LEGISLATIVE COUNCIL

Wednesday 23 November 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:04): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest to be taken into consideration at 2.15pm, and orders of the day, government business to be taken into consideration prior to notices of motion and orders of the day, private business.

Motion carried.

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 November 2011.)

The Hon. T.J. STEPHENS (11:05): I rise to speak briefly—and people do know that when I say 'briefly' it will be brief—on this extremely important bill. What I will not do is trawl over the ground in the excellent contributions from my colleagues the Hon. David Ridgway, the Hon. Michelle Lensink, the Hon. Stephen Wade and, of course, the Hon. Rob Lucas. I know that the Hon. John Dawkins is to follow me. For the record, this is an incredibly important bill.

My concerns, and I still have them, obviously being a Whyalla person, are the Spencer Gulf and the desal plant. I register my disappointment that the desal plant will not, in fact, at this point supply potable water to Eyre Peninsula, which I thought was going to be a massive plus for Whyalla and Eyre Peninsula. I hope that is something that perhaps a future government may be able to investigate, because I certainly spent a long time in Whyalla drinking water that was pretty average at best, through the pipeline we have historically had there.

I still have concerns about the desal plant, even though there have been modifications and improvements. I have certainly heard, loud and clear, the concerns of the people of Spencer Gulf, in particular from the professional fishing fraternity and the recreational fishing fraternity. I am still concerned but the reality, with this bill, is that it is not take part of this or part of that and change part of this and part of that: it is either agree or disagree. The overwhelming decision that has to be made, and one that, as a group, we have decided upon, is to support the bill because of its overall importance to the people of South Australia.

The Hon. Michael O'Brien said, I think last year, that this government is in such dire financial straits that it is borrowing money to pay the wages of the Public Service. This would indicate to the people of South Australia how important this particular project is. We do not have an option. Yes, BHP has played hard ball; it has extracted from this government what I think one could only describe as a 'juicy' deal for BHP. I would have liked to have seen stronger and stricter imposts on how much was processed here and on how many South Australians were actually employed in the project, but the reality is that I do not see that we have the option of dictating those terms. With those few words, I indicate my disappointment on a number of the components of this particular indenture but also my full support for the project, knowing how important it is for the people of South Australia.

The Hon. K.L. VINCENT (11:08): I would like to very briefly put on record a couple of comments about the Roxby Downs amendment bill. Firstly, I would like to say that I acknowledge and understand the very real and positive economic impacts that this project could have, and no doubt will have, for the state for a great many generations to come—possibly outliving me as the youngest member of parliament, despite the fact that the Hon. Mr Parnell seems to think that this will not be the case. Unfortunately, I beg to differ.

However, with significant economic impact comes equal environmental and social impact that needs to be taken into consideration. On the issue of environmental impact, accountability and transparency, I would like to thank the Hon. Mr Parnell for his contribution. As a former lawyer at the Environmental Defenders Office and a long-time activist in this area, I very much appreciate his expertise on the potential impacts mining developments and built infrastructure can have on our precious natural environment, both in our arid northern desert regions in South Australia, and also the Spencer Gulf marine area as a result of the desalination plant.

I think his message that we must not get caught up in the excitement of this development is very sage advice to all in this chamber. We see so many projects, so much legislation and so many policies where, once they are implemented and underway, it is very difficult, if not impossible, to change direction. So for this, the biggest development in this state's history, this is surely true. If we now get this wrong it will be difficult to undo. All the threats from the government about BHP walking away, the idea that rushing this legislation through is somehow essential—I do not see how a week or two can be truly critical when we are talking about a century-long project.

Therefore, we must not err in our analysis of the possible longer-term issues of this development and we should remain vigilant once the bill passes through the house to ensure that BHP Billiton stick to its promises and continue to improve its outcomes in all aspects of its mining operations, whether it be revegetation of mine sites, native title consideration or diversity of the workforce.

This brings me to a point on the workforce. Clause 12 of schedule 1 of this bill refers to the use of local professional services, labour and materials. There is reference to BHP needing to furnish the minister with an industry and workforce participation plan. Subclause (5)(a) refers to 'opportunities for employment and workforce development, especially for young people and Aboriginal people'. I am also concerned that within clause 12 is reference to commercial consideration being the only thing they need to consider and that this overwhelms everything else in the clause. I believe one of the Hon. Mr Mark Parnell's amendments seeks to strike out this part of the clause, and that is worth looking at in my opinion.

It seems that employment for people with disabilities was not on the radar when BHP and the government were negotiating this issue. I also wonder what other areas of social disadvantage were not considered in the workforce plan and the possibility that they could be opportunities for BHP. Given that it is my understanding that we do not have enough appropriately trained available workforce in Adelaide to undertake this project, I would like to know what other innovative recruitment methods BHP is looking at to employ the right people to get this happening.

For example, South Australia accepts a significant number of humanitarian entrants or refugees to this state every year. At present many of them are young men from war-torn countries such as Sudan, the Congo, Afghanistan and other countries in the Middle East and Africa. Often they arrive as unaccompanied minors. These young men will often have spent time, many years, in refugee camps, such as Kakuma in Northern Kenya, struggling to survive and having had very limited nutrition, education and health care. Some of them have amazing stories and life experience of survival and perseverance, and I think that these attributes could be an incredible asset to a company like BHP.

When they arrive in Adelaide they attempt to get some education and enter the workforce. I think it will be wonderful to see BHP taking a pro-active approach to looking at getting these young men into training for BHP's labour workforce and into full-time employment once they finish school. It could be a ground-breaking project for BHP to undertake.

My researcher has been assured this morning by Kym Winter-Dewhirst from BHP that the company has a comprehensive diversity policy. However, I am a little concerned to hear that BHP does not currently collect statistics to date on how many people in its workforce have a disability. What I am concerned about is that people within BHP are somehow scared of identifying that they have a disability because they will be stigmatised or disadvantaged, and I would like to see that changed.

I think that BHP should know what the make-up of its workforce is in all aspects, whether it be women, disability, Indigenous or youth. It may be that BHP needs to change the culture within the workforce so that people will feel that it is okay to identify as having a disability and possibly needing additional support within the workplace. I would also add that, to my mind, BHP is potentially even stigmatising by the simple virtue of the fact that it does not collect this data and therefore behaving as if disability is something to hide.

I would also like to see the government insisting that BHP, through its social management framework and joint government/BHP task force, that there is an investigation of an employment project for people with disabilities—perhaps with a partnership with a company like Orana or like organisations. In Mount Gambier there is quite an innovative project which a sawmill is running with Orana which employs people with an intellectual disability. I would like to query the government on what undertakings and assurances it has from BHP that there will be an innovative workforce program in place. I seek leave to conclude my remarks.

The PRESIDENT: Did the honourable member seek leave to conclude?

The Hon. K.L. VINCENT: Yes.

The PRESIDENT: Well, there are other speakers after the Hon. Ms Vincent. If the Hon. Ms Vincent wants to make a short contribution to clause 1 when the bill goes into committee, I would be happy to allow that.

The Hon. K.L. VINCENT: Having spoken to minister Gago, I am happy to proceed that way.

The PRESIDENT: So, the Hon. Ms Vincent withdraws her seeking leave to conclude her remarks?

The Hon. K.L. VINCENT: Yes.

The Hon. J.S.L. DAWKINS (11:18): I rise to support this bill and also to add to the comments made by my colleagues on the Liberal side of this chamber. I hope to elaborate on a matter that is probably a bit different from some others have covered so far. However, I should first declare to the chamber that my daughter, Leah Grantham, has worked for BHP Billiton since the middle of 2006 and is currently employed as Senior Stakeholder Relations Adviser with the Uranium Customer Sector Group in BHP Billiton. Since her employment by the company, she has been heavily involved in community relations with many aspects of the project.

I did open my remarks by saying that I thought I would come to this project with a different perspective, and I do in the nature of what I believe the expansion of the Olympic Dam mine will do for the growth of our regional communities. Since coming to this chamber, I have had a number of different roles in the area of regional development, both in government initially and in opposition. While 'regional development' are a couple of words that are put together and roll off the tongue fairly easily, they are things that do not happen with the snap of the fingers and do not happen by people trying to force people to go to live in areas where they would not otherwise live. However, the development of regions and regional centres will happen if there is economic growth to facilitate that and the expansion of the Roxby Downs project and the work that we are doing at the moment on the indenture is very important in that.

One of the things that I am particularly passionate about is developing the growth of regional centres in South Australia and also some of the smaller population centres that surround them and are, in many cases, reliant on them. I think BHP Billiton is to be commended for the work that it has done in developing a community at Roxby Downs.

We see a number of cases of large mines in other parts of Australia and some in this state where the most appropriate way for the mine to be run is to be almost entirely fly-in and fly-out—and I recognise that. Recently I was at Moomba and that is the way Santos has always operated, and because of its relative isolation that makes some sense. However, as I said, I give BHP Billiton (and its predecessor Western Mining Corporation) credit for developing the community that is Roxby Downs. We have seen that not only has Roxby grown to service the community and provide homes for a lot of the staff and a community for them to live in but it has also become a regional centre for a lot of the pastoral areas that surround it. That has also been an important thing for the Far North of South Australia.

The expansion of the mine is an enormous project. I think other colleagues have gone through some of the figures and some of the benefits that that project will have, just through its

enormity, for the economy of South Australia. I see the expansion of Roxby Downs going into what will probably make it eligible to become, under our rules in South Australia, a city if it goes above 10,000 people. I think it will continue to become an important regional centre not only for economic matters but for government services in that part of the state.

Just over 12 months ago the Liberal Party shadow cabinet was invited to meet in Roxby Downs and to tour Olympic Dam and be shown the potential of this new project. I must say, as the secretary of the shadow cabinet, I welcomed the opportunity to do that. I think it showed us that day not only the scale of the changes at the Olympic Dam mine site but also how it will impact in relation to the new airport, the new construction village at Hiltaba and, of course, the development of the residential community of Roxby Downs.

I will elaborate on that because I think there has been a trend in South Australia for the population to become more orientated towards the metropolitan and inner rural areas of South Australia. Any measure that is going to add to the population of our communities further away from the capital city is to be commended and welcomed. In that sense, I think we cannot stress highly enough the impact that this project will have, not only on Roxby Downs but on many other regional centres in other parts of the state.

I am aware of the efforts that are being taken by BHP Billiton in coordination with the Regional Development Australia bodies and other interested parties to organise briefings in a range of regional centres and in the metropolitan area for businesses that have the potential to be involved in delivering the services and assisting in all of the work that needs to be done to make this project successful.

Another aspect that I would like to raise briefly is the matter of Yorkeys Crossing, and I noted that the Hon. Dennis Hood raised this yesterday. I brought the situation at Yorkeys Crossing to the attention of this chamber earlier in the year—I think it was the last sitting week before we broke up in July through August—and I did ask the Minister for Regional Development at the time to familiarise herself with the current state of Yorkeys Crossing.

I am not sure whether you, Mr President, in your days in the pastoral areas have ever gone across Yorkeys Crossing; it seems that you have. You would understand that while it is a relatively basic bit of unsealed road, it does serve a significant purpose and would be absolutely crucial if anything ever happened to the bridge in Port Augusta.

I think the government needs to take that more on notice than it has to date because, with the amount of construction material and many other facets of goods that need to be transported to Roxby Downs, that bridge across the gulf is vital, and equally vital is the only alternative we have, and that is Yorkeys Crossing. I urge the minister, if she has not since been there—and I do not think she has, because I think she might have told me—to familiarise herself with it because it is a significant issue.

In concluding my remarks, I wish to indicate that this project has my absolute support and it has the absolute support of this party. As my colleague the Hon. Mr Lucas said last night, the Liberal Party has always supported Roxby Downs and the Olympic Dam project. It would not have happened if it had not been for the Tonkin government and my great friend and mentor, the Hon. Roger Goldsworthy AO, and for the work that they did to ensure that it got off the ground back in the early eighties.

As others have said here, we should never forget the role of the Hon. Norm Foster in having the absolute courage to cross the floor, knowing that he would have to leave his party, because he saw that South Australia's future depended on Roxby Downs being a vital part of this state, and we can say that again.

Having had the opportunity to visit Roxby Downs on a number of occasions, we see that that community is waiting. It is on the verge of something that is, I think, unprecedented in this state and, as I said earlier, I am excited by the future it holds for that centre. It is a vibrant area. There are a lot of young people, a lot of children. It is a very sporting-minded community, as anybody knows who has had involvement with the Far North Football League and other sports that are played there.

The community is one that I think most people are impressed with and, as I said, I think we need to give great credit to BHP Billiton for continuing to support that. It is an interesting community with two newspapers, and it is always a good read to examine what is happening in that community. I urge members to have a look at the two papers that are available in the library

because they give a snapshot of that community, what happens there and how proud those people are to be part of what is happening at Olympic Dam. With those words, I add to the comments of my Liberal colleagues and others and support the bill with great pleasure.

The Hon. J.S. LEE (11:31): I also rise to speak to the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Bill 2011. Joining with the Leader of the Opposition, Isobel Redmond, and the Leader of the Opposition in the Legislative Council, the Hon. David Ridgway, and my esteemed Liberal colleagues, I am pleased to support this bill.

I am very humbled to be given the opportunity to speak about the bill because I believe it will probably be the most important legislation that goes through the parliament in my political career. This type of project does not come around very often. The magnitude of such a project is unique and it happens to be in our backyard. It is indeed an opportunity of a lifetime.

The indenture and its ratifying bill has been exhaustively negotiated, where members have taken into account the economic, social and environmental impact with regard to the need to ensure proper protection of community interests, the environment and the maximum financial return to the people of this state.

I am grateful for the high level of work that was put in by the Liberal leadership committee came which worked diligently and tirelessly to fully access and understand all aspects of the documentation relating to the indenture and the possible ramifications. This small committee consisted of the Leader of the Opposition, Isobel Redmond; the Deputy Leader of the Opposition, Mitch Williams; the shadow treasurer, the Hon. Iain Evans; together with the Leader of the Opposition in the Legislative Council, the Hon. David Ridgway; and deputy leader and shadow environment minister, the Hon. Michelle Lensink. All worked in good faith with the government to put the Olympic Dam project beyond politics.

