 35 years of the contract for the supply of energy'.

So, on 7 April I asked the Hon. Gail Gago, the minister representing the Minister for Health, how the government claim stacked up against the Macquarie Bank documents, which show the cost of utilities such as electricity will be passed on in full to taxpayers. In her response the Hon. Gail Gago replied that it was—and again I quote—an 'outrageous assertion' by the opposition. She told this chamber the opposition had come into this place time and time again with 'incorrect and inaccurate information'. She called the opposition 'sleazy cowards' and said that the premise of my question was nothing short of a disgrace.

On 15 April *The Australian* reported Mr Hill had misled voters about who would pay those power bills. He admitted the state would pick up the power tab during the operation of the 35-year contract, just as the opposition said it would. Mr Hill has been found out and publicly had to admit he has misled the state. My questions are:

1. Will the minister now acknowledge that she has misled this chamber?

2. Will the minister apologise for misleading the chamber and will she immediately, and without reservation, withdraw her offensive and inaccurate comments?

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, Minister for Gambling) (14:25): What an outrageous assertion! As usual, the opposition comes into this place with distorted facts and figures, with only half-baked information, and makes all sorts of assertions. They do not bother to check their facts and figures. Time and time again they come into this place with inaccurate information, where they do not check their facts and figures, make all sorts of assertions and malign all sorts of individuals, including public servants. They have no compassion whatsoever. They come into this place and make all sorts of vile assertions, so I will not withdraw any of those comments, because they were made in that general context and that general context still applies. Time and time again they have been found to have provided misleading information to this place and to have failed to check their facts and figures.

In fact, the reason I was so scathing on that particular day—and I made no comment about the utility charges because I had no information about that at all and agreed to refer that to the appropriate minister, if I recall correctly, so I made no assertion about the charges—and what I maligned them about was the fact that they came in here and referred to a document that they refused to table. They refused to make that document publicly available and they refused to table it. Cowards: that is what they were, and that is what I had a go at them about on that particular occasion. I say it again: they come into this place and make reference to documents that they are too cowardly to table.

ELLIS, MR B.

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before directing a question to the Minister for Regional Development, representing the Premier, about the employment status of Mr Bob Ellis.

Leave granted.

The Hon. J.M.A. LENSINK: The Premier's good friend, Mr Bob Ellis, wrote an opinion piece last month in the ABC's online publication The Drum, in which he lamented the lack of fitness of Australian women in the battlefield, following the ADFA scandal. The Liberal opposition understands that Mr Ellis continues to receive taxpayer funding as a speechwriter for the Premier. My question is: given that two junior female ministers in the state government have publicly expressed their opinions that Mr Ellis is out of touch, will the Premier review Mr Ellis's 'employment'?

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, Minister for Gambling) (14:28): Indeed, I think it was on 13 April, The Drum published an opinion piece by Bob Ellis about the Australian Defence Force. He wrote a range of comments that I and many others found particularly offensive. I am sure that I was not alone in finding the opinions that he expressed in that particular piece disturbing. I believe that his comments were extremely unhelpful and made light of the traumas experienced by a number of ADFA personnel.

At the time, I was accused by the opposition of remaining silent. Again, this is a very good example of the opposition getting it completely wrong. They went out and said that I had remained silent on this issue, and I hadn't at all—not at all. In fact, I had put a piece on The Drum website and also provided a piece to the Australian Associated Press (AAP) in which I was very critical of the comments made by Mr Ellis.

Again, the opposition just gets it wrong. They go public and shoot off their mouth. They do not check their facts and figures, and no-one holds them accountable. They are allowed to go out there and shoot off their mouth, saying things that are completely inaccurate, when in fact I had commented and been most critical.

I have put those comments on record, and I am happy to read them onto the record here today. The comments that I wrote and were published on The Drum on 14 April were:

Bob, in this case I have to say you are simply wrong. What happened at the Australian Defence Force Academy was disrespectful and a betrayal of trust. This type of behaviour cannot be condoned or dismissed as a youthful prank. I commend the way the defence minister Stephen Smith has handled this matter. Bob, I've admired your ability to challenge the way people think, but in this case you've completely overstepped the mark.

OFFICE OF CONSUMER AND BUSINESS AFFAIRS

The Hon. S.G. WADE (14:31): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question relating to the policy of the Office of Consumer and Business Affairs.

Leave granted.

The Hon. S.G. WADE: South Australians are required to produce identification for a range of purposes often using the 100 points check process. A driver's licence is a key identification document. However, many South Australians are unable to obtain a driver's licence as a result of disability or other restrictions and are only able to obtain a proof of age card from the Registrar of Motor Vehicles. A number of members have received contact from a constituent expressing concern that proof of age cards are not given the same points value as a driver's licence for identification purposes by South Australian government departments, which would include the Office of Consumer and Business Affairs and its range of licensing services.

A failure to give equal value to proof of age cards not only puts those with a disability or impediment to obtaining a driver's licence to inconvenience but also puts their personal security at risk by their being required to carry additional identification documentation. My questions are:

1. Can the minister assure the council that OCBA policies do not discriminate against people with a disability and that they do or will give equal value to a proof of age card and a driver's licence for identification purposes?

2. Will the minister commit to ensuring that all South Australians have equal access to key identification documentation across the South Australian government?

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, Minister for Gambling) (14:33): I thank the honourable member for his most important question. Indeed, the work that the Office of Consumer and Business Affairs does is truly amazing. They have a huge workload with the number of people who come through in terms of licensing, registration, etc. They deal with tens of thousands of people every few months, when added together, and they have to process large amounts of information very quickly. That is sometimes very challenging.

In terms of drivers' licences, clearly we need to manage those matters very carefully. We need to ensure that people do not obtain a licence for fraudulent purposes and use it in criminal activity. So it is most important that we are very rigorous in making sure that the person we are about to give a licence to is, in fact, the person they are claiming to be and that they do, in fact, meet the appropriate standards and other eligibility criteria for receiving a licence. So there are a number of checks and balances that are required to ensure that that rigour is upheld. As I said, I commend officers for the extraordinary work that they do, which often goes unacknowledged and undervalued.

In relation to any procedures that the honourable member is suggesting may be discriminatory, that is not an issue that has been brought to my attention before that I am aware of or to the best of my knowledge. I am happy to look into that. If there are any procedures or processes that are discriminatory, I am happy to have them drawn to my attention and happy to review those and to look at ways that we can ensure that we uphold the integrity and rigour of the licensing process whilst making sure that we do not disadvantage any particular group of citizens, particularly those with disabilities.

It is clearly a tricky balancing process. We aim to streamline and make these processes as quick and as simple as possible, whilst maintaining the integrity and rigour of the process to ensure that fraudulent activities cannot take place. If the honourable member has any particular information in relation to any specific activities, I am happy for him to forward them to my office and I would undertake to review those processes to ensure they are of the highest integrity without being discriminatory.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. CARMEL ZOLLO (14:37): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Regional Communities Consultative Council.

Leave granted.

The Hon. CARMEL ZOLLO: The Rann Labor government has an extensive record in consulting and engaging with regional communities. Indeed, the government established the Regional Communities Consultative Council in November 2002. The council has been chaired by Mr Peter Blacker, a former member of parliament and a community leader with a strong history of involvement with regional South Australia across the state. Activities have been held across regional South Australia, including with local government regional councils, regional development boards, farming communities, rural consultancies, churches and community services.

The RCCC has been an important voice for regional communities, raising and responding to many key matters affecting the regions and, in particular, has been able to bring a regional perspective to some key state-wide planning processes and policy development. Will the minister inform the chamber what role she expects the Regional Communities Consultative Council to play in the future and who will be members of the council?

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, Minister for Gambling) (14:38): I thank the honourable member for her most important question. The Regional Communities Consultative Council (RCCC), has indeed played a very important role in advising the Minister for Regional Development since it was established by this government as an independent advisory body in November 2002.

The council provides advice to the minister on ways in which the government and regional communities can work together to strengthen the capacity of communities to respond to current and also emerging local issues. Members also look at opportunities to maximise the competitive advantage of regional South Australia. The council is an important voice for regional communities.

Since it was formed there have been 29 regional meetings across South Australia, each time consulting directly with community and business leaders. The council has considered and made recommendations on issues such as shared services reform, regionalisation of South Australia's strategic plan, the national health and hospitals network and also the ongoing impact of drought on regional communities.

The last council comprised, I believe, 20 members, and its term expired on 31 December 2010. In late 2010 or early 2011 a public call for nominations was advertised across the state to establish the new RCCC, and 60 nominations were received, which, I believe, is evidence of the really high regard in which the council is held by people in regional South Australia. I have to say that I was most impressed with all 60 nominations.

The previous minister recently updated the terms of reference for the council. I can advise that the terms of reference for the council include:

- advising me on the broad impact of decisions on regional communities;
- opportunities for initiatives to advance social, economic and environmental development across regional South Australia;
- the opportunities and challenges in the provision of government programs and services;
- access to information on government initiatives, programs and services;
- advise and advocate change within regional communities within government; and
- through me, as Minister for Regional Development, advise the state government ministers and cabinet on matters that may have been referred to the council from time to time.

The government's intention was to give the council a stronger strategic focus. As a consequence, the new council will consist of 11 members. Through the appointments, which I will announce today, I have sought to provide a balance of representation across regional economic, social, cultural and environmental sectors, as well as community experience, gender and geographic location.

I should say that, of the 11 council members, I have reappointed six members, including the chair, Mr Peter Blacker, who, I have to say, was delighted to accept the reappointment, and also Mark Braes as the deputy chair. I have appointed five new members to assist in the regeneration and refocus of the direction of the council.

I think that these appointments will provide an opportunity for succession planning, building leadership capability in communities, as well as attracting valuable new skills and expertise. I would particularly like to acknowledge the work of Mr Peter Blacker in chairing the council and providing the leadership that he has done in the past, which is obviously why I have asked him again to take up the chair position.

I have asked the Department of Trade and Economic Development to work closely with the council to develop a work program that focuses on key emerging opportunities and issues for regional communities. It is envisaged that the RCCC will invite members of the local community to join its meetings in regions as it has done before. Finally, and most importantly, I would like to thank all the former members of the council for their incredibly valuable contributions and their hard work and dedication; and I thank those who have nominated in this particular round for their interest.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. J.S.L. DAWKINS (14:43): As a supplementary question, given that the former RCCC term expired on 31 December 2010 and that the minister has said that it has been held in such high regard, why has it taken the government until 3 May 2011 to appoint the new council?

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, Minister for Gambling) (14:43): I thank the honourable member for his question. I have already answered this question. Their memories are so short—short memories and lazy opposition is what they are. I have already responded to that question in this place. I said that, as the new minister coming into regional development, I wanted time to have a look at the role and function and terms of reference of the council.