It is essentially the role of the government of the day to negotiate these indenture agreements with BHP Billiton. It is the role of the opposition, of course, to scrutinise and question. I am proud that the Liberal opposition acted in the best interests of the people of South Australia with the knowledge that this project offers exciting opportunities and significant benefits to the state. When we offered bipartisan support, it was a welcome sight to see former treasurer the Hon. Kevin Foley being so complimentary in acknowledging the outstanding leadership displayed by the Liberal opposition team throughout the process.

As our shadow treasurer, the Hon. Iain Evans, in the other place has rightly pointed out, the decision for bipartisan support from the opposition is sending a very strong message about the alternative government. The message is that we are beyond politics and we are very serious about the economic development and employment creation of this state.

As we are here to debate a historic indenture bill, I thank many members from both houses who have gone back in time to provide me with so many fascinating history lessons. These lessons help us to reflect on the development of the mining industry in our state and how legislation has come into this parliament that paved the way for the development of the mining industry in South Australia.

Being a very proud Liberal, I am delighted to learn that it was under the Liberal Tonkin government that the original indenture was passed through this parliament which saw the beginning of mining activity at Olympic Dam. Today, let us acknowledge and remember the hard work undertaken by the former premier, the Hon. David Tonkin, and the Liberal government in 1982.

The Tonkin government and the mining minister of the day, the Hon. Roger Goldsworthy (the father of the current member for Kavel, Mark Goldsworthy, in the other place) led the debate at that time on the original Roxby Downs indenture and began the development of the mining industry in South Australia. As many honourable members have already mentioned, it was achieved through the actions of the courageous Hon. Norm Foster, an honourable member in the upper house who crossed the floor and played a significant role in helping the Tonkin government in the establishment of the Roxby Downs indenture bill.

There is a strong perception that the mining boom has the potential to deliver significant benefits for the South Australian economy, including more jobs, exports and tax revenues and for the people working in the industry, higher incomes, a high standard of living and other flow-on stimulus to secondary industries. It is time to turn this perception into reality.

I would like to put on the record my appreciation of BHP Billiton and its team for the opportunity to visit Roxby Downs and Olympic Dam, together with the Leader of the Opposition and a number of my Liberal colleagues, in April of this year. During the site visit and briefing session, we gained significant insight into the proposed Olympic Dam expansion plans, the massive scope of the operations, the processing facilities, staff accommodation on site, community facilities and amenities and services that are central to the wellbeing of the local community in Roxby Downs.

Today, the bill we are debating will underpin the state's economy for many years to come and provide a sound base for the economy for many generations for many decades to come. So, whether I am speaking to members of the South Australian community or visitors to our state, there is considerable interest throughout the state, Australia and overseas countries in the development of this massive, unique mine.

We are talking about a scale of investment and longevity of the mine that puts Olympic Dam into a league of its own. It is going to become the world's largest uranium deposit and the fourth largest gold resource on the planet. It is also the world's fourth largest copper deposit, currently producing around 180,000 tonnes of copper each year. By 2050—I had to take my map out because I was told that the size of the pit would grow to about 4.1 kilometres long, 3.5 kilometres wide and one kilometre deep. I am thinking: that is huge. The entire mine, when you look at it, will eventually stretch the equivalent distance of Gepps Cross to Flagstaff Hill. That is pretty amazing.

Many members in the council have brought to our attention a number of key issues that this project will offer that we have to deal with. There is: employment participation and training; a skilled migration scheme that needs to be introduced; the issues about fly-in/fly-out; and what about the opportunity that could be offered to local industry and local businesses. We are trusting that BHP Billiton will become a corporate citizen that will handle and provide equal and better opportunities for local businesses, and perhaps look into investing in research and development and social development for this state. I trust that BHP will do the right thing by the citizens of South Australia.

In conclusion, this is a long-term project and the proposed expansion will be a progressive development. The project schedule will ultimately depend on the timing and nature of government approvals and the final investment decision of the BHP Billiton board. Timing is a key factor and, hence, throughout this debate we can see why members of the opposition in both houses are supporting this bill and would like to see the passage of the bill move diligently through parliament without delay and without political games. With those words, I offer my support also to this bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:40): I believe that there are no further second reading contributions that have been indicated so I will take this opportunity to make a few concluding remarks. I have been provided with some of the answers to questions asked during the second reading debate. I am happy to put those that I have available on the record now and those outstanding I commit to provide through the committee stage.

Indeed, a great deal has been said about this project so I do not want to go over those statements. This is about BHP Billiton's proposal to expand the Olympic Dam mine, and we know that this is going to provide significant benefits to South Australia. It will be a significant driver here in Australia, the nation, and it certainly will be recognised worldwide. It will have significant long-term impacts, and I think each and every one of us in this chamber should feel very proud to be part of an initiative that will have such an enormous impact on the prosperity of this state, our children, our children's children, and so on.

I thank each member for their second reading contribution. The debate has been quite significant and a wide range of different issues have been raised. I particularly want to thank the opposition for their bipartisan support for this bill. By way of providing some specific answers to questions, I will particularly deal with those asked by the Hon. David Ridgway. He asked the question: why was 20 December chosen for the sunset date? I have been advised that this date was chosen so that the board of BHP Billiton had commercial certainty of the ratifying act and the amended indenture before the end of the year. This will allow BHP to begin its precommitment spending of $US1.2 billion and to finalise its proposal to the board to consider this major investment decision on the project expansion by mid-2012.

He also asked the question: how much additional ore will be processed by the new concentrator and the hydrometallurgical plants, and how does this fit with the expansion of the existing on-site smelter? I have been advised that the new concentrator and hydrometallurgical plant will have an ultimate capacity equivalent to 60 mtpa of ore—I am not too sure what that is—together with the existing plant. This will take the total capacity to 72 mtpa, sufficient to process all ore taken from the mine. This will result in a total concentration of copper concentrate of 2.4 mtpa. The increase of on-site smelter capacity to 800,000 tpa of copper concentrate is a doubling of on-site production of refined metal, and a further 1.6 mtpa of copper concentrate is proposed to be exported for further processing.

It was asked: what is the government doing to address the unsavoury elements that potentially will be attracted to the town of Andamooka? I have been advised that SAPOL will monitor policing requirements in Andamooka as a matter of core business, and a newly constructed police station at Roxby Downs will be able to accommodate staff requirements during the expansion. A condition of BHP's development approval was that it must work with SAPOL in assisting in crime and antisocial behaviours. In addition, BHPB will develop a social management plan in partnership with the government to address these issues.

In relation to the question about when the government expects the BHP Billiton board to actually make the decision, I have been advised that it is expected that the board will be presented with a detailed investment proposal by mid-2012, and provision has been made for the board decision to take up to 12 months after proclamation of the ratification act, anticipated to be the end of 2012.

In relation to the question of whether the project stage will be notified via a project notice or whether the first one will suffice, I have been advised that project notices are designed so that the company must give appropriate notification of certain details associated with the work that it intends to carry out. I note that, once the company gives a project notice, clause 8 puts a positive obligation on the company to implement the project.

The indenture contemplates that the company will submit a number of project notices as the overall project proceeds. It also gives the company the freedom to carry out the project in stages, as it sees fit. If a stage has been fully covered by an existing project notice that stage would not need an additional project notice. However, clause 6(3) is very specific about what must be notified to the minister. If relevant aspects of a stage are not appropriately covered in a previous project notice, then another project notice would have to be provided to the minister covering all the specified aspects.

Regarding the question of when BHPB has to do the mitigation plan and why it does not have to be publicly notified, I am advised that the indenture specifically permits the minister to make a mitigation plan available for public inspection. Clause 11(13) gives the minister the power to publicly release a range of documents, including an approved mitigation plan.

In relation to clause 11(12) and the question of where the independent expert comes from, given the size of the project and whether experts on a similar-sized project, such as Chile, are likely to be expert in environmental matters to the same standard as in Australia, I have been advised that clause 11(12) provides that, if the minister reasonably believes that an incorrect statement as to the achievement, or likely achievement, of an outcome has been made, either in an annual report or a report against the approved mitigation plan, an independent expert will be engaged to conduct the audit. The independent expert is not expected to be an expert in the specific field of environmental management; that is the subject of the outcome in question. The independent expert will be expected to have expert skills in environmental auditing, so that it can be verified whether the statement under review is indeed correct, as the minister believes.

Clause 11(12) provides that the independent expert must be approved by the minister. The decision about whether the proffered expert is acceptable to the government or otherwise will be made by the minister, most probably after taking into account advice from appropriate experts within the Public Service, including the EPA.

In relation to the question of whether there are penalties if the plan is not achieved, and what reporting is required, I am advised that preparation and implementation of a greenhouse gas and energy management plan is a condition on the development authorisation. The development authorisation has been granted under section 48(2) of the Development Act 1993, and accordingly the enforcement provisions under section 48(13) could be applied to any noncompliance or breach of a condition by the proponent or its contractor. Penalties are imposed by the court on a criminal

conviction. Whether proceedings are brought in relation to the breach of a condition will depend on the circumstances of the case.

In regard to reporting, BHPB must produce and make available to the indenture minister an annual road map that reports on progress to meet targets determined in the plan and quantifies emissions reduction opportunities and achievements.

In relation to the question of why it is not mandated under clause 12(7) to make the industry and workforce participation plan public, the government has adopted the principle in matters such as this that release of information is to be at the minister's discretion. The indenture minster has a ready said in the House of Assembly that he will publicly release the plan and the annual report. The environmental management program clause in the existing indenture contains similar wording, and the government has made this program, and the yearly reports, available since Olympic Dam commenced operating. So, we have a proven track record in that respect.

The government places a high degree of importance on BHP's plan for procurement of services, labour and material. However, it does not support elevating this matter to an obligation under the indenture; thus, one could potentially result in its termination. Transparency, good information and a collaborative approach will be some of the important factors in this state achieving its objectives. A failure to implement the plan does not release BHP from its obligations required by subclause (1), to use labour, industry and workforce. If BHP does happen to fail to implement the plan, then it will become publicly known by the release of that annual report.

Under clause 12(9), what happens if the state's Economic Development Board (the EDB) no longer exists when the indenture provides for the company to biannually meet with the chairperson to discuss the plan? I have been advised that the company would still meet with the relevant chief executives of state government departments and also are provided for in subclause (9). In terms of the availability of diesel fuel and why this clause is in the indenture, the answer is that the response of this clause is to mitigate against the risk of the state running out of diesel fuel due to BHP's demand. This can be a matter of particular concern due to periods of high seasonal demand associated with planting and harvesting of agricultural crops.

In relation to water requirements and the question why does clause 39 provide for BHPB to search for new additional underground water sources with a view to restoring or ensuring full quantity of the mine water requirements when a desal plant has been approved, I have been advised that the right exists under the current indenture and this date has agreed to its retention.

In relation to the question why does clause 13(17C)(b) make provision that, if BHPB has not built a desal plant in 30 years, the government has the option to buy back the site, there appears to be a risk that it will not be built. Is there a contingency plan in 20 or 30 years if the state site has not been developed? I have been advised that, while the government does want the option for the site to return to the state in the unlikely event that the desal plant is not built, a key matter with regard to construction of the desalination plant is the period of its development approval. BHPB's development authorisation will lapse after a 12-year period.

In relation to the question whether there are links between ODP stages 1 to 5, water consumption and the 30-year time frame for the desalination plant site, I have been advised that, no, water supply from the desal plant is needed at the commencement of processing of the first ore from the open-cut mine.

In relation to airstrip facilities and the question that if a proposal is put to the company and there is capacity in that bit of infrastructure and it does not put their operations at risk, would it be prepared to enter into commercial negotiations with other people who might want to access these facilities, I have been advised that BHPB is the owner and operator of the airport and other airline operators or private operators wanting to use the facilities would be required to obtain permission from BHP Billiton. I have been advised that they already have commercial agreements in place with other commercial operators. As with the existing airport, the new facility will be primarily established to service and facilitate the conduct of the Olympic Dam operations.

In relation to clause 18, power, and the question whether this indenture or the agreement limits the third party to building just a 600 megawatt power plant, etc., I have been advised that the indenture confers on the company a right to install and operate any plant and equipment to generate, transmit and reticulate electricity for the purposes of indenture operations. There is no limit in the indenture on the capacity of a power plant that the company may construct, so long as the plant is for the company's indenture operations. If BHP Billiton wants to sell power to the grid, it cannot rely on the indenture. In relation to the pipeline licence and the question of who will own the

pipeline and is it being put in by the company, or potentially by a gas company or someone tied up with the provision of a power plant, I have been advised that the indenture confers a right on the company to construct, operate and maintain a petroleum pipeline and associated infrastructure.

'The Company' is a defined term in the indenture, and it is defined to mean 'ODC and includes its successors and permitted assigns'. ODC is the name given to BHP Billiton Olympic Dam Corporation Pty Ltd, the owner and operator of Olympic Dam, under clause 36. BHP Billiton will assign its rights to a third party with the consent of the indenture minister. It is therefore possible for BHP Billiton to choose to assign the rights to another company, and it is also possible that another company may or may not also have contractual arrangements with BHP Billiton in relation to power supply infrastructure.

BHP Billiton, or a company to which it has assigned the appropriate rights, may construct and operate a pipeline but may also do so in accordance with the conditions on the development approval granted as a result of the comprehensive EIS process that was recently concluded by the state and federal governments. In addition, the company would also have to apply for a pipeline licence under the provisions of clause 19A of the indenture and would be granted pursuant to the Petroleum and Geothermal Energy Act 2000. Once the company receives the necessary licence, it will then be required to construct and operate the pipeline in accordance with the conditions of that pipeline licence, including conforming to a detailed statement of environmental objectives, which would be developed and approved as part of the licensing process.

In relation to questions on infrastructure cost, in answer to the question whether the minister can provide costs and time frames for the items listed in clause 22(2) around additional facilities and expenditure over the next 10 to 15 years, I have been advised that a preliminary estimate of $200 million for state government infrastructure has been provided by the government previously, but the final cost is expected to be less. In addition, the state is responsible for provision of certain civic and community facilities and infrastructure, with the preliminary estimated cost of $35 million to $50 million.