I said that I wanted to have a close look at that as the new minister. I wanted to check the terms of reference. They had only just been redone, but I wanted to assure myself that, given the changes in the RDA structures—

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —that had recently been put in place, the new council, its terms of reference and the complement of that council were consistent with contemporary needs. I believe, as a new minister, that it is important that I take the time necessary to assure myself of all of those things and make the best decision possible. I think there is a three-year term of office. Regional development is an extremely important policy area. This is a really important council, and it is most important that we get it right. It is just a shame that they don't bother to listen to answers to questions in this place and that I have had to waste this council's time in repeating a response.

REGIONAL COMMUNITIES CONSULTATIVE COUNCIL

The Hon. J.S.L. DAWKINS (14:45): I have a supplementary question.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. DAWKINS: To what extent will the minister attend meetings of the RCCC?

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, Minister for Gambling) (14:45): On an as needs basis.

HANSON ROAD

The Hon. D.G.E. HOOD (14:46): I seek leave to make a brief explanation before asking the only minister in this place, who represents every minister in the other place, a question regarding illegal activity on Hanson Road in Mansfield Park.

Leave granted.

The Hon. D.G.E. HOOD: A recent article in the *Weekly Times Messenger* focused on rampant illegal activity on Hanson Road, Mansfield Park. I quote from the article:

> Concerned parents, school students, social workers and local councillors say that young women now avoid walking in the area because they fear they will be asked for sex. An Athol Park girl, [of just] 14 [years old], told the *Weekly Times Messenger* she had been approached twice on Hanson Rd since February by men looking for sex.

I am aware, from concerns raised with me directly, that many local residents are now avoiding walking on the road, and members of the public, including minors, have been propositioned by passing motorists.

A local government councillor from the area has also raised concerns that syringes and used condoms are frequently discarded on Fawkes Reserve, just off Hanson Road. I understand that as a result of the increasing complaints the Western Adelaide police have undertaken to confront this issue. My questions to the minister are:

1. Have any operations now commenced by the police in that area in direct response to these complaints?

2. If so, can the minister provide an update as to those efforts to clean up this notorious strip, which has been a problem for many years?

3. What further measures will the minister undertake to ensure that drug use, illegal activities and prostitution on Hanson Road are brought under control and fully dealt with by law enforcement?

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, Minister for Gambling) (14:47): I thank the honourable member for his questions. I will refer those questions to the relevant minister in another place and bring back a response.

FORESTRYSA

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, Minister for Gambling) (14:48): I table a copy of a ministerial statement relating to the forward sale of forest rotations made earlier today in another place by my colleague the Hon. Jack Snelling.

MEMBER OF PARLIAMENT, CRIMINAL CHARGES

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, Minister for Gambling) (14:48): I table a copy of a ministerial statement relating to criminal allegations made earlier today in another place by my colleague the Premier, the Hon. Mike Rann.

WOOMERA PROHIBITED AREA

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, Minister for Gambling) (14:48): I table a copy of a ministerial statement relating to the Woomera prohibited area and mining industry made earlier today in another place by my colleague the Premier, the Hon. Mike Rann.

QUESTION TIME

PROBLEM GAMBLING

The Hon. P. HOLLOWAY (14:48): I seek leave to make a brief explanation before asking the Minister for Gambling a question about a new problem gambling campaign.

Leave granted.

The Hon. P. HOLLOWAY: Problem gambling, as I understand it, occurs when a person's gambling causes harm to themselves and/or to those around them, such as a partner, family, friends, or others in the community. When gambling begins to consume more money and time than a person can afford it can affect many parts of their lives, including physical and emotional health,

finances, relationships, work and study. I understand that the government has launched a new problem gambling campaign targeting young men. My question to the minister is: will she please update the chamber on the details of this important campaign?

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, Minister for Gambling) (14:49): I thank the honourable member for his question. I am pleased to inform the chamber that a new advertising campaign has been launched to target young men who may have a gambling problem. The campaign targets men aged between 18 and 34 who are at risk of developing, or who already have, a gambling problem. The intention of the campaign is to target an audience who are at risk of developing a gambling problem but who are difficult to reach with a general awareness campaign.

This campaign highlights that, in many cases, what problem gamblers stand to win is actually things that they have already lost through compulsive gambling such as relationship breakdowns and, in some cases, loss of employment. The adverts encourage these young men to visit a new website, winbackyourlife.com.au, where they can answer a series of questions about gambling that will provide them with more information about where to get help if they need it.

Dealing with a problem in its early stages can often prevent problem gambling from getting worse, to the point where the gambler may not lose anything at all. The campaign began on 10 April and aims to raise awareness about the signs of problem gambling and the help services that are available. This campaign reflects the commitment of both government and industry in preventing problem gambling.

As we know, the majority of the Australian adult population gambles responsibly, I am pleased to say, with a minority transitioning to behaviours which result in gambling-related harm. Nevertheless, young men can be particularly vulnerable to developing a gambling problem. The internet, mobile phones and other developing technologies present more gambling opportunities and, in this case, the targeted age group can be unaware of their gambling problem or might not know at what stage their gambling has become a problem.

The campaign includes advertising on radio, bus shelters, online and ATM screens. The campaign ran throughout April and will run again throughout June this year. This campaign is simply asking or reminding young males to check their gambling habits and seek help if they think their gambling is getting out of control. The campaign is being funded through the Gamblers Rehabilitation Fund and is a joint initiative of the Australian Hotels Association, the Licensed Clubs Association, the Adelaide Casino and the state government, and I would encourage all honourable members to have a look at the website.

The website links to the problem gambling website, which is administered by the Department for Families and Communities and, as I said, provides helpful information for people who are concerned that they may be at risk in relation to their gambling. We have developed a number of strategies to assist with problem gambling. This is just one of many and I urge honourable members to have a look at the site and promote it to those young men whom they believe may be at risk.

FAMILY AND COMMUNITY DEVELOPMENT PROGRAM

The Hon. K.L. VINCENT (14:52): I seek leave to make a brief explanation before asking the minister, representing the Minister for Families and Communities, a question about major budget cuts to the Family and Community Development Program.

Leave granted.

The Hon. K.L. VINCENT: My office was recently contacted by SACOSS, the Child & Family Welfare Association of South Australia, Community Centres SA and the Youth Affairs Council of South Australia, all of whom raised grave concerns about the 23 per cent or $2 million per annum funding cut to the government's Family and Community Development Program.

It is not surprising that these organisations are concerned as the Family and Community Development Program provides core funding to 81 agencies to deliver programs which, among other things, assist families where children have been harmed, abused, neglected or exploited; people with disabilities to live more independent lives; people on low incomes; and young people who are at risk, disengaged or disadvantaged, just to name a few.

It seems that the government made this decision, which will impact on some of the most disadvantaged in our community, without consulting with stakeholders or even considering the real impact that these cuts will have on the programs and the people that they support. As such, the abovementioned groups have called on the minister to overturn her decision to cut funding and to immediately establish an independent review of the fund. My questions to the minister are:

1. What thinking, or lack of thinking, was behind the decision to slash 23 per cent of the Family and Community Development Program's funding?

2. Given the significant impact of the cuts on many existing community services, will the minister reconsider this decision?

3. Will the minister agree to undertake an independent, open and transparent assessment of the program before any cuts are made?

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, Minister for Gambling) (14:54): I thank the honourable member for her important questions. I will refer them to the Minister for Families and Communities in another place and bring back a response.

WORKCOVER CORPORATION

The Hon. R.I. LUCAS (14:55): I seek leave to make an explanation before asking the Leader of the Government, representing the Minister for Industrial Relations, a question in relation to WorkCover.

Leave granted.

The Hon. R.I. LUCAS: Just prior to Easter, a number of major events occurred in relation to the management and operation of WorkCover. First, a consultancy report commissioned by the WorkCover board during the ministerial reign of the Hon. Bernard Finnigan—the Walsh report, as it was known—was uploaded onto the WorkCover website on Holy Thursday. Without going into all the details, that report was very critical of the operations of WorkCover, in particular in relation to workers rehabilitation services provided under the WorkCover scheme. I am sure that at a later stage we will have the opportunity to debate aspects of the report.

During that same period, the WorkCover board and/or the Chief Executive Officer saw either the dismissal or agreed retirement—I am not sure what the correct term is—of two senior officers of WorkCover: Mr Jeff Matthews, the Deputy Chief Executive Officer, and Mr Ian Rhodes, the Chief Financial Officer. The Chief Executive, Mr Thomson, confirmed to *The Independent Weekly* and other media sources that those two positions were no longer required in WorkCover's organisational structure. My questions are:

1. What was the final cost of the Walsh review and report?

2. Were any draft or interim copies of the Walsh report provided either to senior officers in WorkCover or to the WorkCover board; if so, did senior officers or anyone on the board suggest any changes to the draft report?

3. If any changes were suggested, what were the nature of those changes?

4. What were the date or dates of receipt of any draft or interim report by officers of WorkCover or the WorkCover board of the Walsh review?

5. In relation to the separation of the two senior officers, can the minister, through WorkCover, provide the total cost of any separation package for both individuals and the cost of any component part of any separation package—that is, any redundancy payment, as opposed, for example, to any leave entitlements that either officer may have accrued?

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, Minister for Gambling) (14:58): I thank the honourable member for his questions and will refer them to the Minister for Industrial Relations in another place and bring back a response.

REGIONAL DEVELOPMENT

The Hon. R.P. WORTLEY (14:58): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the government's commitment to regional South Australia.

Leave granted.

The Hon. R.P. WORTLEY: The Rann Labor government has an impressive record in regional South Australia. There have been numerous initiatives under this government, such as the $20 million Riverland Sustainable Futures Fund and the establishment of the Regional Communities Consultative Council. However, thanks to the whingeing, moaning and groaning of the opposition, there is something of a negative sentiment in regional South Australia, which can be counterproductive for development, investment and community self-esteem. While the opposition continues—

Members interjecting:

The Hon. R.P. WORTLEY: If the opposition would only read—

An honourable member: They sold the mills.

The Hon. R.P. WORTLEY: Yes, they sold the mills back in the nineties. I would also like to make quite clear that the regional impact statement, as indicated, concluded—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: This is part of my question—

The PRESIDENT: The Hon. Mr Wortley should not be debating.

The Hon. R.P. WORTLEY: While the opposition continues to talk down the regions, there is a danger that negative sentiment will become self-perpetuating. My question is: will the minister advise the chamber about what is being done to highlight the strengths of regional South Australia, and what is being done to identify the challenges and opportunities that exist in regional 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, Minister for Gambling) (15:00): I thank the honourable member for his most important question and his ongoing interest in this particular policy area. I am pleased to inform the chamber that a regional statement for South Australia will be developed to enhance the state government's commitment to building sustainable regional communities. The regional statement will identify emerging challenges and opportunities. I know it annoys the opposition to hear about this government's commitment to regional South Australia but, indeed, we have an impressive track record.