The impact of the expansion on the provision of government services to Roxby Downs was described in BHP Billiton's EIS. Treasury and the Olympic Dam task force, in conjunction with agencies providing services to Roxby Downs, are now planning to review previous work done on service models and associated financial impacts. The time frame will depend on the confirmation of BHP's workforce projections.

In relation to some of the general comments, particularly those of the Hon. Mark Parnell, about being given adequate time to scrutinise and revise the indenture and comments such as BHP Billiton's dictating the time frame for the passage of the bill through parliament and such like, I believe that some members in this place see a benefit in delaying the ratification of this indenture. However, I want to put on the record that this is not being rushed.

Six years have passed since BHP Billiton raised the prospect of expanding the existing mine into an open pit. In that time, the state, federal and Northern Territory governments have required BHP Billiton to produce an environmental impact statement, the largest environmental assessment of its kind in South Australia's history. In tandem with that approval process, the government has been negotiating the terms of the revised indenture agreement. This has been a lengthy and thorough process, culminating in environmental improvements by the commonwealth and state governments and the signing of the revised indenture with BHP Billiton.

The government is providing sufficient time to scrutinise the agreement, including arrangements for a select committee in the House of Assembly, which examined both the ratification bill and variation deed. We are confident that we have struck an appropriate balance between ensuring that parliament has ample time to examine the revised indenture and avoiding unnecessary delay that would hinder the prospects of the expansion being approved by the BHP Billiton Board.

After many years of painstaking work by the negotiating team (and I congratulate that team) and the hundreds of people involved in preparing the environmental assessment, it is really quite ridiculous to suggest that this process has been rushed. However, having arrived at this point, the government sees no reason why we should necessarily delay the billions of dollars of investment, the thousands of jobs and the huge boost to our state's economy and the standard of living that we can expect to flow from this project.

We are talking about billions of dollars of investment in infrastructure, including the new airport, a 105-kilometre rail line, an intermodal facility at Pimba, a 280-megalitre a day desal plant,

a 320-kilometre pipeline, a 270-kilometre electricity transmission line, a new concentrator and hydrometallurgical plant.

We are talking about doubling the workforce at the Olympic Dam mine site and flow-on jobs and any service and manufacturing sectors that will support the mine and its associated infrastructure. We are talking about a $6.9 million boost to the state's GSP above the business as usual case for the mine. With all those positives stacked in our state's favour, we certainly hope that the project can proceed at the first available moment.

We know that the BHP Billiton board will now have to be convinced to support this approval expansion. This project clearly has risks: huge up-front costs and a long period before the investment returns a profit to the company. Of course, that decision is also being made against a backdrop of fairly uncertain global times. However, the benefits to South Australia are almost immediate: $1.2 billion worth of precommitment funding which will provide opportunities for jobs and commercial opportunities here in South Australian businesses.

After six years, I believe South Australians have waited long enough. South Australians are eager for this long-awaited project to begin and any unwarranted delay means the benefits to our state could unnecessarily be jeopardised. I think it is very much in the public interest that we provide a proper level of scrutiny to this indenture but, equally, it is in the public interest that we push forward with a timetable that ensures the highest likelihood of approval.

I have just been given some further answers to questions. I think it is probably in our interests to put as many of these on the record now as possible. I have received some answers in response to the Hon. Dennis Hood in relation to how many South Australians are projected to actually be employed from this mine directly and indirectly. I have been advised that in the EIS, BHP Billiton estimated that the OD expansion will generate up to 6,000 new jobs during construction, a further 4,000 full-time positions at the expanded open-pit mine, and an estimated 15,000 new indirect jobs. These numbers are in addition to the approximately 4,150 people that the Olympic Dam operations currently employ.

The Hon. A. Bressington: How many South Australians?

The Hon. G.E. GAGO: In relation to how many South Australian workers, I hear from the Hon. Ann Bressington, are currently trained to a level suitable for work once this mine is under way and it progresses—I have been advised to defer this until the committee stage.

In relation to the question what efforts has the government made in relation to training South Australians to ensure that we have an adequate workforce to meet employment requirements, I have been advised that the state government and industry is well positioned to respond to the future skill needs of the state.

The government has been working for many years to put in place policies and programs to ensure that the state has the skilled workers required to realise our potential. The state government is making the biggest single investment in vocational education and training in the state's history, committing $194 million which, combined with the existing investment in Productivity Places Program, will support an additional 100,000 training places.

The government has also committed $3.5 million in funding to the Resources and Engineering Skills Alliance (RESA) over 2010-14 to provide good intelligence on the skill needs of the resources sector. RESA works closely with the industry, government and training providers to facilitate enhanced and targeted education, training and employment opportunities in the industry. With respect to higher education, DFEEST has provided funding support to the University of Adelaide to train mining engineers as part of a coalition of universities involved in Mining Education Australia. In addition, DFEEST has established university scholarships in geology, electronics and mining engineering.

In relation to the question of how many South Australian manufacturers and companies are to get work or contracts under this indenture, I have been advised that this cannot be specifically quantified. An Olympic Dam expansion project portal has been set up on the Industry Capability Network (ICN) website by South Australia's ICN and BHP Billiton where companies can register their interest in supplying to both the existing operation and the proposed expanded operation, access information about likely pre-qualification requirements and also view details about supplier work packages.

In relation to what percentage of profit the government proposes to spend per annum on regional development within South Australia and on what basis the government will determine how

to spend money on regional development, I will respond to this matter when addressing the amendment proposed by the Hon. Robert Brokenshire regarding the percentage of royalties being allocated to regions.

In relation to what specific regional development the state has planned for Whyalla, etc., I have been advised that the government's 2010 discussion paper on the State Strategic Plan for SA provides updated priorities for capital investment in the USG for both the state and other sectors. In terms of managing the growth of regional communities, the state has key responsibility together with local government in the provision of well located and serviced land.

With regard to Yorkeys Crossing, the Department for Planning, Transport and Infrastructure has undertaken a preliminary economic analysis for its sealing, including the installation of active control in the existing road/rail crossing, and the estimated project cost was $40 million in 2009. DPTI's position is that BHPB's forecast additional road traffic generated by the proposed Olympic Dam mine expansion does not justify an upgrade or sealing of Yorkeys Crossing.

In terms of the question what is the estimated benefit to the state in the first five years and in the next five to 10-year period and ongoing, I have been advised that BHP Billiton, in its EIS, estimates that the project will contribute $45.7 billion in net present value to South Australia's gross state product (GSP) over a 30-year time frame from the start of the expansion. In the EIS, the average annual increase to GSP is estimated in years 0 to 6 to be $650 million (a 1 per cent increase over business as usual); in years 7 to 11, $4.3 billion (a 6.4 per cent increase); and in years 12 to 30, $6.9 billion (an 8.7 per cent increase).

In terms of the question what is the net benefit to the state of South Australia if we did in fact decide in this country to export uranium to India, I have been advised that the sale of uranium to India is a matter being dealt with at the federal level, and it would be premature to provide estimates on net benefits to the state if that current policy is changed. Currently BHPB sells all uranium oxide produced at Olympic Dam to other markets, and Canada supplies the Indian market.

In relation to the estimated impact of fly-in fly-out, I have been advised that the Roxby Downs Draft Master Plan has been prepared by BHPB to plan for housing, services and facilities for an estimated population in Roxby Downs of 10,000 people, including permanent residents and long-distance commuter operational workers, comprising both fly-in fly-out and drive-in drive-out employees.

The draft master plan forecasts a long-term operational workforce of fifty-fifty residentially-based and LDC workers but has flexibility to allow for variances in this ratio. BHPB is committed to the sustainability of the town, particularly as factors such as housing, perceptions of lifestyle and community are important in attracting employees to the OD mining operations.

In relation to the question, what are the reasons the government has identified for the decrease in cuttlefish population in South Australia, if it is not through these sorts of activities?: I have been advised that on 28 August the previous fisheries minister the Hon. Michael O'Brien announced moves to further protect the giant cuttlefish in the upper Spencer Gulf. He announced that the government is determined to ensure a maximum level of protection while research is undertaken to explain the cause of the decline. He stated that:

> A number of explanations have been put forward but all are speculative until we have quality data from which to draw informed conclusions. In the meantime, I am invoking the precautionary principle, which underpins the Fisheries Management Act.

He stated that the government will convert the existing temporary closure of False Bay to become a permanent and ongoing closure, close an additional small area immediately adjacent to the Point Lowly headland that is a known breeding area but not currently included in the closed area and implement a more comprehensive monitoring program for cuttlefish.

The monitoring program will span a time period that is sufficient to pick up seasonal and dynamic changes in the cuttlefish population. Seasonal variation of giant cuttlefish numbers in the upper Spencer Gulf may be caused by environmental conditions. We note that the giant cuttlefish populations are characterised by high natural variation from year to year. These are linked to changes in environmental factors such as water temperature, salinity, water circulation and weather patterns.

What recorded effects have similar desal plants had on their surrounding environments? I have been advised that there are now seven major seawater desal plants either recently

constructed or under construction around Australia. All but one have relied on the ANZECC and the ARMCANZ guidelines for ecotoxicity testing procedures. The approach is deemed satisfactory by the Australian and New Zealand whole of governments and a similar approach is used in other developed nations. The same approach has been used by BHP Billiton. Given the rigorous procedures to assess the impacts and the operating conditions set for each plant, it is not anticipated that there will be any significant observable effects. The oldest operating plant at Kwinana since 2006 has not shown any observable effects.

In relation to the question what is the percentage of permeate water that will be produced from the desal plant, I am advised a maximum capacity approved the total intake from the ocean is 650 megalitres a day (100 per cent). Product water permeate is 280 megalitres a day (43 per cent). Brine discharge to ocean is 370 megalitres a day (57 per cent).

In relation to the questions what is the estimated salinity of brine waste and the estimated variation of water salinity in the ocean once the brine has been dumped, and does the government agree with BHP's figures, and can you confirm them, I have been advised that the salinity and return water is 78 gigalitres while the receiving environment ranges from 40.5 gigalitres to 42.8 gigalitres.

The EIS and the assessment report do not describe the salinity effects in the mixing zone surrounding the diffuser with concentration units but rather use dilutions. For example, 1:55 means one part of return water diluted with 55 parts of seawater. The safe dilution determined for giant cuttlefish is 1:55 but the EPA decided to make the condition for protection of cuttlefish more conservative and increased the dilution factor to 1:85 at the nearest cuttlefish breeding grounds. The assessment report has recommended this condition as it will protect the cuttlefish breeding grounds.

I also have some responses to questions asked by the Hon. Michelle Lensink in relation to the Environmental Management Program. The question was: is the annual compliance plan to be made available to the public? I have been advised that section 96 of the Petroleum and Geothermal Energy Act 2000 states that:

> A licensee must not carry out regulated activities unless a statement of environmental objectives is in force for the relevant activities under this part.

One of the purposes of an SEO is to manage competing interests. This means that where a tenement overlaps the SML the owner of that tenement, in preparing the SEO, has to consult with affected stakeholders (i.e., BHPB) before he can seek ministerial approval for the SEO. A number of stipulations are set out in the indenture that must also be included in the SEO. This ensures that the tenement holder's activities are in harmony with those of BHPB.

In relation to the question about authorised officers and whether these officers are already authorised officers under another act or are they exclusively appointed, I have been advised that authorised officers will have to be specifically appointed for the purposes of part 5 of the ratification act once part 5 is in operation. The Mining Act contains a similar provision for the appointment of authorised officers to regulate other mines in South Australia. In practice, it is likely that these authorised officers will be appointed under both acts so that they can perform a dual role.

In relation to the question whether NRM native vegetation authorised officers' powers still apply to BHP, I have been advised, yes. In relation to the question: are opportunities being fully explored in relation to geothermal energy? I have been advised, yes, discussions have been held with a number of geothermal companies. Geothermal energy is also mentioned as a possible technology for greenhouse mitigation as part of BHP Billiton's greenhouse mitigation program.

With those answers and those few comments, as I indicated, I am aware that there are a number of outstanding questions and I will be happy to provide answers to those through the committee stage. So, with those few words, I thank honourable members for their contributions, particularly the bipartisan approach of the Liberal opposition, and look forward to dealing with this very important bill expeditiously through the committee stage.

Bill read a second time.

The Hon. M. PARNELL (12:18): I move:

1. That this bill be referred to a select committee for inquiry and report;

2. That standing order No. 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only; and

3. That this council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence presented to the committee prior to such evidence being reported to the council.

I gave contingent notice last month, so members will not have been taken by surprise by this motion. What members may be curious to know is: how did I know that the process of inquiry into this bill in another place would have been so poor as to require this house to itself move a select committee? The answer to that question is: a lucky guess, if you like. I suspected that the other place would go through the motions—that they would comply in a minimalist way with their standing orders and that they would form a select committee (as they were required to do, the bill having been declared by the Speaker of that chamber a hybrid bill)—and I also suspected that they probably would not do as thorough a job as this bill I think demands.

As I said yesterday, the select committee of the House of Assembly originally chose only to hear from the cheer squad. They only heard from the company, from government officials who were involved with the project, and from the mining lobby. At the very last minute they were shamed into hearing from the Conservation Council of South Australia. But, as I also pointed out yesterday, there were a number of other interested South Australians who took the trouble to write to the committee and ask to give evidence, and the committee chose not to accede to those requests.

In her summing up, the minister referred to the bipartisan support that this bill has had by the Liberal Party and Labor Party, and I certainly acknowledge that is the case. If I heard the Hon. Jing Lee correctly, the Liberal Party was invited to Olympic Dam to inspect the facilities and ask questions. I also put on the record that a number of months ago the Greens sought a similar visit and it will probably surprise no-one here to find out that it was not convenient. As a result, the visit that we went to some lengths to try to organise, Senator Scott Ludlam and myself, did not come to pass. There were always operational reasons why we were not able to go up. I can see that the bipartisan support was acknowledged very early on by the company, and we are seeing it now reflected in the debate in this place.

If the council is minded to establish a select committee, I would propose that, at the least, it should again get BHP Billiton back in to ask some harder questions than the members of the committee in the House of Assembly asked. There is still a great deal more I think that we need to find out about before we can be satisfied that the project as proposed is in the best interests of South Australia. I think we should get BHP Billiton back in.

I think we should also get in Doctors for the Environment. We should hear from Professor David Shearman and his colleagues. We should get Professor Jochen Kaempf in, who is probably the most knowledgeable expert on water movement in the Upper Spencer Gulf. We should also get in some of the commercial interests who have shown an interest in this project, such as the West Coast prawn fishers, for example. We should hear from Friends of the Earth, a group that has been working with Aboriginal people—the Arabunna people, for example, up in the Mound Springs area—and they have been doing it for a number of decades. I think the committee should also hear from Mr David Noonan, who is one of the most knowledgeable people on the nuclear industry in this state. He has worked exclusively in that field on behalf of the Australian Conservation Foundation for 16 years. I think his knowledge would be of great assistance to the committee.

I can predict the response already from the government, and perhaps also from the opposition, that this is a delaying tactic. What I would say is that this notice of motion has been on the *Notice Paper* for a month or so and, if the committee is successfully established, I would propose that it meet today, that it meet as a matter of urgency. We do have time to hear some witnesses this week. We could hear witnesses on Friday and on Monday. I am certainly prepared—

The Hon. T.A. Franks: What about Saturday and Sunday?

The Hon. M. PARNELL: My colleague says, 'What about Saturday and Sunday?' I am certainly prepared to make my weekend available. If you were to reflect on the rhetoric that we have heard about the importance of this project to the state, I am sure many other honourable members would themselves put any weekend plans they had on hold in order to give this project the scrutiny that it deserves.

I further propose that this committee could report back to the parliament on Tuesday, and that would give us the whole of the optional sitting week in order to dispose of this bill. I remind members that the time frame in the indenture is 20 December. It is several weeks away. This is not

a proposal that drags this into next year: it is a proposal that gives this project the scrutiny it deserves.

Really, I think the motion I have now moved is a test of how seriously the Legislative Council treats its task, of how seriously we believe this legislation is important for the people of South Australia, and I urge all honourable members to take their job seriously and support the motion. Let's get this select committee up and running straight away, let's get some witnesses in and ask some questions, and we will hear back from the committee next week.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (12:25): The government opposes the motion. This is clearly a delaying tactic, and not only is it unnecessary but, as I have already outlined, it is downright irresponsible. As well, not only do I take personal offence, but I am sure each and every other honourable member sitting in this chamber takes offence at the Hon. Mark Parnell's suggestion that we are not taking our job seriously. That is an extremely offensive remark. We may disagree on the policy content of what is before us, but to suggest that we are not taking our job seriously is downright offensive.

I have already outlined that this process has been an extremely lengthy and arduous one. It has taken six years, during which we have conducted talks with the commonwealth and other state governments in a very open and transparent way, according to law and incorporating widespread public consultation. The government has provided sufficient time for the scrutiny of this indenture agreement including, as I have said, the select committee of the House of Assembly, which took evidence from the Olympic Dam task force, BHP Billiton and the Conservation Council. The bipartisan committee unanimously recommended ratifying the indenture—it unanimously recommended that.

An honourable member: That's not true.

The Hon. G.E. GAGO: Well, that is what I have been advised. If that is incorrect, then I am happy to stand corrected, but that is the information—

An honourable member: They had to consult their party room.

The Hon. G.E. GAGO: I have been advised that the bipartisan committee unanimously recommended ratifying the indenture, but I have been told through interjection that that is not actually so. As I said, I am prepared to stand corrected, but that is the information I have been advised.

We are confident that we have struck an appropriate balance between ensuring the parliament has ample time to examine the indenture process while avoiding unnecessary delay that would hinder the prospects of the BHP Billiton board making its decision to progress. As I said, it has been many years of very painstaking work. Clearly, given that very rigorous process, there is no reason for us to delay this any further.

We are talking about billions of dollars of investment; as I have put on the record before, BHP Billiton has indicated a spend of $1.2 billion in precommitment funding, and we know that BHP Billiton is making this decision against a backdrop of very uncertain global economic times. So, it is most critical that this parliament sends a very clear message, and that we do so as expeditiously as possible, while still maintaining rigorous scrutiny, so that we are able to send that message to BHP Billiton so that it can finalise its decision early in the new year. As I said, the government opposes this delaying strategy.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (12:30): I rise on behalf of the opposition to indicate that we will not support the Hon. Mark Parnell's move for a select committee. As members would be aware, and as the minister outlined, there was a select committee in the House of Assembly that took evidence over a number of days from a wide range of interested stakeholders and parties. Listening to the Hon. Mark Parnell's comments in moving his motion, it appears that he almost wants to revisit the whole EIS process. Naturally, you would expect the Hon. Mark Parnell to have a large environmental focus on the types of people he thinks should be called to the select committee. I am sure that no new information would be provided to this select committee that has not already been provided in submissions through the whole EIS process.

I hear the Hon. Mark Parnell say that he is not wanting to delay this beyond 20 December, but I suspect that he wants to maximise his opportunities in a media sense over the next few days, but really at the end of the day provide us with no new information. As members are well aware, it has been an exhaustive process and a bit frustrating for the opposition and all the non-government

parties that the negotiations have been undertaken by the government over a five or six-year period, and at lots of times we would all like to have been involved a little more, but that is the nature of the democracy we live in. We have a government of the day that is charged with doing that, and the rest of us are interested observers, and where possible we can participate.

The whole EIS process was where all the environmental issues were considered, and to have a further select committee in the Legislative Council, following one that was in the House of Assembly, would, as my father once put to me, be just a bit like sawing sawdust and at the end of the day all you still end up with is a handful of sawdust. With those few words, I indicate that the opposition will not support the Hon. Mark Parnell.

The Hon. M. PARNELL (12:32): To sum up the debate, I thank the minister and the Hon. David Ridgway for their contributions to this motion. Certainly I am not taken by surprise by the positions they have taken. I maintain that this is the best way for us to proceed, and I am amazed that the minister can use the word 'irresponsible', that it would somehow be irresponsible to seek further information about the biggest industrial project in this state's history, the biggest hole in the ground ever dug on the face of the planet, that working within the time frame set by the government, wanted by BHP, that working hard to get answers to questions, is somehow irresponsible. Maybe the minister and I share different views on the potential of this parliament to seek information and make better decisions.

With those brief words, I can see that on this particular occasion the numbers are not with me, and I look forward now to the committee stage of the debate when we will be able to ask some further questions.

Motion negatived.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 10 November 2011.)

Clauses 2 to 13 passed.

Clause 14.

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

Page 6, line 21 [clause 14(2), inserted subsection (4)(b)]—After 'suspected' insert 'on reasonable grounds'

Currently, if a prisoner is suspected of having committed an offence, or has been charged with an offence, the manager of the correctional institution must, at the request of police, release the prisoner into the custody of that member of the police for the purposes of investigation, obtaining evidence or identifying the prisoner as the person who committed the offence.

The government's bill proposes to add an additional category of the prisoner having knowledge or information that might assist in the prevention or investigation of an offence. It is our view that that is an extremely broad statement. In fact, it would be hard to imagine any prisoner in a correctional facility who would not have some information of some assistance to some police officer in relation to some offence.

The Aboriginal Legal Rights Movement and the Law Society have made submissions to us. There is concern about the provision. In fact, we were encouraged to oppose it—to basically maintain the current position. But we do think that, if there is suspicion on reasonable grounds (in other words, if the police had reasonable grounds to suspect that a person might have information of assistance), it is an appropriate power to give to the police. The amendment I have moved proposes to limit the provision by inserting the threshold for suspicion on reasonable grounds.

The Hon. G.E. GAGO: The government opposes this amendment. This amendment refers to SAPOL removing a person from custody upon suspicion and seeks to add 'on reasonable grounds'. SAPOL already interviews prisoners where there is a suspicion of involvement in an offence, but at the moment, SAPOL has to interview prisoners at the prison site.

The intention of this amendment is to make clear that SAPOL can interview prisoners off-site and also be able to interview to prevent an offence being committed. This is especially warranted when prisoners are able to provide information to assist police. If SAPOL removes a prisoner and interviews away from the prisoner, it protects the prisoners. The proposed amendment does not change the intention and is not supported.

The Hon. S.G. WADE: I would suggest to the minister that that sounded almost like a speech in support, it is just that the minister's last line could have said, 'The government supports the intention and supports the amendment.' The argument was not an argument. Because of what the minister is saying that the police can already do it on site, and I presume that would be not merely a member of the general police but, specifically, it could be a member of the police-corrections joint task force, the minister is actually arguing, I think, in support of my case because the police already have access to the prisoner within the prison facility.

Why should the police have this mere suspicion opportunity to take a prisoner beyond custody? It is an expense, an inconvenience and a security risk. I would think that we would expect the police to have reasonable grounds before they go on some fishing expedition in relation to information that does not relate to the person who might have committed an offence.

The Hon. G.E. GAGO: I might qualify that. The government's view is that this amendment is unnecessary, that those provisions already exist under the current arrangements and, therefore, it is completely unnecessary to make that change.

The Hon. S.G. WADE: I do not agree that it is unnecessary. I believe it would have an impact and, certainly, the Law Society thinks it would have an impact. In fact, I do not know if the minister has access to the Law Society's advice but let me quote from part of it.

> Firstly, we comment on the mandatory requirement to release the prisoner into the custody of the police on the request of the police. That request may be made on a mere suspicion.
>
> There is no requirement for the suspicion to be based on reasonable grounds. We recommend, as a minimum, that the suspicion should be so based.

I certainly do not believe it is unnecessary and without impact because I think it would mean that, if the police want to go on a fishing expedition, they need to do that within the prison bounds, within custody in the prison itself.

If the prisoner is at threat for providing information—which is one of the reasons that the minister put forward—you would think that the police, therefore, had reasonable grounds and would be able to remove them. The fact that the police only have a mere suspicion and do not have a suspicion on reasonable grounds, yet are concerned that the person would be at threat if they provided some information to the police, seems to me to be internally inconsistent. To establish the risk of a threat they must have established a reasonable suspicion. I believe the government is failing to accede to the Law Society's advice. We believe that it would be good legislative practice and we urge the council to support the amendment.

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

The Hon. T.A. FRANKS: The Greens believe that the Law Society has a compelling case and so we will be supporting the amendment.

The Hon. J.A. DARLEY: I will not be supporting the amendment.

The committee divided on the amendment:

AYES (11)

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

NOES (10)

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

Majority of 1 for the ayes.

The CHAIR: I remind members that in the committee stage it would be handy if they were in the chamber to indicate their position and it might save some divisions.

Amendment thus carried; clause as amended passed.

Clauses 15 to 20 passed.

Clause 21.

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

Page 10, line 21 [clause 21(5), inserted subsection (4)(d)]—Delete 'a child sexual offence' and substitute:

—

(i) a child sexual offence; or

(ii) an offence involving domestic violence where the person was a victim of the offence

The opposition amendment seeks to restrict victims of domestic violence from visiting a person in prison without the permission of the chief executive. The chief executive of the department could agree to the access being permitted.

The opposition is taking up the suggestion of the Parole Board. We accept the government's point in the other place that implementation of this provision would be dependent on information provided. We accept that this information is not provided consistently, but the opposition's view is that, when it is provided, when it is known to the authorities that the person under the age of 18 who is proposing to visit a prisoner was a victim of an offence involving domestic violence, where the person was the victim of the offence, it is prudent for the authorities to have the capacity to deny access.

Of course, that would not be made lightly, because there would be many circumstances—such as rehabilitation or restoration of the relationships—in which it might be valuable for a visit to occur but, just as the government accepted the value of blocking access where a child sex offence was involved, it is the opposition's view that a similar protection should be provided to victims of domestic violence.

On the point about the lack of availability of information, as I said, when it is available it should be acted upon, and perhaps this does raise the issue of the need for more systematic harvesting of such information. I commend the amendment to the committee.

The Hon. G.E. GAGO: The government arises to oppose this amendment, although it does accept that it is a well-intentioned amendment. The amendment seeks to extend the government's amendment to prevent under-age visitors from visiting child sex offenders in custody. The age was increased to 18 with amendments moved by another member and subsequently accepted in another place. The member is seeking to extend the provision to also prevent victims of domestic violence offenders visiting the perpetrator.

I understand the intention of the amendment, but implementing the provision would be entirely dependent on the right information being provided to the Department of Correctional Services, and the Hon. Stephen Wade has acknowledged that. Also, it would be reliant on information about domestic violence victims or existing domestic violence orders, and these are currently not consistently provided to the Department of Correctional Services.

If the department has that information about domestic violence offenders and restraining orders, the visitors can already be banned from visiting, and I understand that they are on occasion. So, where that information is currently available we do use it and prevent people from visiting but, quite simply, due to the uncertainty in terms of that accessibility of information and the reliability of it coming through in a timely way, we are concerned that it would be sufficient information available for us to know whether a young person has been a victim of an offence and, therefore, we simply cannot support the proposal because we simply cannot do it in all cases.

I note the honourable member qualified his statements by saying that, if the information is available, it should be provided; however, his amendment does not actually say that. So, that idea that this requirement or impost only applies where information is available is in fact not reflected in the wording. I ask the honourable member to clarify that.

The Hon. S.G. WADE: The authorities would not be in a position to assert the requirement for the approval of the CE to be sought if they were not aware of the offence having taken place.

The Hon. G.E. GAGO: But this could be interpreted as placing an onus on those agencies that they are required by law to provide that information, therefore they could somehow be seen in breach in not providing that information in a timely way. That is the problem with the interpretation of legislation that we do not have control over. I am just requesting that the honourable member perhaps reconsider the wording of this in some way to reflect that the onus or the impost is only in place or only triggered when and if the relevant information is made available.

The Hon. S.G. WADE: I thank the minister for her invitation to reconsider the words and I also acknowledge her indication that the government appreciates that it is well-intentioned. In that regard, considering the lateness of the hour, the minister may consider adjourning. If I might put to the house—and it may well be that other members want to comment on this before we adjourn—one response to the conundrum of limited information might be to make sure that we are not putting inappropriate responsibilities on officers and members of the department.