The Rann Labor government has made a significant investment in regional South Australia through programs including the $20 million Riverland Sustainable Futures Fund, the Upper Spencer Gulf Enterprise Zone, structural adjustment assistance for the South-East following Kimberly-Clark Australia's decision to downsize, and the ongoing Regional Development Infrastructure Fund, to mention just a few. I could go on, but I won't.

Members interjecting:

The Hon. G.E. GAGO: Now is the time to consolidate and build upon current initiatives through the development of a statement for regional South Australia as a vehicle for improved regional, economic, social and environmental outcomes. South Australia will benefit from a statement which will highlight to regional communities—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —and government agencies the linkages between government plans, strategies, programs and services. The statement will reaffirm the government's commitment to regional areas. It will highlight the importance of regional communities to continuing economic development.

Members interjecting:

The PRESIDENT: Repeat that; I didn't hear.

The Hon. G.E. GAGO: Thank you, Mr President, I know that you have a deep personal interest in regional matters yourself, having been a shearer and having lived and worked in country South Australia for most of your life. The statement will reaffirm—

Members interjecting:

The Hon. G.E. GAGO: Yes, like you, Mr Ridgway, who has moved to Adelaide, so you shouldn't throw stones. The statement will reaffirm the government's commitment to regional areas. It will highlight the importance of regional communities to the continuing economic development of the state, including new opportunities from major resource and other projects. It will help to identify the challenges and opportunities facing regional communities and will elaborate on the government's approaches to regional planning, service delivery and development.

The statement will encourage regional communities to take ownership of those important initiatives which will drive future regional prosperity. The Independent Regional Communities Consultative Council will help develop this statement, so I have asked them to contribute to it, and there will be consultation with government agencies, key stakeholders and other ministers throughout the process.

EASTERN MOUNT LOFTY RANGES DRAFT WATER ALLOCATION PLAN

The Hon. J.A. DARLEY (15:03): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs, representing the Minister for Environment and Conservation, questions in relation to the Eastern Mount Lofty Ranges Water Allocation Plan.

Leave granted.

The Hon. J.A. DARLEY: On Wednesday, 27 April, a government advertisement appeared in *The Advertiser* inviting comment on the draft Eastern Mount Lofty Ranges Water Allocation Plan. The advertisement made reference to a number of Natural Resource Management Board offices in regional areas including Murray Bridge, Mount Barker, Strathalbyn, Cambrai and Mount Pleasant. It is my understanding that these offices have all recently been opened in a climate where other offices, such as regional offices of the Department of Primary Industries and Resources, and valuation, have been closed. The Keith hospital is also likely to close for the sake of a miserable $300,000-odd shortfall in funding. My questions to the minister are:

1. What is the total cost of running these offices?

2. How many staff are employed at these offices?

3. On what basis are they readily accessible to the public and, if so, where can the contact details of each office be found?

4. Can the minister advise when I am likely to receive an answer, given that I have received precious little in terms of answers from the government in the past?

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, Minister for Gambling) (15:04): I thank the honourable member for his most important questions. I will refer them to the Minister for Environment and Conservation in another place and bring back a response.

I just want to note that the Eastern Mount Lofty Ranges prescribed water resources area is currently under review. There is a draft plan, which seeks to balance economic and social environmental needs by providing a set of rules for managing the resource. This is the advice that I have received. That draft plan is being developed in consultation with the community through three community advisory committees. The South Australian Murray-Darling Basin Natural Resources Management Board is developing the draft plan with support from the Department for Water.

I have been advised that extensive scientific work has been undertaken to identify the resource capacity and the needs of the ecosystems and sustainable use limits. On 27 April, I am advised, the draft water allocation plan was released for public consultation, and the plan is open for a 14-week comment period. As I said, I have been advised that a number of public meetings have been held to assist this process. In terms of the specific questions asked, I will refer them to the Minister for Environment and Conservation in another place and bring back a response.

YALATA TAFE CAMPUS

The Hon. T.J. STEPHENS (15:06): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Further Education, questions about the TAFE campus at Yalata on the West Coast of South Australia.

Leave granted.

The Hon. T.J. STEPHENS: The opposition recently received correspondence from the former operator of the TAFE campus at Yalata, in which she explained the recent termination of her contract on little notice and only a partial payout of her entitlement. She claims that TAFE has decided to adopt a new model for offering TAFE at Yalata. This will now be on a 'project basis'. My questions are:

1. Has there been a change in the model for providing TAFE courses to Aboriginal people on Aboriginal lands in South Australia?

2. Is this being done as a costcutting measure? If so, what is the saving?

3. Will there be further cuts to contract or permanent TAFE staff on the Aboriginal lands? If so, where?

4. What is the department doing to provide ongoing adult education on the Aboriginal lands?

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, Minister for Gambling) (15:07): I thank the member for his questions and will refer them to the relevant minister in another place and bring back a response.

WOMEN IN LEADERSHIP, INTERNATIONAL STUDENTS

The Hon. I.K. HUNTER (15:07): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the young international students leadership event held here in Adelaide recently.

Leave granted.

The Hon. I.K. HUNTER: South Australia's international education industry is a local success story. I believe a high proportion of the students are women, many of whom go on to great success after their studies here in Adelaide. I understand that many reach positions of high achievement in their chosen field and many go on to occupy leadership positions in their society. Educating women, as we have seen in our own history, is a powerful force for progressive social change—change for the better. Will the minister advise what has been done to encourage our international women students to aspire to leadership positions in their field of study and in their community?

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, Minister for Gambling) (15:08): On 15 April, it was my responsibility as Minister for the Status of Women to host a women in leadership event for young international students here at Parliament House. This event was organised by StudyAdelaide, the organisation charged with developing and expanding South Australia's share of the national education export market. Funded in part by the state government, StudyAdelaide promotes our city as a centre of education excellence and highlights the many advantages for international students who choose to live, study and work here.

I was very pleased to accept the chance to speak to this gathering of women, because it is my job to encourage women to take up leadership roles both now and in the future, regardless of where these women's lives may take them after completing their education. This is part of a regular series of events in which international students are exposed to aspects of South Australian life that reveal values and ideas that are likely to help them achieve their own leadership dreams.

It was with some pride that I was able to tell them that they have come to an Australian state with a unique record in recognising the rights of women. South Australia was the first colony in Australia and the fourth place in the world where women gained the vote. In 1894, when all adult women were given the right to vote, there was no restriction on age or marital status, unlike other countries where women had the vote and there were all sorts of restrictions that were put in place. So we were fairly unique in that respect.

In fact, since 1861, women who owned property and paid council rates had the right to vote in local council elections. Women were also given the right to stand for parliament in 1895 and, of course, South Australia was the first place in the world to grant this particular right. Whilst most of us involved in the parliamentary process in this place know and accept these facts as part of our political furniture, describing this history to women for whom such changes are much more recent was very thought-provoking for them.

As I looked out across a sea of very eager, bright young faces gathered from countries and cultures all around the globe, I was reminded that we have a responsibility to continue our history of progressive reform, to continue the campaign for equity for women that began more than a century ago, and to continue it undiminished.

So it was, indeed, very satisfying to be able to tell this wonderful collection of women that they have come to a place that respects women's rights and believes profoundly in their potential as leaders of our community. It is obviously good to believe in that principle, but it is even better to act on it and ensure it happens.

International education is now South Australia's second-largest export earner and one of its most important industries. The sector generates more than $1 billion and supports something like 6,500 jobs, and there are 34,000 international students in Adelaide, of which about half are women. They know us as a safe, affordable city in which to live and work and that the local community is friendly and welcoming.

However, there is more to it than that. We are part of a bigger picture in which we support the decision of young women who have so much to contribute to the world to further their education. The stories and experiences that they bring here and the knowledge they take with them enrich us all, and we stand by them in their endeavours. I commend StudyAdelaide for organising what was not only an extremely enjoyable but also a really inspiring occasion.

GOVERNMENT BUSINESS

The Hon. T.A. FRANKS (15:13): I seek leave to make a brief explanation before asking the leader of government business in this place a question regarding the management of government business in this place.

Leave granted.

The Hon. T.A. FRANKS: As members would be aware and as the minister no doubt is keenly aware, the minister is now the minister for everything in this place. In addition to her own six portfolios, she now covers over 30 other portfolios, representing 12 ministers in the other place. My question is simple: how does the minister propose to justify to the people of South Australia that this is a respect paid by the Rann government in treating the Legislative Council as a genuine house of review?

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, Minister for Gambling) (15:14): The government does hold this place in very high regard. As I regularly put on the record, this is the place where the real work is done. I regularly remind our colleagues in the other place that, indeed, this is where the real work is done. We know that generally the government of the day in the House of Assembly holds the majority and therefore legislation generally passes through that place much more easily because of that majority.

However, in this place we have a very proud history where I think no political party has had a majority in its own right for something like 20-odd years. I might stand corrected, but if it is not 20, it is close to that. It has a very proud history of being a place of a range of different parties and views. We have always had a fairly high representation of minor parties and Independents in this place and, indeed, currently it is basically a third, a third, a third—a third Labor, a third opposition and a third minor parties and Independents. It is a rich tapestry in this place, a place where indeed numbers and legislation cannot be taken for granted and all decisions have to be considered carefully.

It is important that this place is not an adversarial place. We actually have to work with each other in a reasonably cooperative way to advance legislation in this place. It means, in many situations, a number of quite in-depth negotiations and often compromises, and give and take. That is what we know brings about a level of depth and breadth to our legislation which is in the broader interest of the South Australian community, generally speaking.

I assure honourable members that I take my new responsibility as leader or acting leader in this place very seriously. I assure members that I will do everything I can to uphold the integrity of this chamber and progress the work of government and other work in this place, and to do that in a very fair-minded and reasonable way, as I have always done in this place. The only precedent that has been set today is that I believe I am the first female leader in this place, but that is the only precedent—

The Hon. J.S.L. Dawkins: You just said you are acting leader.

The Hon. G.E. GAGO: Well, acting leader.

The Hon. J.S.L. Dawkins: So are you acting leader or leader? If you are only acting, that's no precedent.

The PRESIDENT: Order!

The Hon. G.E. GAGO: In terms of being the sole minister in this place, I am not the first minister to be the sole minister in this place. Indeed, my colleague Paul Holloway was the only minister in this place for some time when we recall that the late Terry Roberts was unfortunately ill for some time. The Hon. Paul Holloway did a truly remarkable job and is living proof that the work of this chamber can in fact be done by a single minister. He did an extraordinary job and there were no adverse effects on the integrity of this chamber, the business of government or the other business that comes through here. He is living proof that it can be done, and he did a remarkable job. I also understand that Barbara Wiese was also a sole minister in this place for some time as well, so it is not a precedent.

It has been done on a number of occasions before where there has been only a single minister in this place, so I can assure the chamber that you are in good hands and we simply need to get on with business. I was extremely disappointed to see that there is only one second reading speech on the Supply Bill today, which is very disappointing. After such a lengthy break, we have only one person down for a second reading speech today. We need to do better than that. Anyway, I look forward to getting through the business of the government.