A response might be to leave it as hard as it is now so that the department can respond, as part of their intake proceedings, by harvesting that information. Perhaps a DCS intake form would include a statement to this effect: 'Have you been convicted of a domestic violence offence or are there any domestic violence orders standing out to you?' I appreciate the minister is well-intentioned on this, because her commitment to dealing with domestic violence is well-known to this house, and I certainly want to engage in a positive way with the government and the crossbenches to see which is the best of those two choices. In fact, it may be easier to enhance the form than have the risk of legal action with a modified set of words. So, I would appreciate the views of the government and any other members.

The Hon. G.E. GAGO: I think it is a good time to adjourn. The government is happy to work with the Hon. Mr Wade to see if we cannot land on some wording that satisfies the concerns that have been raised.

The Hon. S.G. WADE: Thank you, minister. Could I indicate that if any other members would like to be part of that discussion with the minister, if they could let either the minister or I know. It might be helpful to have, if you like, a bit of committee work outside the chamber.

Progress reported; committee to sit again.

PARLIAMENTARY REMUNERATION (BASIC SALARY) AMENDMENT BILL

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

[Sitting suspended from 12:57 to 14:20]

PAPERS

The following papers were laid on the table:

By the Minister for State/Local Government Relations (Hon. R.P. Wortley)—

Local Government Act 1999—Model By-law for the Management of Pedestrian Malls

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Reports, 2010-11—
- Architectural Practice Board of South Australia.
- Dame Roma Mitchell Trust Fund for Children and Young People
- Department for Correctional Services
- Department for Transport, Energy and Infrastructure
- HomeStart Finance
- Land Management Corporation
- Rail Commissioner (incorporating TransAdelaide)
- Rail Safety Act 2007—Rail Safety Regulator
- South Australia Police
- South Australian Rail Regulation
- Surveyors Board of South Australia
- Tarcoola-Darwin Rail Regulation

By the Minister for Volunteers (Hon. I.K. Hunter)—

Minister for Volunteers—Report, 2010-11

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:22): I bring up the 35th report of the committee.

Report received.

The Hon. G.A. KANDELAARS: I bring up the 36th report of the committee.

Report received and read.

SELECT COMMITTEE ON HARVESTING RIGHTS IN FORESTRYSA PLANTATION ESTATES

The Hon. R.L. BROKENSHIRE (14:24): I lay upon the table the interim report of the committee.

Report received and ordered to be published.

CAPITAL CITY COMMITTEE

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:25): I table a copy of a ministerial statement relating to the Capital City Committee made earlier today in another place by my colleague the Premier.

QUESTION TIME

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I seek leave to make a brief explanation before asking the Minister for Forests a question on forests.

Leave granted.

The Hon. D.W. RIDGWAY: As members would be well aware, it has been part of the government's budget decision to sell three forward rotations of the South-East forests and, in fact, members also know that just a matter of probably 90 seconds ago a report from the select committee was tabled in this place.

It has also been reported that the sale will not include other forestry assets outside the South-East: those in the Adelaide Hills and the Mid North are not being offered for sale. It has also been reported that the reason these assets are not being sold is they do not make any money. In fact, they require, if you like, a subsidy from the asset that is to be sold in the South-East to keep them maintained and provide the staff resources.

In a question I asked the minister some weeks ago, she informed this chamber that Treasury was handling the sale of the forests so she was unable to answer any questions in relation to the sale. However, I assume that these other remaining forestry assets will remain under her control as Minister for Forests. My questions are:

1. What is the future of these other forestry assets, given that they are unlikely to be profitable?

2. What cuts to other existing services will be made in order to provide fire protection and community protection and to maintain those other forestry assets?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:27): I thank the honourable member for his questions. Indeed, the honourable member is correct that earlier this year the Treasurer announced the forward sale of ForestrySA's harvesting rights of the Green Triangle estate—

The Hon. D.W. Ridgway: Only for the South Australian part. Some of the Green Triangle is in Victoria.

The Hon. G.E. GAGO: That's quite true, Mr President. I did say ForestrySA; I said the forward sale of ForestrySA. Honourable members need to clean out their ears. The commitment on the sale has been put in place, but I have talked in this place before about the Treasurer's commitment to—

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —ensure that there are a number of measures put in place to ensure the long-term sustainability of the industry in that region, and to put in place a number of measures to protect local industry stakeholders. The honourable member is quite right: it is only those ForestrySA commitments in the South-East that are included in the proposal for the forward sale. Our other forestry interests are not, and I have been advised that is because it is not a viable proposition to look at the sale of those.

In terms of our strategy in managing those forests, we have a Forest Industry Development Board. That is the government's advisory board, and it provides leadership in innovation and development in the forests and forest products industry to help us support sustainable economic growth in South Australia within our forestry industry. We recognise the imperative to develop a forest industry strategy that will help chart a course for growth in forests and forest products. The board has consulted widely over some time to help develop the state's forestry industry strategy and these other interests the honourable member has referred to. The board has released that draft South Australian strategy for public consultation, which was done in December 2010. I am advised that it included a number of forums. A number of the draft strategy documents were distributed and a number of submissions received.

The industry strategy was released in September 2011. The strategy sets out a 2050 vision, strategic directions and strategies for the next five years. The strategy identifies seven implementation priorities, which include the articulation of the state government's policy position on the forest industry to work to increase investor confidence, increase the resource base and processing capacity to enhance industry international competitiveness, to attempt to capture new value-adding opportunities to maximise returns from plantation resources, to achieve a stable operating environment across South Australia and harmonise regulatory regimes with other states to expedite things like planning, development and transport.

Government and industry stakeholders obviously need to work together to work through water planning and other cross-jurisdictional issues to promote the environmental benefits of forestry and forest products to the public and establish better consumer understanding and demand, to develop additional support and funding for training, education and innovation to help meet those future needs, and obviously to foster capability to pursue regional actions to support the strategy.

Obviously we will continue to look for investment opportunities, and the strategy provides a platform to initiate a number of steps that we believe through implementation will assist us to continue to achieve a sustainable forestry sector here in South Australia.

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

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): With the two areas in question, what strategies are put in place when they are the only remaining assets to make them viable as stand-alone assets?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:33): I have just outlined those. What was the honourable member doing—snoozing, nodding off over there? I have talked about our industry strategy that applies to all of our assets. I have just outlined those. Just because those particular assets are not particularly suitable for sale at this point in time does not mean that this state is not committed to continuing to attempt to develop a sustainable forestry industry here in South Australia.

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

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): What services will be cut in order to subsidise the maintenance and upkeep on these two remaining parcels of forestry assets?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:34): That is an outrageous assumption.

The Hon. D.W. Ridgway: You said they're not viable.

The Hon. G.E. GAGO: It is an absolute, outrageous assumption. I have just outlined our state's industry strategy to sell at this particular point in time. Given the strategies I have just outlined and the commitments we have given to work through a range of different strategies to inform the public, to try to create demand and to try to ensure investment, we certainly aim to create a viable industry in South Australia.

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:35): I have a further supplementary question. Is it the government's intention to sell its two remaining assets if, in the minister's words, they can be made viable to sell?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:35): I have no intention of selling the remaining assets.

LOCAL GOVERNMENT DISASTER FUND

The Hon. J.M.A. LENSINK (14:35): My questions are to the Minister for State/Local Government Relations on the subject of the state disaster fund. My questions are:

1. Has the minister determined terms of reference and will he make them publicly available?

2. When can councils expect to receive payment?

3. On full payout, what will be the balance of the reserve?

The PRESIDENT: The Minister for State/Local Government Relations.

The Hon. J.M.A. Lensink: Under 'S' for state disaster fund.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:36): You're a barrel of laughs. I thank the member for her very important questions. Members will recall that widespread storms in December 2010 and February 2011 over the northern Mid North and western regions of South Australia caused extensive wind and flood damage to local government infrastructure in a number of adjoining council regions, including Goyder, Clare and Gilbert Valleys, Barossa, Light, Orroroo/Carrieton, Northern Areas and Peterborough. To assist councils in remediation damages, funding is available through the state's Local Government Disaster Fund to contribute towards the cost of reparation. Just before we start off on this, the history of this fund is that this fund goes back quite a long way.

Members interjecting:

The Hon. R.P. WORTLEY: Do you want to listen to the answer or not? I am quite happy not to answer it if you're not going to let me finish it.

Members interjecting:

The PRESIDENT: The minister can choose to answer the question any way he likes.

Members interjecting:

The PRESIDENT: The minister was attempting to answer, but the opposition wasn't attempting to listen. The Hon. Mr Wade.

The Hon. J.M.A. Lensink interjecting:

The Hon. R.P. WORTLEY: Well, shut up and let me—

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. Lensink: If the minister—

The PRESIDENT: Order! When I call somebody, they will get to their feet or they will miss out. The Hon. Mr Wade.

The Hon. J.M.A. Lensink interjecting:

The PRESIDENT: The Hon. Mr Wade wouldn't stand up when he was called.

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. Lensink: You are an embarrassment.

The Hon. R.P. WORTLEY: If you want an answer, let me answer. Don't sit there and interrupt.

The PRESIDENT: Order!

The Hon. J.M.A. Lensink: You can't answer because you're an idiot.

The PRESIDENT: Order! The both of you will take it outside in a minute because that's where I will put you.

Members interjecting:

The PRESIDENT: You can go behind the shed. The Hon. Mr Wade.

PROROGATION OF PARLIAMENT

The Hon. S.G. WADE (14:38): I seek leave to make a brief explanation before asking the Leader of the Government a question relating to prorogation.

Leave granted.

The Hon. S.G. WADE: Whilst the leader has indicated that the government intends that the council will sit next week, the leader has indicated that the council may not sit every day next week. Therefore, today is the last scheduled sitting Wednesday of the 2011 parliamentary year, potentially the last day for private members of this council to progress their business.

Rumours have persisted since midyear that the government may prorogue the parliament. The average length of a parliamentary session since 1970 is nine months. No session since 1970 has gone longer than 15 months. The current session has lasted almost 19 months. Given that by February the current session would have lasted 21 months, the risk and timing of the prorogation is unsettling for members trying to schedule private members' business. My question to the minister is—

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: The council is noting the disregard of the Leader of the Government for private members' business. I would suggest to the Leader of the Government that respect for private members' business—

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wade should refrain from opinion in his question and should get to the question, and members of the government should sit there and listen to the question.

The Hon. S.G. WADE: My question is: will the Leader of the Government provide an undertaking to this council that the council will not be ambushed by prorogation, in that members will have notice of prorogation at least a week before the last sitting Wednesday of that session?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:39): I thank the honourable member for his most important question and his concerns about the work that comes from private members' business. I have been advised that, at this point in time, the government has not made a decision about the proroguing of this session. That is the information I have been given so I put that on the record. Once the government has made up its mind and considered all relevant matters, I am sure that it will advise all members as soon as possible.

I have indicated in correspondence that we will be utilising the optional sitting week in this place and I have given members notice about that. When asked about whether there would be private members' business on the Wednesday, I have indicated that that really is a matter for the members of this place to decide rather than me, as leader. If members are indicating that they

believe that there is enough private members' business to warrant a private members' sitting session on Wednesday, I have indicated to the Government Whip and the Opposition Whip that I am more than happy to be advised by members of this place and to make that time available during the usual private members' business time next week.

I have been very open and transparent about that and communicated that to honourable members well in advance of today's private members' business so that members would know in advance whether this was, in fact, their last private members' business session or not. I think I have dealt very fairly in relation to this and I have been open-handed. I am waiting to be advised by members as to whether they have deemed that they require an additional private members' sitting time or not. No-one has got back to me as yet so I am waiting for them to advise me. I am happy to be advised.

The PRESIDENT: The Hon. Mr Hood has a supplementary.

PROROGATION OF PARLIAMENT

The Hon. D.G.E. HOOD (14:42): Does the minister's answer indicate that the minister expects that government business will be concluded by Tuesday evening?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:42): One lives in hope, perpetual hope! I live in perpetual hope! I have indicated that we will be sitting during the optional sitting week or part thereof—I think that is the term I used. Again, I made it quite apparent to all interested parties that I am happy to use all of that three-day sitting time or part of that time, depending on what is needed.

If honourable members believe that all appropriate priority business can be completed on the Tuesday, I am happy to wind up then. If honourable members indicate that they want a private members' session on the Wednesday, I am happy for that to occur. If we require the Thursday to complete government business, we will sit here and complete government business.

What is more, I will put on the record that if government priorities (which I have indicated to honourable members) are not completed—and there are a number of government priorities that must be completed before this session gets up, including a remuneration bill that has just come through, as well—and they must be completed this session, if the optional sitting week is not enough, I need to let members know that we will come back the week after that and the week after that until it is completed. I understand that Parliament House puts on a very good turkey so we might be sitting here on Christmas Day eating Christmas lunch at Parliament House—so whatever it takes, Mr President.

WOMEN'S HONOUR ROLL

The Hon. CARMEL ZOLLO (14:44): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the 2011 Women's Honour Roll.

Leave granted.

The Hon. CARMEL ZOLLO: Initiated in 2008, the South Australian Women's Honour Roll is an important part of an ongoing strategy to increase the formal recognition of women for their contribution to the South Australian community. I ask the Minister for the Status of Women to please provide an update on the 2011 honour roll.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:45): I thank the honourable member for her most important question and her ongoing interest in those issues pertaining to women. She has always been very supportive of initiatives to advance and enhance the role and status of women.

I had the pleasure of launching the 2011 Women's Honour Roll at a reception hosted by the Governor at Government House on 14 November. It was very generous of the Governor and his wife to host that event. This is the second occasion that they have done that. They have opened their home to us; they have made us feel very welcome, and their hospitality has been very generous and very warm. As I said, I acknowledge and am grateful for their personal commitment.

This year's event honoured the contribution of 20 outstanding women who have had a very positive impact on the South Australian community. The women represent a number of industries and communities, such as homelessness, health, emergency services, criminal justice and

defence, and it is also significant that nearly half of the outstanding nominees this year are Aboriginal women.

This year's inductees included Margie Charlesworth, an inaugural convener of Women with Disabilities South Australia, an advocate for women with disability—a wonderful advocate and a tremendous woman; Gala Mustafa, an advocate for interfaith community dialogue and the first Muslim woman on the South Australian Multicultural Ethnic Affairs Commission; Terri Mitchell-Smith, activist for the rights of same-sex couples and leader in the Let's Get Equal campaign for over 10 years; and Shirley Peisley, who has been an advocate for Aboriginal people since the 1960s when she was involved in the Vote 'YES' for Aborigines campaign supporting the 1967 referendum—a longstanding activist.

It was also wonderful to see Rebecca Richards, Australia's first Indigenous Rhodes Scholar, being inducted into the honour roll and then to find out the very next evening that she was voted Young Australian of the Year in the South Australian section of the 2012 Australian of the Year awards—a very impressive woman. The achievements of these 20 remarkable women are far too numerous to recount here today. Suffice to say that their contributions have helped to make our community a very fair and just community for us all, and we are better off for their contributions and efforts.

The 2011 honour roll also celebrates the 456 women who have been nominated for the role since its inception. These women are listed on the ongoing roll, which is available on the Office for Women website. As members would be aware, the honour roll is now being held biennially to ensure that we maintain an air of prestige around the event, making it a very special event every two years. It is also my intention to continue to link it directly with other celebrations of women's achievements, such as the national awards and honours.

To that end, 10 outstanding women from the 2009 honour roll were nominated for the 2011 Australian of the Year awards, Mr President, which you might recall was part of our strategy to try to make that nexus. I am pleased to advise that, from these nominees, two made the South Australian final, so our efforts have been worthwhile. The Office for Women intends to nominate the 20 outstanding 2011 inductees for the next Australian of the Year award.

I would also like to acknowledge the work of Betty Fisher, a well-known feminist and activist in our community who created the first South Australian Honour Roll. A member of the International Women's Day committee, Betty's *Women's Roll of Honour for the 20th Century in South Australia, Volume 1* was published in 2001.

Other initiatives to increase the nomination of women to national and state awards and honours include our Women Hold Up Half the Sky award, the inaugural Australia Day Council of South Australia award acknowledging the contribution of outstanding women in our community. Members will remember that this award has taken its name from the very well-known artwork of internationally recognised South Australian artist Ann Newmarch. Ms Newmarch, who lives in Adelaide, is a recipient of the Order of Australia for services to art. She is truly a remarkable woman and truly inspirational. It was very generous of her to let us use her artwork as a brand for that award.

Nominations for the 2012 Women Hold Up Half the Sky award are now open and will close on Friday 9 December 2011. The winner will be presented with the award at a reception at Government House on the eve of Australia Day 2012.

FAMILIES SA

The Hon. A. BRESSINGTON (14:50): I seek leave to make a brief explanation before asking the minister representing the Minister for Education and Child Development questions about Families SA's involvement with the parents charged with murdering their four-month-old baby.

Leave granted.

The Hon. A. BRESSINGTON: Just under a week ago South Australians were shocked to learn of the death of a four-month-old baby girl whose 17-year-old mother and 19-year-old father had apparently concealed her death for over a week before reporting it to Families SA. A post mortem examination of the yet unnamed baby revealed that the child sustained serious injuries and, given the murder charge faced by the parents, clearly police believe these were inflicted by them.

While little is known of the parents, particularly given the suppression of the mother's details due to her age, it has been reported that both are from New South Wales and a previous child of the father had been removed by their child protection authority and currently is under the guardianship of the minister and is placed in foster care.

In the week that has passed, my office has been informed that Families SA has had significant contact with the parents, particularly in the first two months of the baby's life. I have also been informed that this followed a mandatory report by staff at Women's and Children's Hospital following the baby being presented with a broken arm at less than one month of age. Families SA themselves have conceded that the family was known to them. This is self-evident given the parents reported their baby's death to Families SA and not the police.

However, it is unclear what interventions Families SA put in place nor why they withdrew from actively monitoring the family and had minimal contact after the first two months of the baby's life. It is also unclear whether Families SA used information sharing protocols to learn of the child protection concerns New South Wales had with the father. My questions to the minister are:

1. Will the minister confirm that Families SA had contact with the parents prior to the parents reporting the baby's death to them?

2. Will the minister confirm that the child had been subject to numerous mandatory reports, including following the child sustaining a broken arm in the first month of its life?

3. Prior to the baby's death, did Families SA know of the previous child's removal from the father?

4. What interventions did Families SA put in place to address the safety concerns they clearly should have had?

5. Was the family considered for the Strong Families Safe Babies program, described as intensive intervention with families where infants are at high risk?

6. Is it a fact that after less than two months' contact Families SA closed the case?

7. Why did Families SA withdraw or significantly reduce its involvement?

8. When is Families SA going to review its policies and procedures to ensure that battered babies are their main priority?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:54): I thank the honourable member for her very important question and I will undertake to take that question to the minister in the other place and request a response. But I should say that I understand this situation is currently either before the courts or the Coroner or both and, as such, I would not hesitate to say that neither the minister nor I in a similar situation would make any comment until those proceedings had been finalised.

SAFEWORK SA

The Hon. G.A. KANDELAARS (14:54): Can the Minister for Industrial Relations confirm the reappointment of Tom Phillips AM as the Presiding Member of the SafeWork SA Advisory Committee?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:54): I thank the member for his question and also acknowledge his very keen interest in workers' health and safety over many years. I am pleased to announce that on 17 November 2011 His Excellency the Governor in Executive Council reappointed Mr Tom Phillips AM as Presiding Member of the SafeWork SA Advisory Committee for a further three-year term commencing on 1 December 2011.

The role of the SafeWork SA Advisory Committee is to set the strategic vision for South Australia's workplace safety agenda and, in particular, to advise me on occupational health, safety and welfare matters. The SafeWork SA Advisory Committee has dedicated considerable time and commitment to initiatives that help meet South Australia's Strategic Plan target of reducing workplace injuries by 40 per cent by 2012.

Mr Phillips has been the Presiding Member of the SafeWork SA Advisory Committee since it was formed in 2005. During this time, he has presided over a range of critical matters in the area of occupational health and safety in this state. This has included: taking a lead role in the

development of South Australia's position on the national work health and safety laws and regulations; overseeing an innovative research program to identify and fund projects large and small that contribute to the knowledge base on workplace health and safety; taking a lead role in the presentation of the annual SafeWork event; and interrogating injury data to inform an evidence-based approach to developing strategies to improve levels of compliance in South Australian workplaces and ultimately to reduce the rates of workplace harm.

Mr Phillips' contribution to occupational health and safety extends to the national level, where he is the chair of SafeWork Australia, which is the Australian government statutory agency with the primary responsibility for improving work health and safety and workers compensation arrangements across Australia. In this role, Mr Phillips has overseen the development of model workplace health and safety regulations, model codes of practice and a national compliance and enforcement strategy to support the model work health and safety act.

The reappointment of Mr Phillips as presiding member of the SafeWork SA Advisory Committee is essential to ensuring that South Australia meets its objectives in relation to occupational health and safety, and I look forward to continuing my relationship with Mr Phillips and the other members of the advisory committee to help make workplaces across South Australia safer.

IFOULD STREET HOUSING DEVELOPMENT

The Hon. T.A. FRANKS (14:57): I seek leave to make a brief explanation before asking the Minister for Social Housing a question relating to the Ifould Street housing development.

Leave granted.

The Hon. T.A. FRANKS: Housing SA is the agency managing and sponsoring the development of an innovative project situated at 22 Ifould Street in the city aimed at providing affordable housing in the CBD. Adjacent to Wakefield and Hutt streets, the project provides 42 one and two-bedroom apartments at over seven levels. Over 85 per cent of the project's release is intended to be affordable. This includes six apartments retained by Housing SA for social housing, with rent limited to a maximum of 25 per cent of the tenant's income.

A further 18 apartments are being sold to eligible buyers via the affordable housing program. It has been touted as showcasing numerous environmentally sustainable features, which of course the Greens support wholeheartedly, including: solar hot water systems, passive solar design principles, individual metering of energy, water and gas consumption, bike parks, energy efficient LED lighting and appliances, solar clothes drying, rainwater harvesting and re-use and provision of plantation bamboo flooring in apartments.

As I say, the Greens find this laudable, but we do have a concern, which has been raised personally with me, that residents in these apartments and others (of which there are an ever-increasing number of these high-rise and multiple apartments that we are seeing built in the city) are unable to recycle themselves. So, they are unable to participate in council-provided recycling schemes as residents in the suburbs are, or residents in non high-rise dwellings are.

My question to the minister is: are residents of the Ifould Street development and other multistorey apartment developments in the CBD able to access Adelaide City Council-based recycling schemes for their general and other waste? I understand they are able to afford the cardboard recycling scheme, so I will not ask the minister whether or not they can afford that. If not, what is being done to facilitate their participation in such schemes in the future?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:59): I thank the honourable member for her very important question and for reading into the record my briefing notes on the Ifould Street development. I will not go there myself.

As to the questions about the recycling schemes in high-rise city developments, I must say I do not have that information at hand and will take that on notice and bring back a response.

FORESTRYSA

The Hon. J.S. LEE (15:00): I seek leave to make a brief explanation before asking the Minister for Forests a question about the forward sales of ForestrySA.

Leave granted.

The Hon. J.S. LEE: The parliamentary select committee was established to inquire into harvesting rights in Forestry SA plantations. However, before the committee could table the report to parliament, the government has been actively seeking expressions of interest for the first stage of the sale of up to three South-East forest rotations. The South-East community believes that the Weatherill government has shown complete disregard for the parliamentary process by placing South Australian future timber rotations on the market before the finalisation of the upper house inquiry.

Since his appointment, Premier Weatherill has openly promised South Australians he will stop Labor's announce and defend approach. My question to the minister is: without the government's reading the full report of the ForestrySA select committee, how does this action reflect the Weatherill government infamous motto of debate and decide?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:01): The government sees the forestry select committee as nothing more than a political stunt. We could probably write the report for them, given the membership of that committee, and we could write for them the anticipated recommendations. It is nothing short of a political stunt.

We have the future prosperity of this state at stake, and we have clearly put on the table our agenda around the forward sale of ForestrySA's harvesting rights for the South-East. We have outlined an engagement process. We have set up a round table. As I said, we have put in place a number of really important steps to ensure there is a long-term, sustainable industry maintained in that region. We have looked at setting up a number of conditions that can be applied to any contract if that goes ahead, because we have always said the price has to be right. We have looked at conditions that could be applied to ensure a wide range of things such as:

- to provide sawmill owners with ForestrySA log supply contracts, with an option to extend them for up to a further five years to protect job security;
- to ensure that any sale conditions include a new purchaser agreeing to a rotation length consistent with the current and planned ForestrySA standards to maintain the standard of forest products from the region;
- to ensure there is a commitment from the new purchaser to match the ForestrySA current level of planned viable domestic supply to guarantee a future local timber industry; and also
- require that any successful purchaser report yearly to the government to ensure that they meet their contractual obligations.

So we have put in place a number of safeguards, and I understand expressions of interest have commenced. There is no way this state government would jeopardise the long-term financial prosperity and security of this state by placing it into the hands of a group of people who have set up a committee for no purpose other than a political stunt.

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:04): What are the penalties for the new owner if they fail to meet the conditions in their annual report to the government?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:04): As I have said in this place before, Mr President, the details of the contractual arrangements and the process of engagement are a matter for the Treasurer. I am happy to refer that specific question to the Treasurer and bring back a response.

DISABILITY SECTOR AWARDS

The Hon. J.M. GAZZOLA (15:04): My question is to the Minister for Disabilities. Can the minister advise the council of the 2011 National Disability Services South Australian Disability Sector Awards held on 18 November this year?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:05): I thank the honourable member for his excellent question and his wonderful rendition.

The Hon. D.G.E. Hood interjecting:

The Hon. I.K. HUNTER: Indeed, and his longstanding interest; thank you, Mr Hood. Members will not be surprised to hear that I actually attended those awards, the inaugural National Disability Services South Australian Biennial Disability Sector Awards, last Friday 18 November.

The Hon. R.P. Wortley: I was there.

The Hon. I.K. HUNTER: I do not actually recall seeing the Hon. Mr Wortley but I am sure that if he says he was there, he was there. However, I do remember seeing the Hon. Kelly Vincent there. She also attended this event, hosted by Minda Incorporated, where we both enjoyed a fabulous high tea catered on-site by residents and staff of Minda. I can tell members that the food was pretty good, and if the Hon. Russell Wortley was there he would know that. I think the Hon. Kelly Vincent probably scoffed one or two more cakes than I did—

The Hon. K.L. Vincent: Excuse me!

The Hon. I.K. HUNTER: Well, perhaps not. National Disability Services is the national industry association for non-government disability services. NDS represents approximately 700 non-government organisations and provides services for Australians with all types of disability. This is the first time the NDS has held these biennial awards, and I was honoured to present the 2011 Innovation Practice Award to Autism SA for its iModelling project. As these things seem to, they have been going to very high-tech devices, with iPads and iPhones—and the Hon. Ms Vincent would know more about that than I ever will.

The iModelling project harnesses the latest technologies to help children with autism spectrum disorders develop better social and communication skills. The program is offered to children aged eight to 15, with parents also attending the video modelling sessions. The iModelling project began in 2008 and is constantly evolving. For example, this year Autism SA developed an easy to use (so they say) modelling app, allowing children to use iPads to video and edit their own footage. This app is available to purchase online and will be particularly useful for families in regional SA.

Research has shown that the children who participate in this program not only learn new communication skills but maintain crucial social skills at a rate that is significantly higher than the more traditional development programs of the past. When asked to provide feedback on this program, one parent responded:

> He [referring to their child] seems to deal with strangers better. He will stop and say hello to people that we know, he is also more interactive with his father, and more confident in his general interactions.

Another parent remarked:

> Her communication skills have improved. She has made friends at school this year for the first time. Before the group she didn't know how to do this.

This is an exciting program that reflects the direction we are heading in disability services. It makes good sense to utilise cutting-edge technology, such as iPads and apps, to empower and support clients and their families—indeed, they have even threatened to get me one.

The Hon. G.E. Gago: And train you.

The Hon. I.K. HUNTER: Well, I am resisting. I congratulate Autism SA for its innovative program, one that is delivering impressive results. It really was inspiring to hear of the work being done across the disability support sector, and in particular the use of state-of-the-art sustainable technologies to significantly improve the lives of people with a disability. Congratulations must also go to the NDS state manager Noelene Wadham and her team for organising the awards ceremony, and to Jon Martin from Autism SA for emceeing the afternoon with great humour. Not only did he ask for a top-up of his salary, he also asked for a top-up of his grant funding. He never misses an opportunity to put a word in the minister's ear.