GOVERNMENT BUSINESS

The Hon. T.A. FRANKS (15:19): Supplementary.

The PRESIDENT: The Hon. Ms Franks has a supplementary deriving from the answer.

The Hon. T.A. FRANKS: I ask the minister whether or not she is the acting leader of government business in this place or leader of government business in this place, because she gave both answers in that answer. I do not feel in safe hands.

The PRESIDENT: She is the minister.

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, Minister for Gambling) (15:20): I am acting leader in this place for an interim period of time.

GOVERNMENT BUSINESS

The Hon. T.J. STEPHENS (15:20): I have a supplementary question.

The PRESIDENT: The Hon. Mr Stephens has a supplementary question.

The Hon. T.J. STEPHENS: Can the minister confirm that the previous leader of the government, the Hon. Bernard Finnigan, asked us to have supply speeches ready this week? He did not say anything about today and he did not say anything about completion this week.

The PRESIDENT: The minister can ignore that.

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, Minister for Gambling) (15:20): Mr President, as I said, it is extremely disappointing that priority notice was given that the Supply Bill needed to go through and be completed this week, so to suggest that the opposition is not aware of the importance—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —of the Supply Bill being completed this week—

The Hon. J.S.L. Dawkins: It didn't say anything about supply having to go through this week. Why don't you read it?

The Hon. G.E. GAGO: Well, it does need to go through this week.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: The opposition are experienced members in this place, so it is extremely disappointing to see that, after a lengthy break, only one person has prepared themselves for a second reading speech—one person.

GOVERNMENT BUSINESS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:21): A supplementary question.

The PRESIDENT: The Hon. Mr Ridgway has a further supplementary.

The Hon. D.W. RIDGWAY: What is the government's strategy should the minister's voice fail or she be ill and unable to take part during the committee stage of a bill?

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, Minister for Gambling) (15:21): Mr President, I can assure the honourable members that I am a most resilient person. I am in tip-top health, and I expect to be able to be present through all proceedings where I am needed.

The Hon. R.I. Lucas: You're a waste of space at the best of times.

The PRESIDENT: Order!

The Hon. R.I. Lucas: There's a vacuum between both ears.

The PRESIDENT: You should not talk about yourself like that!

CHARITY RED TAPE

The Hon. J.S. LEE (15:22): I seek leave to make a brief explanation before asking the Acting Leader of the Government about red tape on charity.

Leave granted.

The Hon. J.S. LEE: In *The Advertiser* on Monday 2 May it was reported that the new state government rules will mean more red tape and less money for the needy. The paper reveals that numerous complaints were received from the Cancer Council, the RSPCA, the Heart Foundation, the Guide Dogs Association, the Royal Flying Doctor Service and others. I would like to quote the following complaints reported by major charities in *The Advertiser*:

- state-specific information to be printed on charity materials would mean SA print runs costing more money;
- advertising on the internet would be difficult because of wordy warning messages and conditions on every advertisement;
- national rules to be brought in within 12 months would make the SA changes out of date;
- stockpiles of charity merchandise will have to be thrown out because they are rendered out of date; and
- stocks of existing receipts will have to be thrown out because warnings to donors have not been printed on them.

My questions to the minister are:

1. As the minister indicated that the Office of the Liquor and Gambling Commissioner will make recommendations to her, including possible amendments to the draft code of practice, can the minister inform the house when the briefing will take place?

2. RSPCA Chief Executive Steve Lawrie said that the draft code should be scrapped and all efforts put towards a national system, which would be in place within a year. Will the

minister and the state government support the introduction of a one-stop-shop system to reduce the current burden on charities?

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, Minister for Gambling) (15:25): I thank the honourable member for her most important question. I fear there is a fair degree of scaremongering going on out there, but I can reassure stakeholders that consideration is being given to their concerns. I think it was in February 2010 that the improving regulations issues paper was released by the former minister for public consultation. As a result, a draft code of practice was developed and then released for further consultation in November.

The latest round of consultation closed on 14 January (these are all dates I have been advised of) with, I understand, over 30 submissions being received. I have been advised that the Office of the Liquor and Gambling Commissioner is currently reviewing those submissions and taking into consideration the concerns and suggestions raised. The Liquor and Gambling Commissioner will make recommendations to me shortly, including any possible suggested amendments to the draft code of practice.

Let's just remember what we are doing here. This is about improving the integrity of the industry. We know that there have recently been a number of cases where fraudulent activities have been identified from charity groups or from people posing as charity groups. This has resulted in ripping people off, so it is most important that, where we possibly can, we tighten up those loopholes to ensure that we have a system that is as sound as possible and that prevents abuse of fundraising activities.

However, obviously we do not want to overburden industry in such a way that makes fundraising activities too difficult to administer. We rely on the work that these groups do, in a very significant way, to contribute to a wide range of services and amenities, so obviously it is in our interest to make sure that we get that balance right.

STRATHMONT CENTRE

The Hon. K.L. VINCENT (15:28): I seek leave to make a personal explanation concerning a statement which I made on 6 April 2011 regarding the Minister for Disability.

Leave granted.

The Hon. K.L. VINCENT: On 6 April 2011, I read a statement in this place suggesting that the Minister for Disability visited the Strathmont Centre for the first time in April this year. However, I have since been advised by the minister herself that she visited Strathmont in 2008, 2009 and 2011; therefore, I wish to correct my earlier statement.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 6 April 2011.)

The Hon. T.A. FRANKS (15:29): I rise today as one of the two members of the Greens who will be addressing the Supply Bill this week. As members are aware, this is a bill that guarantees the surety of public moneys, in particular to our Public Service. It is a very important bill, and a bill that exemplifies how the Rann government has treated the public sector of the state and the workers in that sector with contempt.

Under a year ago—because we had the latest budget in the entire country—the Rann government announced a slash and burn of our public sector. Over the next four years, there are plans to lose 3,743 existing workers. Of course, they will create 1,981 new jobs to meet those election promises, so we are looking at a total of 1,762 jobs to be cut by this government—a Labor government—over these next four years. Of course, public sector jobs are not the only things to go: public sector worker entitlements have also been axed. This Labor government has axed holiday leave loading for some public servants. It has also reduced long service leave entitlements.

It sees us in an almost unprecedented situation in this country where the union movement, out of an election cycle, is currently running advertising against a Labor government, where the union movement is taking a Labor government through our court system because the Labor government, as the employer of our public sector workers, has in fact betrayed enterprise

agreements and enterprise bargaining arrangements made in good faith by workers, their unions and their representatives with this government.

It is unprecedented, and it goes some way to explaining the low support levels for the Premier of this state at the moment, which are at an all time low. I note that although minister Tom Kenyon said that they had only one way to go and that way was up, I suspect that, if the government continues with its slash-and-burn agenda of the very values that Labor should hold near and dear, it will only go down.

The Public Service Association quite rightly labelled the budget as cruel, and the Liberal opposition has also quite rightly said that we, as South Australians, are paying a high price for the economic mismanagement of this government. I think you have to question the priorities of this government when we put football stadiums ahead of essential services.

Let us have a look at the budget cuts and the impact that they have had on public sector workers so far. Of course, when I talk about public sector workers, we are also talking about the services that help those people in the South Australian community who most need that public sector assistance. The one that speaks to me as being of grave concern to anyone who would call themselves a defender of the working class or the underclass is the cuts to the SA anti-poverty program.

There has been a cut to 44 positions from the Families SA anti-poverty program. This is a unit that helps those who are in dire financial need. It assists people to handle their financial affairs, and it reduces their reliance on community support, providing long-term benefits for this state and of course for those individuals and families who are supported by this service. We have cut 44 positions from this essential service. My question to the government is: what impact will this have on those who are not currently Families SA clients and need this service? Will there be additional resources provided to non-government organisations to enable them to provide this service?

Further cuts have been made to the Department of Health in ICT. The Information & Communications Technology Services program has been cut by $6 million. It equates to approximately 100 full-time staff. Given that there have been cuts of approximately 100 full-time equivalent staff in the ICT unit of the Department of Health, why is the government, as of 30 March this year, continuing to advertise not internally but externally for ICT staff in this department? I would like the government to respond to that and demonstrate to the people of South Australia that it is not yet another example of their financial mismanagement.

The Department of Primary Industries and Resources has been asked to meet a savings requirement under this slash-and-burn budget, and it has seen the decision made that the Ceduna quarantine station is to be closed. This station provides a valuable biosecurity protection service to South Australians and conducts inspections of goods and stock. I understand that the solution that has been put forward by the government, in its wisdom, is to move this service in fact to Border Village on the border of WA and South Australia where nothing else, I understand, exists except for a petrol station and a much smaller population than exists in Ceduna.

I ask the government: what impact would such a closure have, not only on the people employed in this isolated area but also on the people of South Australia more generally? Will this not potentially increase our exposure to and risk from biosecurity threats to our crops and livestock in this state? I would like to hear from the government how those very valuable goals will, in fact, be upheld by this government, and I seek assurance from this government that we are not risking our biosecurity.

In the Department of Environment and Natural Resources 65 staff are to be cut by June 2011. The majority of those staff will be from national parks and botanic gardens. I ask the government what measures it is taking to ensure that the Mount Lofty and Wittunga Botanic Gardens are maintained in proper order for the many thousands of South Australians—as well as other Australians, of course, and international tourists—who wish to visit these valuable state assets each year.

As I said, the Rann government has gone ahead with a slash and burn of our public sector, which flies in the face of true Labor values. Members are aware that the union movement has challenged the government at every step, and we have seen thousands of people on the steps of this place. We have seen public outrage, and a lack of support for these cruel budget measures, and we have also seen the government's support fall.

I think that when the community finds out that we might, perhaps, lose further positions from The Parks facility they may question whether or not the Rann government has truly seen the wisdom of its original error in calling for the closure of that facility. With the review of The Parks centre almost complete, I eagerly wait to see whether the government simply stalled the bad news on The Parks facility or whether there is, in fact, a commitment to that community out there, to the valuable services and to the sense of community and pride that The Parks facility currently upholds.

I started in this place with words that Premier Rann spoke to us—that this would be a third term in the Dunstan style, a third term of great social reform. I am still waiting for this great social reform in the Dunstan style; perhaps it will not come under the leadership we currently have in this Labor Party. I, like many other South Australians—and certainly like some former Labor voters in New South Wales—wonder why this Labor government has so badly lost its way.

I am heartened to see that the treasurer who crafted this budget is no longer our Treasurer, but I remain to be convinced that this government has, in fact, seen the error of its ways. Like Kristina Keneally, the former premier of New South Wales, I think that this South Australian Labor government will find that it has left the people of South Australia, not that the people of South Australia have left it. It is a warning that this government should heed. With that, I seek leave to conclude my comments.

Leave granted; debate adjourned.

STATUTES AMENDMENT (TRANSPORT PORTFOLIO—PENALTIES) BILL

Adjourned debate on second reading.

(Continued from 7 April 2011.)

The Hon. A. BRESSINGTON (15:45): I apologise for not having my speech in the house. I rise to indicate my support for the Statutes Amendment (Transport Portfolio—Penalties) Amendment Bill 2011. The bill increases penalties across three acts, namely, the Road Traffic Act 1961, the Motor Vehicles Act 1959, and the Harbours and Navigation Act 1993, which have through the passage of time lost their deterrent effect and, regarding several of the examples cited, such as the penalty for a first drink-driving offence, have began to fall short of community expectations.

I accept the principle that if penalties are to have a deterrent effect they need to be at a level sufficient to impact on the offender. Further, penalties need to reflect the seriousness of the offending both generally and in relation to other offences which, as I noted in the case of some offences for which the penalties had not been increased in 20 years, had ceased to be the case. For these reasons, I support this bill.

I will also use this opportunity to express my attraction to South Australia embracing the use of penalty units, in which fines are expressed as a multiple of a penalty unit, the value of which is adjusted each year in accordance with increases in the consumer price index, or similar measures of inflation, and prescribed through regulation. As has been noted by the Hon. Dennis Hood, South Australia already has a similar model on its statutes in section 28A of the Acts Interpretation Act 1915, which provides a standard scale of both divisional fines and divisional terms of imprisonment.

Inserted by the Statutes Amendment and Repeal (Sentencing) Act 1988, from *Hansard* it is clear that the intention was for all new acts and old acts as they were amended to refer to the divisional penalties. Looking across the statutes, there are numerous examples of this occurring in the early 1990s. One such example is the Whistleblowers Protection Act (which, I add, in my opinion is not worth the paper it is written on), which imposes a division 5 fine or division 5 imprisonment for the offence of making a false disclosure.

While such examples prevent me from saying that South Australia stands alone nationally, there is no doubting that all other jurisdictions have embraced to a greater degree the use of penalty units. I have attempted to find debate in this place, or the other, that explains what surely must have been a conscious decision by this parliament to abandon the divisional penalties set out in the Acts Interpretation Act 1915; however, I have been unable to do so. This may well be because the debate was had prior to 1993, with *Hansard* prior to this not being able to be electronically searched. However, that said, the Whistleblowers Protection Act 1993 was passed in this period, and division penalties were clearly still in vogue then.

South Australia pioneered expiation fees as an alternative to prosecution, and we then seemingly sought to pioneer the use of penalty units, even if it was in a less refined form. However, for a reason left seemingly unexplained, this parliament abandoned this first failed attempt and turned its back on this potentially positive reform. I believe this is regrettable.

I make clear that I support only the use of penalty units for fines, or even just expiation fines, while retaining the current practice of fixing the maximum term of imprisonment for a particular offence and then displaying this penalty directly beneath the offence where it appears in the statute, rather than referring the reader to the Acts Interpretation Act 1915 to find that the division 1 term of imprisonment for robbery is 15 years.

Additionally, this would create classes of offences, and hence classes of offenders. I do not feel that would be helpful. However, these arguments do not translate to the use of penalty units for expiation fees and court-imposed fines. With that said, I support the bill and I hope that this government will give due consideration to the use of penalty units so that we do not find ourselves in this position again.

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, Minister for Gambling) (15:50): I thank honourable members for their contributions. The bill increases the maximum court-imposed penalties that can be set for specific offences in the acts concerned. It provides for a corresponding increase in the maximum court-imposed penalties that can be set for offences in the regulations under the Road Traffic Act and Motor Vehicles Act and also increases the maximum expiation fee that can be set by regulation for offences under these acts and their regulations.

These changes are necessary in order to maintain the deterrent effect of penalties by increasing them to keep in touch with inflation. Many of the penalties have not been increased for over 10 years. Expiation fees under the Road Traffic Act and Motor Vehicles Act are reviewed annually to ensure they keep pace with the cost of living. As expiation fees levels increase, periodic review of court-imposed penalties is also necessary, and I will respond to two of the matters that have been raised.

The Hon. David Ridgway has flagged that during the committee stage he has a number of questions in relation to actual expiation fees and the level of them. In anticipation of these questions, I would like to put on the record that the current expiation fees can be found in schedule 9 of the Road Traffic (Miscellaneous) Regulations 1999 and schedule 5 of the Motor Vehicles Regulations 2010. As indicated in last year's budget, on 1 July 2011 these expiation fees will be increased by $20 where the expiation fee is under $100, and by $50 where the fee is $100 or more.

The annual indexation amount for 2011-12 will be added at this time, and it is not possible to say what the indexation amount is prior to the 2011-12 budget announcement of 9 June 2011. I can say that the annual indexation amount for the last six years has been between 2.9 per cent and 5.2 per cent. The exact increases were: in 2005-06, 2.9 per cent; in 2006-07, 3.8 per cent; in 2007-08, 4.2 per cent; in 2008-09, 3.5 per cent; in 2009-10, 4.2 per cent; and in 2010-11, 3.3 per cent.

The Hon. Dennis Hood made some useful comments about the use of penalty or division units that could be updated globally and consistently to keep pace with inflation. In fact, there is an existing scheme for divisional penalties in section 28A of the Acts Interpretation Act 1915. This act is committed to the Attorney-General and therefore it is for him to consider the Hon. Mr Hood's suggestion, and I will ensure that this matter is brought to his attention. With those few words of summary, I look forward to the committee stage being dealt with expeditiously.

Bill read a second time.

Bill taken through committee without amendment.

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, Minister for Gambling) (15:55): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NATURAL RESOURCES MANAGEMENT (REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March 2011.)

The Hon. J.A. DARLEY (15:56): I rise to speak briefly on the Natural Resources Management (Review) Amendment Bill. In the mid-1980s the government established the Land Resource Management Standing Committee, comprised of CEOs of various government departments, including lands, agriculture, environment, tourism and local government. The purpose of the committee was to coordinate work programs for those individual departments so as to avoid duplication of effort.

Coincidentally, at around the same time, the department for environment had a poor record in managing the state's parks. Water catchment boards were subsequently established to ensure the water quality of creeks and streams through the metropolitan area. One example of their work was to name the creeks where they crossed suburban streets. This had no effect on water quality whatsoever. Metropolitan councils were required to collect the levies for each of the water catchment boards.

These boards developed into what we now know as NRM boards. Their role was expanded to include producing land management plans and water allocation plans, among other things. The NRM Act of 2004, which resulted in the amalgamation of a number of separate pieces of legislation, also provided for a whole host of powers in relation to freehold land, whereas in the past the legislation was only concerned with government land. I think it is fair to say that in 2004 there was a certain level of concern over what was being proposed by the NRM Act.

By the same token, I think many of the ramifications of what was being proposed were not fully contemplated. The current bill is said to be the result of an extensive review, yet, like the Hon. Robert Brokenshire, most if not all people I have spoken to about this issue had no idea that review had taken place. Indeed, the same can also be said for the consultation process in relation to draft water allocation plans.

One has to ask the question: what is the point of having a consultation process if the views and sentiments of the very people who are directly affected by what is being proposed are largely ignored? Let me be clear. These complaints have not been made by one or two people who attended those meetings. I have attended a number of meetings in regional communities in relation to the draft water allocation plans for the western and eastern Mount Lofty Ranges, and the attitude has been the same.

People feel they are not being consulted, they are being snubbed and, worse still, they are being told what the state of play will be by bureaucrats. Indeed, I believe the Leader of the Opposition, Isobel Redmond, is on public record as saying that, prior to becoming leader, she too attended meetings in her electorate that formed part of the consultation process, only to have the matters she raised largely ignored or dismissed. This comes as no surprise.

This is the most bureaucratic piece of legislation I have ever seen. It has been implemented in the most officious and obnoxious manner that I have ever experienced in all my years in the Public Service and is a reflection not only on the Public Service but also on the minister and, more particularly, the government.

There has been little consideration given to crucial issues such as biosecurity and occupational health and safety on properties. There has even been less consideration given to the detrimental effect that some of the proposed measures will have on our farmers and South Australia's food bowl more generally.

There is no question that landowners and food producers are particularly concerned about the powers of authorised officers and that this issue has been the subject of intense media scrutiny. Food producers and landowners are concerned not only about the very broad scope of these powers but also, and perhaps more to the point, about the way in which they are being exercised by authorised officers.

My office has spoken personally with a number of farmers in relation to their treatment by authorised officers, and the underlying sentiment expressed by most of them has been one of bullyboy tactics and a total disregard for their livelihoods. Farmers are particularly concerned that authorised officers can march onto their properties without any regard for the fact that they are

quality-assured producers and without any regard for the fact that unauthorised entry could result in catastrophic consequences for their livestock.

I understand that similar provisions relating to powers exist under other pieces of legislation and have not been the subject of the same level of criticism. This tends to suggest that the problem rests more with the way in which authorised officers are carrying out their duties than the powers themselves. I note that there are already a number of amendments on file that deal with this issue, and I foreshadow that I will also be proposing amendments of my own, which I think will complement what is being proposed by other members.

I will also be introducing a number of other amendments which have been drafted in consultation with food producers and landowners and, in particular, FLAG SA. By way of background, FLAG SA is an association formed in recent months by food producers and landowners of regional communities concerned about the potential impacts of draft water allocation plans and the proposed changes to the NRM Act.

Members may be aware that, on 28 March 2011, FLAG SA held a public meeting in order to raise its concerns regarding the proposed bill and the draft water allocation plans with the Minister for Environment and Conservation who, together with three NRM representatives, agreed to attend the meeting.

Also in attendance was the Leader of the Opposition and a number of members from another place, as well as the Hon. Michelle Lensink, the Hon. Ann Bressington and the Hon. Robert Brokenshire from this place. I give credit to the minister for agreeing to attend the meeting and facing the 1,000-odd people who turned out.

Members who attended would attest to the less than warm reception the minister received from the very frustrated crowd of people. One of the most contentious issues raised on the night had to be that of metering dams, which was strongly opposed. Other issues of contention included the powers of authorised officers, the sale of water entitlements (particularly to overseas investors), increasing levies, the erosion of rights of property owners, the fencing off of dams and creeks, requirements in relation to stocking rates, low flow diversion measures and biosecurity issues.

The general poor attitude and behaviour of NRM authorised officers and the poor consultation processes did not go unnoticed either. It is important to stress that these communities are not opposed to environmental conservation. Indeed, they pride themselves on ensuring best practice. They have a vested interest in ensuring the sustainability and viability of their properties so that they may be handed down to future generations.

It is high time the minister, and indeed the government as a whole, took heed of their concerns and acknowledged the wealth of experience these communities have to offer in getting it right. I make no apologies for not wishing to proceed with this bill further at present. Even at this late stage, my office is still being contacted in relation to possible amendments to the bill; and, short of scrapping the bill and starting over, I think it is absolutely critical that we try to get it right.