I look forward to attending the next NDS award ceremony in 2013. Surely the Hon. Kelly Vincent will be there, and I will even invite the Hon. Mr Wortley to attend as well.

ENERGY-SAVING LIGHT GLOBES

The Hon. D.G.E. HOOD (15:08): I seek leave to make a brief explanation before asking the minister representing the Minister for Sustainability, Environment and Conservation a question regarding long-life light bulbs.

Leave granted.

The Hon. D.G.E. HOOD: For a number of years now South Australians—indeed, those in other states as well—have been required by law to use so-called energy-saving globes in their houses. However, with respect to these products complaints range from the poor life of the globes themselves to the fact that they can transmit a very poor light in some cases, and certainly with respect to the increased cost for purchases. Many of these complaints have been raised directly with me through constituents.

In more recent times very serious questions have been raised regarding the safety of these globes, particularly in regard to the dangerous health consequences that can result from their use, especially when they break. A major component of the globe is mercury, of course, which has been known to be corrosive and which can cause very serious respiratory problems as well as severe skin irritations.

A recent article in the Adelaide *Advertiser* newspaper reported that workers who come in contact with the globe in their jobs have been given OH&S safety briefings on the handling and disposing of broken globes, as the mercury in the globes is more toxic than lead or arsenic. In spite of all of this, starting from 1 September 2012, energy saving light globes will be banned in metro landfill and subsequently banned in outer metro landfill from 1 September 2013. My questions therefore are:

1. What is the government's position on the health risk associated with these globes?

2. In light of the health risks, what method does the government advise should be implemented to clean a breakage, and how should they be disposed of, particularly the broken glass of the globe and its contents?

3. Would the government consider allowing South Australians the choice to return to the use of incandescent globes if they so choose?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:11): I thank the honourable member for his question to the Minister for Sustainability, Environment and Conservation in another place. I undertake to take that question to him and seek a response on his behalf.

PRINTER CARTRIDGE SCAM

The Hon. R.I. LUCAS (15:11): I seek leave to make a brief explanation before asking the minister representing the Minister of Finance a question on the subject of cartridgegate.

Leave granted.

The Hon. R.I. LUCAS: Over the last couple of months there has been an increasing number of stories and information provided to members of the media and also the opposition about what has become known as cartridgegate, and the government, as we know, has established a procurement working group, which is supposedly looking into the issue. Further information provided to the opposition indicates that, rather than eight companies being investigated, the investigation, in so far as it relates to at least one government department, has how been extended by another seven companies to a total of 15 vendors whose vendor arrangements with that particular department are now being investigated. I am advised that four of those additional seven companies are Data Solutions, MyCom Australia Pty Ltd, The Better Image Pty Ltd, and The Better Image International Pty Ltd.

I have also been advised that, as a result of the publicity in relation to procurement of cartridges, further information and concerns are being raised by public servants, both past and present, in relation to government procurement of other items, and I raise this afternoon procurement of stationery in particular. One former public servant, who worked for the old DAIS department (the department of administrative and information services) and then worked for Treasury, has raised concerns about actions that he witnessed in the old Supply SA department, in particular at the Camden Park depot, and also at government auctions at Marleston.

His concerns in particular relate to the time he was at the Camden Park distribution centre for Supply SA in the period 2007-08. The concern he raised was that a key function of that warehouse was the large quantity purchase of stationery orders and the distribution of stationery for schools for the new school year. He indicates that companies offered incentives for large purchases, which included wine, Xboxes (or video game consoles), Westfield shopping vouchers,

fuel vouchers, etc. He alleges that officers at the warehouse were recipients of those goods and that he had personally witnessed them leaving the warehouse with goods.

In particular, he gives the name of one person, which I will not put on the public record, who he alleges filled his boot full of goods as he left that particular depot. My questions are:

1. Is it correct that 15 companies are now being investigated by the Government Investigations Unit in relation to at least one government department? If yes, have all other government departments and agencies now been advised of the names of the seven additional companies so that they can do searches of their procurement purchases for the period that is currently being investigated?

2. Will the minister investigate the concerns that have been relayed to my office insofar as they relate to procurement and purchasing at the Supply SA depot at Camden Park in the period 2007-08 and Government Auctions at Marleston, and is he prepared, having investigated that, to bring back a report to the parliament?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:16): I thank the member for his important questions. On 21 September 2011, allegations of inappropriate printer cartridge purchases were raised, and they were referred to the Auditor-General and South Australia Police. The Chief Executive of the Department of the Premier and Cabinet wrote to all agencies on 22 September 2011 seeking that they undertake an urgent review of the procurement practices, particularly in relation to the procurement of consumables.

In order to facilitate a methodical across-government approach to deal with this issue, a procurement working group was established on 1 November 2011. This group is comprised of senior officials of the Department of the Premier and Cabinet, the Department of Treasury and Finance, the Crown Solicitor's Office and the State Procurement Board. The Chief Executive of the Department of the Premier and Cabinet was appointed the chair of the procurement working group as a way of ensuring the most effective across-agency coordination.

The aim of the procurement working group is to coordinate and oversee the investigation by senior sector agencies of their records and procurement practices to identify anomalies or irregularities in the procurement of office consumables involving the provision of gifts or incentives. The group will also assist to identify and provide advice and direction as to the resolution of any impediments to the task of the gathering of information as to whether systemic or individual breaches of proper procurement processes have occurred.

Also, the group will identify and oversee the immediate implementation of measures that are directed at ensuring that procurement practices are being undertaken lawfully and in accordance with proper procedures. Importantly, the procurement working group will ensure the prompt gathering and referral to the appropriate authorities of any evidence indicating breaches of policy or law on the part of any individual and will make recommendations for policies, practices and controls needed to enhance procurement processes across government.

At its first meeting on 3 November, the procurement working group looked at some high-level preliminary data that had been extracted by Shared Services SA from a search of known company names provided by the Victorian Ombudsman. This produced around 500 invoices which totalled $921,333 dated from 1 June 2009, which is when Shared Services SA took on the role of paying invoices on behalf of most government agencies.

The analysis showed 41 government entities as having used suppliers identified by early Western Australian and Victorian investigations. Of these 41 entities, there are instances of gifts being received in around half of them, and this will be further investigated. Some show that product vouchers had been issued by the supplier. Product vouchers allow for pre-purchase of printer cartridges for future delivery at agreed prices, which may or may not be inflated. This practice is potentially contrary to Treasurer's Instruction 11. Any evidence of unethical or illegal conduct will be referred by the procurement working group through the appropriate authorities, as is standard practice in such matters.

The government is committed to ensuring that a thorough and transparent investigation is conducted. To facilitate this aim, Ernst & Young was engaged to review the process that I have outlined above to ensure that the utmost rigour is applied in these circumstances. Ernst & Young has assembled two senior consultants who have expertise in fraud investigation, audit and special

purpose reporting. Other issues in relation to this process have also been discussed with the Auditor-General, and he has been written to regarding the establishment of the working group.

If the member believes that he has credible information that possibly has not been identified to the government, I invite him to pass that information on to the Minister for Finance for investigation by the procurement working group. I think it is important that we get to the bottom of this. This sort of practice is totally unacceptable. We all should be working together, and any information that anyone may have should be referred to the appropriate forum. Any other issues in regard to the question I will refer to the Minister for Finance in another place.

FAMILY SAFETY FRAMEWORK

The Hon. CARMEL ZOLLO (15:20): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the Family Safety Framework initiative in Berri.

Leave granted.

The Hon. CARMEL ZOLLO: As part of the Women's Safety Strategy, the Family Safety Framework seeks to ensure that services to the families most at risk of violence are dealt with in a more structured and systematic way through agencies sharing information about high-risk families and taking responsibility for supporting these families to navigate the services system. My question to the minister is: can she please provide the chamber with information on the progress of this initiative?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:21): I thank the honourable member for her most important question. I have spoken in this place before about the importance of the Family Safety Framework. The Family Safety Framework includes: family safety meetings, which are held at the local level and are focused on identifying individuals who are assessed to be at high risk of domestic violence; and a common risk assessment to ensure consistency across agencies so that the assessment of high-risk cases can be reliable.

I am very pleased that the family safety meetings are now being held in 10 regions throughout South Australia on an ongoing basis. We now have new family safety meetings occurring in the metropolitan policing regions of Sturt and Adelaide Eastern, as well as the Limestone Coast. This now gives us a complete metropolitan coverage of the Family Safety Framework.

The framework has also recently been rolled out to the Berri policing area, with the first family safety meeting being conducted there on 2 November this year. I had great pleasure in being able to attend their second meeting, which was held at Housing SA's Berri office on 16 November when I was visiting the Riverland at the time. It was a great opportunity for me to reaffirm the government's commitment to continuing this most important initiative in person. I had the opportunity to speak with representatives from all of the agencies involved, who were very positive about holding family safety meetings in their region.

They felt that the Family Safety Framework helped formalise processes for managing the risk and safety of women and families in that region. I congratulate the Berri team for their incredible commitment and hard work. These Family Safety Framework meetings really can only be successful when agencies are prepared and willing to work collaboratively together to produce the very best possible outcomes for those women who are assessed as being at high risk. It is a fabulous group, and I commend them for their enthusiasm and commitment.

The meetings are chaired by South Australia Police, with administrative support provided by Victim Support Services. The meeting includes representatives from agencies like Mental Health Services, Women's Health, the Department for Correctional Services, the Department for Education and Child Development, Drug and Alcohol Services SA, Families SA, Housing SA, Murraylands Domestic Violence Service, and Relationships Australia—they are some examples. As I said, I congratulate them on their collaborative efforts.

The need to roll out family safety meetings to Berri and Murray Bridge was identified by the Deputy Coroner in his preliminary findings in a recent very tragic inquest. Work is currently underway to roll out the framework to the Murray Bridge policing area which will expand the framework to 11 regions. This valuable work would not be possible without the support and commitment of a range of government and non-government agencies.

I want to acknowledge the fantastic work that goes towards keeping women and families safe at all of those family safety meetings. As I said, these meetings do identify those women who are at very high risk. An evaluation study was done a number of years ago and that evaluation showed that the Family Safety Framework meetings and case management style of work indeed did significantly reduce the risks to those women who were involved.

The Office for Women continues to take a lead role in this work, providing training and training materials and also working with agencies to provide best practice, as members may recall. As I said, an evaluation was conducted and three-quarters or 75 per cent of referrals that remained in South Australia, the evaluation found, had no SAPOL record of revictimisation for at least three months after the referral, and that was the maximum timeslot that we looked at.

I am sure that members would agree that these are great findings and the Family Safety Framework is a great example of what we can achieve by working together.

MATTERS OF INTEREST

INTERNATIONAL SAFE COMMUNITIES

The Hon. G.A. KANDELAARS (15:26): Members may recall that in my inaugural speech in this place I mentioned my involvement with Safe Communities Inner North East (SCINE). I wish to expand today on the concept behind the International Safe Communities concept. The International Safe Community Network is coordinated by the World Health Organisation Collaborating Centre on Community Safety Promotion at Karolinska Institute in Sweden.

A safe community can be a municipality, a county, a city or a district of a city working with safety promotion, injury, violence and suicide prevention, and prevention of the consequences (human injuries) related to natural disasters, covering all age groups, gender and areas and is part of an international network of accredited programs.

It was the work of the Noarlunga Safe Community that inspired SCINE to join the Safe Community journey. Noarlunga was an early adopter of the International Safe Community model and was recognised as the 14th international member in 1996. The Noarlunga reference group has continued to meet regularly since 1994.

Safe and Healthy Workplaces in the South is the flagship program, established in 1996. It is one of the initiatives that continues to grow in diversity and reaches out to a large percentage of the local population. Using a range of strategies, the program encourages small business employers to introduce and maintain long-term safe working practices.

One strategy is the Blood Awareness in Small Business program, which seeks to lessen the transmission of blood-borne diseases in the workplace and to educate employers and employees in small businesses about first-aid procedures and health issues associated with blood-borne viruses. Some 190 high-risk small businesses located in the Lonsdale and Hackham light industrial areas continue to take part in this initiative.

Another initiative taken by the Noarlunga group is the emergency first aid courses, which teach employers and employees how to handle emergency situations in the workplace, at home and in the community. A total of 28 first aid evening courses have been run, and over 500 employers, employees and family members have received nationally-accredited Red Cross basic first aid training.

Southern Primary Health Noarlunga has developed a Depression in the Workplace program in association with local business associations. This initiative focuses on practical programs and resources to deal with the issue of depression in the small business community. Depression and suicide prevention programs work face-to-face with 250 local businesses. Each work site has been provided with a range of information and educational resources to raise their awareness of mental health and depression and to promote the access to services and support, both emergency and ongoing.

Teachers, students, health workers, community workers and artists have participated in the 'Spot the Hazards Walk' where they detected and documented hazards in the local community. Students then wrote to the appropriate service providers to report on the detected hazards. A forum was then held at schools with the local service providers—namely, the City of Onkaparinga, SAPOL, the Metropolitan Fire Service, AGL and SA Water. Students received information regarding their reported hazards and heard about the different roles of service providers in ensuring community safety.

Coming back to the SCINE group, they are in the process of working with the Gilles Plains Primary School to develop a similar program that will develop collaborative partnerships with children and young people to empower them to understand injury prevention and promote community safety. I commend the SCINE group for their work towards the membership of the International Safe Community which is quite a detailed process.

Time expired.

LABOR GOVERNMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:31): We stand here, as members of parliament, not representing the government or the opposition, not the Greens, not Liberal or Labor. We stand here, we vote here, as representatives of South Australia—its people, environment, values and aspirations. People are diverse and have a range of opinions—belief in God or gods, corporations or unions, socialism or capitalism, or in Kevin Foley's heartless, gutless, reprehensible 'rack 'em, pack 'em and stack 'em' policy for people who have been sent to gaol.

It is actually easy to break the law. There was a driver in the South-East whose car had passed its roadworthy test one day, but the next day he was fined and given demerit points on the very same car, which had not been touched or changed in any way, because the police found a reason to declare it defective. Luckily, this man had the resources to pay his fine, otherwise he would have gone to gaol—racked, packed and stacked in Labor's South Australia.