Before finishing I would like to acknowledge all the hard work that FLAG SA has put into this issue in a relatively short time. I will not mention them all by name, but I would like to acknowledge particularly the work of Mr Peter Manuel who first raised this issue with me back in December of last year and who continues to dedicate so much of his own time to this issue.

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, Minister for Gambling) (16:05): I believe that there are no further speakers in relation to this bill. I would like to thank honourable members for their valuable contribution. I look forward to the committee stage. There have been a number of questions posed, which I will deal with at the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. G.E. GAGO: There was a question in relation to NRM levies and funding. There is a disparity on levies within and between regions. Regional NRM boards, through their planning and consultation processes, recommend whether a regional NRM levy and/or NRM water levy should apply and what the basis and amount of those levies should be. The amount of the levy or

levies relates to the total funding required by the board to implement its plan. NRM water levies can only apply where a water resource has been prescribed.

Councils collect the regional NRM levy, which is based on their share of the total local government contribution. Each council's share is determined by the minister after consultation with the council. The regional NRM levy is currently based on either a fixed amount or a rate in the dollar of valuation. Discussions are currently being held with the LGA to seek to improve the regional NRM levy collection process.

The regional NRM levy in out of council areas is also recommended by the relevant board through the planning and consultation processes. This levy is collected by the minister. In response to the Hon. Michel Lensink's request, I am advised that the proposal to aggregate rateable land (the same as in council areas) will benefit landowners. A landowner who owns and occupies more than one piece of contiguous rateable land, instead of paying a levy on each piece, will only pay the one levy. A landowner whose land qualifies as a single farming enterprise will only pay the one levy whether or not that rateable land is contiguous (except where that land lies in more than one NRM region).

The distribution of levy funding is clearly set out in the act: levy funds collected from a region can only be used by the regional NRM board established for that region. Additional support funding for boards is provided from state government recurrent funding, based on principles for its allocation approved by the Minister for Environment and Conservation on 22 November 2007. This model was developed in consultation with the regional NRM boards.

Accordingly, allocations are proposed to meet the needs of those boards that have no or limited capacity to raise funds through other mechanisms and, to the extent that there are any residual funds available after the needs of those boards have been met, to those that have some capacity to raise funds through other mechanisms. I am sure that funding issues will be raised and considered as part of the comprehensive review of the NRM Act that is currently underway.

The Hon. John Dawkins asked three questions in relation to local action planning groups, and I have received the following information in answer to these questions. His first question was: how many local action planning groups exist in South Australia and what individual areas do they cover? I am advised that there are 12 local action groups within South Australia, 10 within the SA Murray-Darling Basin NRM region, one in the South-East and one in Adelaide. I have here a map that shows the coverage of the 10 LAP groups within the SA Murray-Darling Basin NRM region, and I seek leave to table that map.

Leave granted.

The Hon. G.E. GAGO: The second question was: what level of funding is provided to the LAP groups, firstly, from the Department of Environment and Natural Resources and, secondly, through the relevant NRM board? In 2009-10, I am advised that the former department of environment and heritage provided $1,100 to LAP groups. The SA Murray-Darling Basin NRM Board provided some $3.713 million, this being a combination of NRM levy and commonwealth Caring for Our Country funding. The former department of water, land, biodiversity conservation provided LAP groups with an additional $397,000-odd in 2009-10 for 15 projects as part of the NRM community grants scheme.

The third question was: is it accurate that secured funding for LAP groups has not been extended beyond 30 June 2011? I have been advised that the current portfolio of contracts between the SAMDB NRM Board and local action planning groups is due to expire on 30 June 2011. Discussions between the board and the LAP groups will commence shortly in regard to funding for 2011-12.

The Hon. Robert Brokenshire asked a number of questions relating to funding, and these questions can be summarised. In relation to the first question on the amount that has been paid out of NRM levy funds in the last three years to the government agencies and the boards and universities mentioned, I am advised that the Adelaide and Mount Lofty Ranges NRM Board paid the following from the NRM levy: in 2007-08, a total of $1.146-odd million; for 2008-09, a total of $1.366-odd million; and for 2009-10, a total of $1.169-odd million. Specific information can be provided if that is needed.

The AW NRM Board does not receive any NRM levies and therefore this question is obviously not applicable to them. The Eyre Peninsula NRM Board paid, in 2007-08, $319,725; in 2008-09, $120,526; and in 2009-10, $151,303. The KI NRM Board paid only minor expenses from

the NRM levy to another state agency. This was to Rural Solutions SA for the provision of expert advice to support the board's authorised officer in species identification and training. The amounts were: in 2007-08, nil; 2008-09, $1,245; and 2009-10, $1,179.

The Northern and Yorke NRM Board paid the following from the NRM levy: in 2007-08, a total of $117,456; in 2008-09, a total of $8,972. The South Australian Arid Lands NRM Board paid only minor expenses from the NRM levy to another state agency. This was to the former department for environment and heritage. The amounts were: in 2007-08, nil; in 2008-09, $4,500; in 2009-10, nil. The South Australian Murray-Darling Basin NRM board paid the following from the NRM levy: in 2007-08, a total of $671,810; in 2008-09, $389,096; in 2009-10, $190,063. The South-East NRM board paid the following from the NRM levy: in 2007-08, $168,586; in 2008-09, $90,113; in 2009-10, $296,446.

Before answering the second question, I would like members to note two important issues. Several boards allocate funding directly to individual landholders to undertake work on their properties and do not use community groups to distribute funding on their behalf. This eases the administrative burden on community groups, which do not necessarily have the facilities to administer the funds, and allows boards to monitor expenditure being distributed to landholders in accordance with Treasurer's Instructions.

A number of community organisations receive funding for the individual group to carry out on-ground works; other community organisations do not receive funding from boards, as they are not incorporated bodies. The second question relates to what percentage of regional NRM boards' income, as a percentage of total income and levy income, is paid to community organisations. The amounts in 2009-10 are as follows:

- the Adelaide and Mount Lofty Ranges NRM board: 25 per cent of the NRM levy income was paid to the community organisations listed;
- there was no NRM levy in the AW NRM board; 12 per cent of the total income was paid to the community organisations listed;
- the Eyre Peninsula NRM board: 7.5 per cent of the total income, or 0.6 per cent of the NRM levy income, was paid to the community organisations listed;
- the Kangaroo Island NRM board: no NRM levy income was paid to the community organisations listed;
- the Northern and Yorke NRM board: a total of $423,500 was paid to community organisations listed, which is 8 per cent of the total income; 16 per cent of the NRM levy income was paid to the community organisations listed;
- the South Australian Arid Lands NRM board: a total of $197,000 was paid to the community organisations listed, and that is 2.5 per cent of total income; no NRM levy income was paid to the community organisations listed;
- the South Australian Murray-Darling Basin NRM board: a total of $4.339 million was paid to the community organisations listed, which is 20 per cent of total income; 9 per cent of the NRM levy income was paid to the community organisations listed; and
- the South-East NRM board: a total of $456,875 was paid to the community organisations listed, which is 6 per cent of the total income; 0.3 per cent of the NRM levy income was paid to the community organisations listed.

In relation to regional NRM boards, the government supports the current arrangements, whereby regional NRM boards are instrumentalities of the Crown. Accordingly, members are appointed by the Governor on the recommendation of the minister and are responsible to the government, through the minister, and ultimately to the community, for the manner in which they exercise their functions. Their membership is deliberately skills-based.

I now refer to the reassurances sought by the Hon. Michelle Lensink as to how often it is believed each NRM board may need to review its regional plan. The act already requires that regional NRM boards review their business plan annually and then amend that plan so that it specifies the ensuing three financial years to which its business plan relates.

In relation to consultation, I would like to talk about consultation that occurred in relation to the review which resulted in this bill. Submissions were invited from the NRM Council, regional NRM boards and other agencies in mid 2006, followed by a three-month public consultation period

across South Australia in early 2007, inviting comment on any issues within the scope of the review.

In relation to authorised officers and the powers of authorised officers under the act, I make the following comments. I am advised that the report on the review of the Natural Resources Management Act 2004 highlighted a number of comments received on increasing the powers of the authorised officers from those they currently have. As members will notice, the report specifically did not propose to amend the act to increase those powers. The powers of authorised officers under the NRM Act were based on those in the three acts which it repealed. The resulting powers are consistent with those contained in contemporary environmental legislation.

I think that just about covers all matters that were raised. If I have missed any, no doubt they will be picked up during the review of the clauses.

Clause passed.

Progress reported; committee to sit again.

WORK HEALTH AND SAFETY BILL

Adjourned debate on second reading.

(Continued from 7 April 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, Minister for Gambling) (16:25): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 April 2011.)

The Hon. D.G.E. HOOD (16:26): I want to briefly put on the record Family First's position on this bill. It is a fairly interesting bill in the fact that people associate line-ups with a long historical tradition with respect to policing, and this bill will make substantial changes to that. In fact, it gives preference to cheaper photographic identification techniques when the use of identification is flagged as an issue in a criminal investigation.

It is accepted by Family First that photographic identification procedures are less administratively burdensome for our police officers. They are cheaper and they have some advantages over traditional police identification parades or 'line-ups' as they are usually called. There is, nevertheless, real debate within the legal community regarding this proposal, which we acknowledge and we are aware of.

I am also aware that the opposition has not put forward their position on this matter yet, and I think it goes without saying that we would not normally formulate a final position until we had heard their position formally. So, we look forward to doing so in the coming days.

This amendment provides succinctly that, in a criminal trial, evidence of the identity of the defendant is not inadmissible merely because it was obtained by means other than an identification parade, if the judge is of the opinion that the evidence has sufficient probative value to justify its admission. For many years now, police have been asking witnesses to identify suspects from a book of photographs rather than have the suspects take part in a formal identification parade.

Indeed, the traditional line-up has fallen so far out of fashion in some jurisdictions, as I understand it, that newer police stations, including the one at Christies Beach, do not even have a room with a one-way mirror in which an identification parade can be conducted, so it is becoming increasingly difficult for physical reasons as well. In fact, I have been told by one lawyer who has dealt with thousands of criminal matters that he has only seen one or two line-ups conducted in the last 10 years; so they are these days relatively rare already.

It seems, therefore, from this amendment that legislation needs to catch up with what is already current practice in the police force, the current usual practice being the use of photographic identification. There are certainly arguments on both sides of the debate as to whether this is in the

best interests of justice or not. The Law Society, on the one hand, has publicly opposed moves to limit in law the precedence of identification parades.

On the other hand, there are arguments from psychologists and other professionals questioning the accuracy of identification evidence obtained from line-ups. Professor Neil Brewer, for example, who is Dean of the School of Psychology at Flinders University, is something of a leading authority on police line-ups. Coincidentally, I would recommend to members his upcoming free lecture on police line-ups entitled 'Mistaken identity: how to use police line-ups to nab the bad guy, not the good guy', which will be held next Tuesday at 5:30pm at the Flinders University city campus.

Professor Brewer, in particular, has pointed out several deficiencies in the use of identification parades, and I understand his work was considered in some detail by the government before it proposed this initiative. One article I have from the *Forensic Psychology Journal*, from another author, makes the following point:

> History has shown that eyewitness identification is easily influenced and wrongful accusations and incarceration has resulted from these errors.

Also worth pointing out was a fairly definitive study in 2001 carried out by California State University-Sacramento that found that witnesses who viewed conventional line-ups and photo displays in 347 California cases actually picked the wrong person about half the time. Mistaken identification was also used as grounds for acquittal in 60 of the first 82 exoneration cases taken on by the Innocence Project which, members may be aware, is the United States group that tries to undo wrongful convictions.

Police were also told to strongly support this bill, and I have little doubt they prefer catching criminals rather than rounding up members of the public to assist in identification parades. It is estimated that identification parades can take up to 10 police officers to organise and 60 hours of police time in total in some cases; and, actually, in some cases after that work has been undertaken, the suspect does not attend the identification parade and the whole process has to be started again. This seems very inefficient. Clearly—and I think it is fair to say this would be true not only of Family First but also other parties and individuals in this chamber—we do not like to see police resources wasted. I think this bill, at least at surface level, will go some way towards addressing that.

Family First will consider the debate regarding this particular bill. I indicate support for the second reading but we will reserve our judgment and final position until we consider debate during the committee stage. It is nevertheless fair to say that we put a lot of weight on any request that SAPOL makes of us and, on the face of it, this bill does appear to make sense. We do query whether the delay in matching what is already standard police practice with this later legislation has jeopardised any criminal trials to date. Nevertheless, as I have said, Family First supports the second reading of this bill.

I repeat that we are mindful that the opposition has not yet spoken on this bill. Of course, it is convention that the minor parties and Independents normally speak after the opposition but they were not quite ready to speak so we have moved ahead in this regard. However, I would reassure the opposition that we certainly will consider their position prior to coming to a final decision on this matter.

Debate adjourned on motion of Hon. Carmel Zollo.

RAIL SAFETY (SAFETY COORDINATION) AMENDMENT BILL

In committee.

Bill taken through committee without amendment.

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, Minister for Gambling) (16:35): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council.

ELECTRONIC TRANSACTIONS (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

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, Minister for Gambling) (16:45): I move:

That this bill be now read a second time.

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

Leave granted.

Members will be aware that the *Electronic Transactions Act 2000* has equivalents in all States and Territories. It came about as a national project to adopt the 1996 UNCITRAL model provisions into domestic law. The provisions were intended to make clear that electronic communications can be used to create valid contracts, and to provide that certain legal requirements, such as a requirement for a signature, or a requirement to provide information in writing, can be complied with electronically.

Since 2000, international work on this topic has continued and in 2005 the United Nations reached agreement on a Convention on the Use of Electronic Communication in International Contracts. This Convention was based on the 1996 provisions but amended them in some respects.

Australia wishes to accede to this Convention and so intends to bring its domestic laws into conformity with it. Accordingly, the Standing Committee of Attorney-General in May 2010 agreed that the Commonwealth and all States and Territories would amend their existing electronic transactions laws, following model provisions prepared by the Parliamentary Counsel's Committee.

The amendments are largely technical. Their effect is as follows:

It is proposed to amend the wording in the signature provisions from 'indicate the person's *approval*' to 'indicate the party's *intention'* in respect of the information communicated. This is because to sign a document might not always connote that the person approves of its contents, for example, where a signatory is simply a witness to another person's signature.

It is also proposed to add a safeguard to the existing signature provisions to prevent parties from arguing that a signature fails the reliability test in the Act. The current test depends on showing that the method of identifying the person and indicating their intentions was 'as reliable as was appropriate for the purposes for which the material was communicated', that is, it was reasonably reliable in the circumstances. It is proposed to provide, in addition, that the method equates to a signature in any case where the method can be proved *in fact* to have identified the signatory and indicated the signatory's intention in respect of the information contained in the electronic communication.

The definition of a 'transaction' in the Act is to be amended to make it clear that, for the purposes of a transaction in the nature of a contract, a 'transaction' includes dealings in connection with the formation and performance of a contract, consistently with the definition of 'communication' in article 4 of the Convention.

The Bill proposes to add a provision that proposals to enter into a contract made by electronic means to the world at large are to be treated as an invitation to make offers, unless there is a clear indication by the trader of an intention to be bound. This clarifies the position where a trader's website offers goods or services on specified conditions to any interested visitor to the site. There may well be a limited supply of the goods or services and it would not make sense that the trader be legally bound to supply them no matter how many persons sent a message to the site seeking to obtain the goods or services. It is more sensible to analyse the transaction so that the trader is merely inviting the public to deal with his or her business, and a legal offer only comes into existence when the visitor to the site submits an order for the goods or services. At that point, the trader can decide whether he or she can fill the order and, if so, can accept the offer, thus forming a contract. This provision is in addition to, and is not intended to derogate from, general consumer protection laws.

The Bill also deals with the situation where a trader accepts and processes orders by means of a computer programme, without any human being necessarily scrutinizing the exchange of information. It proposes to add to the Act a provision to clarify that contracts resulting from the use of automated message systems are not invalid simply on that ground. It is proposed to insert a definition of 'automated message system' meaning 'a computer program or an electronic or other automated means used to initiate an action or respond to data messages or performances in whole or in part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system'.

The Bill also proposes to amend the Act to incorporate article 14 of the Convention, which gives a natural person who interacts with an automated message system the right to withdraw the portion of the electronic communication in which an input error was made. This right only applies if the automated message system does not provide the person making the input, or the party on whose behalf that person was acting, with an opportunity to correct the error. Many traders do, of course, include in their automatic message systems a screen that displays the information entered by the customer and asks the customer to either confirm or resubmit the information. As long as traders do that, they are not affected by the proposed right of withdrawal. For those who do not, however, they bear the risk that a customer might make an error and need to withdraw the erroneous portion of the information. The customer must act promptly to notify the trader of the error and, in any case, the customer cannot withdraw after he or she has had the benefit of the goods or services.

These proposed provisions are not limited to business-to-business contracts but apply to transactions in general, including transactions with consumers.

The Bill also proposes that the Act should incorporate provisions that clarify rules for determining a party's place of business. In keeping with the Convention, these rules are proposed to be as follows:

(a) a party's place of business is presumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location;

(b) if a party has not indicated a place of business, and has more than one place of business, then the place of business is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;

(c) a location is not a place of business merely because that is:

(i) where equipment and technology supporting an information system used by a party in connection with the formation of a contract are located; or

(ii) where the information system may be accessed by other parties;

(d) the fact that a party makes use of a domain name or electronic mail address connected to a specific country does not, of itself, create a presumption that its place of business is located in that country.

It is proposed to insert a definition of 'place of business' for a private entity as 'a place where a party maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location'.

The Bill also proposes amendments to the default rules in the Act for timing of dispatch so that:

(i) the formula for determining time of dispatch ('when it enters an information system outside the control of the originator') reflects instead the Convention's formula ('when it leaves an information system under the control of the originator'); and

(ii) if the electronic communication has not left an information system under the control of the originator (e.g. where the parties exchange communications through the same information system or network) the time when the electronic communication is received.

The default rules in the Act for timing of receipt are also proposed to be amended so that:

(i) the time of receipt of an electronic communication is the time when it becomes capable of being retrieved by the addressee at an electronic address designated by the addressee (an electronic communication is presumed to be capable of being retrieved by the addressee when it reaches the addressee's electronic address); and

(ii) the time of receipt of an electronic communication at another electronic address of the addressee is the time when it becomes capable of being retrieved by the addressee at that address and the addressee becomes aware that the electronic communication has been sent to that address.

The rules in the Act for time and place of dispatch and receipt would also make it clear that the fact that an information system of an addressee is located in a jurisdiction other than that in which the addressee itself is located does not alter the application of the rules in articles 10.2 (time) and 10.3 (place) of the Convention.

An amendment is made to the regulation-making power. It is proposed that there should in future be regulations, consistently with the Convention, providing for the exclusion of specific financial transactions and negotiable instruments, documents of title and similar documents when the subject of an international contract. It is not intended that the general rules in the Act should apply to situations that are already covered by more specific regulation, such as money-market transactions.

Finally, the Bill would amend the Act to incorporate the definitions of 'originator' and 'addressee' used in the Convention.

The model law has already been enacted in New South Wales and other Australian jurisdictions are expected to enact it soon.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Electronic Transactions Act 2000*

4—Amendment of section 4—Simplified outline

Clause 4 is a consequential amendment on the insertion of proposed new Part 2A into the principal Act.

5—Amendment of section 5—Interpretation

Clause 5 inserts definitions necessary for the measure.

6—Insertion of section 6A

Clause 6 inserts a new section 6A into the principal Act to provide that the regulations may provide that all or specified provisions of the Act do not apply to specified matters, circumstances or laws. This regulation making power was previously in various sections of the Act.

7—Amendment of section 7—Validity of electronic transactions

This amendment is consequential on the insertion of new section 6A.

8—Amendment of section 9—Signatures

Section 9 of the principal Act provides that if the signature of a person is required, that requirement is taken to have been met in relation to an electronic communication if, amongst other things, a method is used to identify the person and to indicate the person's approval of the information communicated. The proposed amendment removes the word 'approval' and instead provides that the requirement is taken to have been met in relation to an electronic communication if a method is used to identify the person and to indicate the person's 'intention in respect of' the information communicated.

Currently, section 9 provides that the method used to identify the person and to indicate the person's intention in respect of the information communicated must be as reliable as appropriate for the purposes for which the information was communicated. The amendment proposes to add that the method will also equate to a signature if it does, in fact, identify the person and indicate the person's intention in respect of the information communicated.

9—Repeal of section 12

This amendment is consequential on the insertion of new section 6A.

10—Substitution of section 13

It is proposed to delete section 13 of the principal Act and replace it with new sections 13, 13A and 13B to alter the requirements with respect to the time and place of dispatch and receipt of an electronic communication. New clause 13 provides that the time of dispatch of an electronic communication is the time when the electronic communication leaves an information system under the control of the originator or, if the electronic communication has not left an information system under the control of the originator, the time when the electronic communication is received by the addressee.

New clause 13A provides that the time of receipt of an electronic communication is either—

- the time when the electronic communication becomes capable of being retrieved by the addressee at an electronic address designated by the addressee; or
- if being received at another electronic address of the addressee, is the time when both—
  - (i) the electronic communication has become capable of being retrieved by the addressee at that address; and
  - (ii) the addressee has become aware that the electronic communication has been sent to that address.

New clause 13B provides that an electronic communication is taken to have been dispatched at the place where the originator has its place of business and is taken to have been received at the place where the addressee has its place of business. For the purposes of this—

(a) a party's place of business is assumed to be the location indicated by that party, unless another party demonstrates that the party making the indication does not have a place of business at that location; and

(b) if a party has not indicated a place of business and has only 1 place of business, it is to be assumed that place is the party's place of business; and

(c) if a party has not indicated a place of business and has more than 1 place of business, the place of business is that which has the closest relationship to the underlying transaction, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the transaction; and

(d) if a party has not indicated a place of business and has more than 1 place of business, but paragraph (c) does not apply—it is to be assumed that the party's principal place of business is the party's only place of business; and

(e) if a party is a natural person and does not have a place of business—it is to be assumed that the party's place of business is the place of the party's habitual residence.

The proposed clause also provides that a location is not a place of business merely because that is where equipment and technology supporting an information system used by a party are located or where the information system may be accessed by other parties, and the fact that a party makes use of a domain name or electronic mail

address connected to a specific country does not create a presumption that its place of business is located in that country.

11—Amendment of section 14—Attribution of electronic communications

This amendment is consequential on the insertion of new section 6A.

12—Insertion of Part 2A

Clause 12 inserts a new Part 2A into the principal Act to provide additional provisions to apply to contracts involving electronic communications. In particular, proposed new clause 14B provides that a proposal to form a contract made through an electronic communication that is not addressed to 1 or more specific parties and is generally accessible to parties making use of information systems, is to be considered as an invitation to make offers, unless it clearly indicates the intention of the party making the proposal to be bound if accepted.

New clause 14C provides that a contract formed either by the interaction of an automated message system and a natural person or by the interaction of automated message systems, is not invalid, void or unenforceable on the sole ground that no natural person reviewed or intervened in each of the individual actions carried out by the automated message systems or the resulting contract.

New clause 14D provides that if a natural person makes an input error in an electronic communication exchanged with the automated message system of another party, and the automated message system does not provide the person with an opportunity to correct the error, the person has the right to withdraw the portion of the electronic communication in which the input error was made if—

- the person notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication; and
- the person has not used or received any material benefit or value from the goods or services received from the other party.

Debate adjourned on motion of Hon. S.G. Wade.

STATUTES AMENDMENT (DE FACTO RELATIONSHIPS) BILL

Received from the House of Assembly and read a first time.

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, Minister for Gambling) (16:46): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is consequential upon the *Commonwealth Powers (De Facto Relationships) Act 2009*, which came into operation on 1 July 2010. That Act refers legislative power to the Commonwealth over the division of property of *de facto* partners upon their separation.

As a result of the referral of power, some minor consequential amendments are required to three Acts to ensure that couples covered by the newly applicable *Family Law Act 1975 de facto* property regime are treated in the same way as other couples.

The first amendment is to the *Criminal Assets Confiscation Act 2005*. That Act deals with the question of what property should be considered to be proceeds of crime for the purpose of confiscation. It rules some property in and some out. One example of property that is ruled out of the scope of the Act is property of former couples that has been distributed between them at least six years previously according to law. The Act currently covers the property of married or formerly married couples that has been distributed in accordance with the *Family Law Act 1975* and the property of a domestic partner that has been distributed under the *Domestic Partners Property Act 1996*. This provision should equally apply to property of a *de facto* couple that has, as a result of the *Commonwealth Powers (De Facto Relationships) Act 2009* been similarly distributed under Part VIIIAB of the *Family Law Act 1975*.

The second amendment is to the *Family Relationships Act 1975* and concerns the criteria to be applied by a court in deciding whether the relationship of domestic partners existed between two people at a given time. Among the many factors to be considered is whether the couple had made an agreement under the *Domestic Partners Property Act* about the division of their property upon separation. Now that some couples will, instead, be making agreements under Part VIIIAB of the *Family Law Act 1975*, it is necessary to add a reference to that Act. This ensures that the court is able to consider that agreement when weighing up whether the two persons should be judged to be domestic partners.

The third amendment is to the *Stamp Duties Act 1923*. The law already exempts from stamp duty various agreements and instruments that relate to the division of property when a married couple or a *de facto* couple separates. The amendment expands s. 71CA of the *Stamp Duties Act 1923* so that the same exemptions from duty are available to orders, agreements and consequential instruments made under Part VIIIAB the *Family Law*

Act 1975. This puts *de facto* couples covered by the Commonwealth law in an equal position with other couples, when it comes to the stamp duty consequences of their property division.

The Bill proposes that the amendments to the *Stamp Duties Act 1923* should be retrospective to 1 July 2010, being the commencement date of the referring Act. This is because there may be some *de facto* couples who are covered by the *Family Law Act 1975* regime and have lodged relevant instruments in that period. It is intended that they should enjoy the same exemption from stamp duty as do other couples. There is no disadvantage to any individual and there will only be a minor impact on State revenue, as a result of this retrospective operation.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

Part 4, which amends the *Stamp Duties Act 1923*, will be taken to have come into operation on 1 July 2010. The remainder of the measure will come into operation on the day of assent.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

4—Amendment of section 7—Meaning of proceeds and instrument of an offence

Section 7(2)(c)(i) of the *Criminal Assets Confiscation Act 2005* refers to orders in proceedings under the *Family Law Act 1975* with respect to the property of parties to a marriage. This clause amends that provision so that reference is also made to property of the parties to a de facto relationship. Section 7(2)(c) is also amended so that reference is made to Part VIIIAB financial agreements under the *Family Law Act 1975* in addition to other financial agreements.

Part 3—Amendment of *Family Relationships Act 1975*

5—Amendment of section 11B—Declaration as to domestic partners

Section 11B(3) of the *Family Relationships Act 1975* lists circumstances that the District Court is to take into account when considering whether to make a declaration that two persons were domestic partners of each other on a particular date. This clause amends the list so that the Court can take into account any Part VIIIAB financial agreement made under the *Family Law Act 1975*.

Part 4—Amendment of *Stamp Duties Act 1923*

6—Amendment of section 71CA—Exemption from duty in respect of Family Law instruments

Section 71CA of the *Stamp Duties Act 1923* provides an exemption from duty for certain agreements under the *Family Law Act 1975* and instruments giving effect to, or arising as a consequence of, those agreements. This clause amends section 71CA so that the exemption applies to instruments under the *Family Law Act 1975* relating to de facto relationships.

Debate adjourned on motion of Hon. S.G. Wade.

CORPORATIONS (COMMONWEALTH POWERS) (TERMINATION DAY) AMENDMENT BILL

Received from the House of Assembly and read a first time.

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, Minister for Gambling) (16:47): I move:

That this bill be now read a second time.

I seek leave to have the detailed explanation of the bill Incorporated in *Hansard* without my reading it.

Leave granted.

The *Corporations (Commonwealth Powers) Act 2001* (the Act) refers, from the Parliament of South Australia, to the Parliament of the Commonwealth, the power to enact the text of the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* (the ASIC Act).

The Act also enables the Commonwealth to amend the legislation in relation to the formation of corporations, corporate regulation and the regulation of financial products or services.

All State parliaments have enacted legislation referring these matters to the Commonwealth Parliament.

Relying upon the references, the Commonwealth Parliament has, under section 51(xxxvii) of the *Constitution*, enacted the Corporations legislation: the *Corporations Act 2001* and the ASIC Act. This legislation is the basis for the Corporations Scheme: the legislative and regulatory scheme under which companies, securities and financial services and markets are regulated in Australia.

South Australia's participation in the Corporations Scheme is fundamental to our economic wellbeing. It provides a regulatory framework under which South Australian based corporations can operate and trade nationally and internationally. The State's participation in the Scheme in turn depends upon South Australia's status as a referring State, a status that will be lost if the references of power terminate.

Section 5(1) of the *Corporations (Commonwealth Powers) Act 2001* originally provided that the references would terminate on the fifth anniversary of the day of commencement of the legislation. In 2005, the provision was amended so it currently provides that, unless terminated earlier, the references of power terminate on the 10th anniversary of the day of the commencement of the Corporations legislation. As the Corporations legislation, commenced on 15 July, 2001, that date is 15 July, 2011.

This Bill amends section 5(1) to extend the references of power from the tenth to the fifteenth anniversary of the commencement of the Corporations legislation. All other States have agreed to extend their references to the same date.

This will extend the operation of the Corporations Scheme, and South Australia's participation in it, until 15 July, 2016.

I seek leave to have the remainder of the second reading inserted into *Hansard* without my reading it.

The Corporations Scheme commenced on 15 July, 2001 after more than 18 months of negotiations between the Commonwealth and the States over the establishment of a constitutionally-sound system of corporate regulation.

The Scheme replaced the national scheme laws (based on the Commonwealth's administration of the States' and Northern Territory's *Corporations Law*), the Constitutional certainty of which was undermined by the *Wakim* and *Hughes* decisions of the High Court.

Although the Commonwealth sought open-ended references of power from the States, this was not agreed. The States were prepared to refer power only for a fixed period, in the end, five years. There were reasons for this: The States were of the view that the references of power should not be a permanent solution to the problems posed by the *Wakim* and *Hughes* decisions.

The States were also concerned about the Commonwealth misusing the referred amendment power to legislate in areas unconnected with corporate regulation and the regulation of financial products and markets. Although the referral Acts and the relevant inter-governmental agreement, the Corporations Agreement 2002, contain safeguards against this, in reality, these measures are limited. The States believed that the best protection against misuse was to limit the references of power to a fixed period of time.

The first extension of the references of power occurred in 2005. The Commonwealth initially sought agreement from the States to replace the five-year references with open-ended references. However, while recognising the need to ensure certainty for the business and investment communities, the States' still favoured a permanent constitutional solution and had concerns about the potential for misuse of the referred power. Therefore, the States and the Commonwealth agreed to a five-year extension of the references of power in 2005.

As the references are now due to expire on 15 July 2011, there have been negotiations as to the length of the next extension of the references. There was initially a suggestion from the Commonwealth that the States consider a ten year referral, rather than five. However, the States are still of the view that the period of referral must balance the desire for consistency and continuity with the risk of the misuse of the power. Therefore, another five year extension has been agreed.

Unlike all other States, the South Australian legislation requires Parliament to approve an extension by amendment to the *Corporations (Commonwealth Powers) Act*. The opportunity could have been taken to allow for future extensions by proclamation. However the Government has taken the view that this is of sufficient importance to the State to warrant Parliamentary consideration of future extensions.

Section 5(1) of the Act provides that both references of power terminate on the day that is the 10th anniversary of the day of commencement of the Commonwealth's corporations legislation. This date is 15 July, 2011.

To extend the references for a further five years, clause 3 of the Bill amends section 5(1) of the Act to move the termination of the references back to the 15th anniversary of the commencement of the national scheme. The new termination date will be 15 July, 2016.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Corporations (Commonwealth Powers) Act 2001*

4—Amendment of section 5—Termination of references

It is proposed to amend section 5(1) to provide that the references terminate on the 15th anniversary of the commencement of the Corporations legislation.

Debate adjourned on motion of Hon. S.G. Wade.

At 16:52 the council adjourned until Wednesday 4 May 2011 at 14:15.