An elderly man was fined hundreds of dollars because the seatbelt in his sedan was frayed. A woman was fined hundreds of dollars because the lens on her rear indicator had faded. A farmer was fined because his car had a muddy numberplate. This was in country South Australia during one of the wettest winters in recent history.

In a blitz on common sense, the Labor government made almost $1 million in fines on South Australian country roads during Operation Rural Focus late last year. Police from Adelaide and other areas late last year descended en masse on Yorke Peninsula, the Riverland, South-East and other parts of rural South Australia. One woman was fined for having an unsecured load on her back seat. She had been shopping. It was some groceries. The operation destroyed the culture of trust and respect that people have in the bush for our South Australian police.

I am not blaming the police. The police commissioner himself, appearing before a parliamentary committee, admitted he was not satisfied with the outcome. He was not comfortable with the zero tolerance approach. Police have targets they have to reach. They are not targets which cut the number of crashes. Their targets are growing the number of drivers they have to arrest and fine.

Operation Rural Focus was a government plan using police to raise money. Figures obtained under freedom of information reveal that nearly 3,000 country people were nabbed in this million-dollar sting. Cabinet wants to raise an extra $44.8 million over three years in speeding fines. It needs motorists to break the law to meet that target.

The Sustainable Budget Commission, which has no role in road safety, recommended that Labor make still more money from expiation notices. Not many South Australians know it, but police get a proportion of the fines they collect. South Australians who we, in parliament, represent paid more than half a billion dollars in fines since Labor stole office in 2002. South Australian police were allowed to keep more than half of this—$260 million. Labor is addicted to the revenue from traffic fines.

There is a financial disincentive for the Labor government to make road safety a priority. At the same time, the government is neglecting rural roads. Some country roads are so badly maintained they will soon be beyond repair and will need complete reconstruction. Labor's cut to the speed limits in regional South Australia is a consequence of its own mismanagement—a direct result of Labor's backlog in road maintenance and safety improvements.

We have had a very sensible 100 km/h speed limit since before some ministers in Labor's cabinet even had a driver's licence. Our state road network is deteriorating to such an extent that it is no longer safe to drive at a speed that was perfectly legal to do 20 years ago.

Former Barossa road safety committee member Kim Michelmore says that many crashes in his area are caused by the lack of infrastructure, guards, guard rails and barriers. For real road safety we need safe roads, attractive rest areas and driver education. I have seen good

suggestions for road safety education to be brought in across the whole curriculum, starting from preschool right through to year 12, culminating in practical driving.

The government wants people to break the law. The opposition wants a more sensible approach. We would like to see the number of expiations fall through people sticking to the road rules. I am reminded of the words of Benjamin Franklin, 'The strictest law sometimes becomes the severest injustice.' As members of parliament, we have a duty to the people who employ us, who pay our salary; that is, every South Australian. We need them to respect the law, to respect the police and to respect the lawmakers; that is us, every one of us in this parliament.

NOVITA CHILDREN'S SERVICES

The Hon. CARMEL ZOLLO (15:35): I would like to place on the record the great contribution that Novita has made to our community. On Sunday 11 September, I had the privilege to attend and be a part of the Novita Walk With Me event held at Bonython Park. It was a pleasure to walk, along with many others, including His Excellency the Governor of South Australia and patron of Novita, Rear Admiral Kevin Scarce and his wife Mrs Liz Scarce. Members of the public, many Novita staff, volunteers and families enjoyed the morning walk around the park. I feel it is indicative of the generous nature of South Australians that so many came out on the day to support a charity that has helped many young South Australians since its establishment in 1939.

The Walk With Me event is intended to raise awareness of the needs of children living with disabilities and to encourage social inclusion and community support through participation. As I am sure honourable members would be well aware, Novita (formerly the Crippled Children's Association of South Australia) has been assisting young South Australians for the last 70 years. They have helped countless young children overcome both physical and acquired brain injury conditions.

There is no doubt that without the work of Novita, young children in South Australia living with a disability would not enjoy the quality of life they currently experience. Each year, Novita directly provides support to over 1,300 children through its provision of therapy, family support services and essential equipment. Through extended community networks, it provides additional support to approximately another 10,000 South Australians who have a family member living with a disability.

The support covers a wide variety of disabilities, from autism through to more physical disabilities such as muscular dystrophy and cerebral palsy. These are conditions which present their own unique challenges to both the sufferer and their families. With the support given by Novita staff and volunteers, these conditions become more manageable. This in turn reduces the stress on families and the children, allowing them to make the most out of life.

One of the key aspects of Novita's work is its longstanding commitment to research. Since its inception, it has continually been looking at new treatments to provide the best possible outcomes for young children suffering from these often debilitating conditions. This commitment has been stepped up over the past few years, with Novita forming a division of research and innovation in 2008.

The research division has a broad focus on clinical research, including research into the impact of disabilities on the wider community and in the development and evaluation of aids for those living with a disability. This research not only benefits Novita's own patients, but is made available for the benefit of disability sufferers right around the world, for which it must be applauded.

The state government has committed additional funding over the next four years to help expand the therapy services provided to the young children Novita cares for and will provide enhanced therapy for an additional 200 children living with a disability and long-term support for in-home care and respite for an additional 30 children. Novita is an organisation which over the last 70 years has brought hope to an untold number of young children, giving them a chance to live a full and rewarding life and, even more importantly, the ability to make choices within those services provided.

I would like to place on the record my thanks to all staff and volunteers, past and present, who have worked tirelessly to make Novita the wonderful organisation it is today. The Walk With Me event brings the community together to raise funds and to educate Australians about people with a disability. I make special mention of Riley Stubing and Morgan Cooper, both aged 6. They are inspirational people and were the two young ambassadors for the event. Ultimately, it is about

making a real difference to the quality of life for people with a disability, and the esteem in which Novita is held only continues to grow—and, may I say, deservedly so.

It is also appropriate to acknowledge the hard work, dedication and enthusiasm of all the sponsors and people who helped with the fundraising. I also thank Professor Downing, President of Novita Children's Services, and CEO Glenn Rappensberg and the staff for their hospitality on the day. It was a pleasure to represent the government and the then minister for disability services (Hon. Jennifer Rankine). I also note that Vickie Chapman MP from the other place was present on the day.

SPORTS STAR OF THE YEAR AWARDS

The Hon. T.J. STEPHENS (15:41): I rise to speak about the celebration that I attended last Friday night, The Advertiser/Channel 7 Sports Star of the Year award, and also the new inductees into the South Australian Sporting Hall of Fame. I acknowledge that particular function was attended by the Hon. Carmel Zollo, the Leader of the Opposition (Isobel Redmond MP) and also the member for Chaffey (Mr Tim Whetstone MP). The Hon. Michael Wright from the other place represented the government and made a speech early in the evening.

It was a magnificent event, and I acknowledge The Advertiser/Channel 7 Sports Star of the Year winners. The Sports Star of the Year was Anna Meares, who has done an outstanding job in cycling; Junior Sports Star of the Year was Jay Dohnt, from swimming; Team of the Year was the Southern Suns, representing hockey; Elite Sportsperson with a Disability was Kieran Modra, who has had an outstanding career in cycling; and the People's Choice award was won by Nick Percat from motorsport.

On the evening, we were fortunate to witness the induction into the South Australian Sporting Hall of Fame of Mr Robert Haigh from hockey; Kerry Pottharst from beach volleyball; Ian Chappell, obviously, a former Australian cricket captain, for his services to cricket; Di Burge from athletics; Jane Crafter from golf; and Adrian Quist from tennis. The football legend Fos Williams was honoured, as was Dr Brian Sandow for his outstanding contribution to sports medicine, and we witnessed the elevation of Mr Barrie Robran to legend status. I am sure most members of the council would be well aware that Barrie is a very proud product of Whyalla and an outstanding North Adelaide Football Club champion—a three-time Magarey medal winner. He is an absolute gentleman and an ornament to the game.

I was fortunate to chat to Barrie last year, and Vern Schuppan, who was amongst the inaugural Hall of Fame inductees, and I was extremely proud of the fact that, last year, two of the 20 inductees were, in fact, products of Whyalla. The pride that went with watching Barrie elevated to legend status was absolutely sensational. I loved the story of a very humble Barrie Robran and his beginnings. He paid tribute to a legend in Whyalla, a gentleman by the name of Mick Vanvacas, whom I know quite well. Barrie, in his own humble way, talked about how Mick had an incredible influence on his career. I was thrilled to see Barrie elevated to legend status, and I doubt whether there is a finer gentleman who has been involved at that level in sport. He is an absolute champion.

While I am talking of sport, John Harnden from the SACA has just been awarded another position so will be leaving the services of the SACA. I must say that Mr Harnden, in all my dealings with him, conducted himself as an absolute gentleman. It will be no surprise to most members that I did not particularly agree with him on his stance, especially regarding Adelaide Oval, but he certainly conducted his side of the debate with honour.

I know that when various concerns were raised about the SACA vote Mr Harnden and, in fact, Ian McLachlan both went out of their way to organise a meeting for myself and Travis Moran, who was working with me at the time, with all the partners involved, and he went to great lengths to show the absolute probity that was taken with that vote. I thank Mr Harnden for that. He was not back in South Australia for long, and I certainly wish him well for his future career. I hope his successor can lift the SACA to greater heights.

Time expired.

ST LEONARDS PRIMARY SCHOOL

The Hon. J.A. DARLEY (15:46): As some may remember from my maiden speech, as a boy I attended St Leonards Primary School from 1943 to 1949. I am proud to say that this year St Leonards is celebrating its 90th anniversary, and I rise today to speak about this fine school and share a little of its history.

St Leonards Primary was officially opened on 6 May 1921, six years after initial requests to establish a state school at St Leonards (now known as Glenelg North) were made to the minister of education. The school initially had an average of 240 children aged six to 12 enrolled for the first year. By 1953 the school was reclassified, which allowed for an infants department to be included in the school, and enrolments ballooned to 798 the following year.

By 1967 the school had 958 children enrolled, the increase in students predominately attributed to the commonwealth government's migration policy and the fact that St Leonards Primary School was located near the North Glenelg hostel, which housed many new migrants. For many children, St Leonards Primary was the first school they attended in Australia. The school currently has approximately 240 students enrolled.

From the 1940s, an innovative woodwork and home science area was built at the school. Students from many areas, including Camden, Forbes, Ascot Park, Henley High and Black Forest, came to St Leonards Primary to undertake lessons in domestic art and woodwork.

I remember attending St Leonards Primary during World War II and the trenches which covered the school oval and the air raid drills when we would have to head to those trenches. I also remember the headmaster during my time, Mr E.A. Lapidge. I remember him well because he had a bullet wound behind his ear, which he sustained during World War I, and because he threatened me with lashings of the cane. Undoubtedly, St Leonards Primary is a very different school today.

The school recently held an open day as part of its 90th anniversary celebrations. Unfortunately, I was unable to attend; however, my parliamentary adviser, who is also an old scholar of St Leonards Primary, attended and was amazed at how much the school had changed in the 16 years since she had left. I am sure that had I attended I would have been even more amazed at the changes that have occurred in 62 years since I left.

The technology used by the school and its students are far beyond anything I could have imagined while I was a student there. The school recently opened a new library which features new state-of-the-art computers. Every classroom has an interactive whiteboard, and senior students have the opportunity to produce short science videos, which are submitted online for a national competition.

Notably, St Leonards Primary old scholars include the former deputy premier, the Hon. Roger Goldsworthy MP, who was instrumental in the initial signing of the Roxby Downs Olympic Dam indenture agreement; former Australian test cricket captains Ian and Greg Chappell and their brother Trevor; former international golfer Bob Tuohy; Elfin racing car designer and builder the late Gary Cooper; national baseballer Don Rice; former coach of Port Power Mark Williams; and international model and LPGA pro golfer Anna Rawson.

As briefly mentioned, the school is celebrating its 90th anniversary in 2011. As part of the celebrations old scholars have been invited to purchase a commemorative brick, which will be laid in the school grounds. Celebrations also included a wonderful assembly on the open day, which was managed predominantly by the students. A celebration evening is planned for this Friday, where current students will each perform a dance from a decade, spanning the past 90 years.

Given the close community, which seems to come hand in hand with this school, I hope this evening will give me the opportunity to catch up with some old friends, and I look forward to the centenary celebrations in 10 years' time.

AUSTRALIAN CHINESE MEDICAL ASSOCIATION

The Hon. J.S. LEE (15:51): I rise today to speak about the Australian Chinese Medical Association of South Australia. On Saturday 5 November 2011 I was honoured to be invited by the Australian Chinese Medical Association to attend its annual foundation charity dinner. The association is commonly referred to as ACMA. It was founded in 1992 by medical doctors and specialists of Chinese migrants from the Asia Pacific region who now reside permanently in South Australia. The association promotes professional and social exchanges within the South Australian medical community. It currently has about 150 members. Over one-third of the members are GPs, another third are specialists and the remainder are resident medical officers and medical students.

I have known the current president, Dr William Tam, and immediate past president, Dr Evelyn Yap, for a considerable time now. I can tell honourable members that they are very nice people. In addition, the more I get to know them the more impressed I am by their professional and philanthropic undertakings. I take this opportunity today to thank the association for its meaningful

work and congratulate the committee members, past and present, for their outstanding achievements.

The ACMA Foundation is the charity arm of the association and was founded in 1996. The aim of the foundation is to support individual and community health, medical education, medical research and community welfare. Since its inception, the foundation has donated over $100,000 to various local and international charitable organisations and other worthy causes. Among some of the beneficiaries of the foundation are: Canteen—helping young people living with cancer; Teen Challenge—helping young people with life's problems; the Sunrise Orphanage in Cambodia; the Grace Home, an orphanage in Thailand; the Royal Society of the Blind; the Flying Doctor Service; the Bordertown Hospital Building Fund; the Queensland Institute of Medical Research; the AMA Building Fund; and, many more.

I wish to share other stories, including that they are sponsoring medical equipment to be used in African countries. The other success I like to talk about is the involvement of ACMA in the Multicultural Liver Clinic, which is an initiative of PEACE Multicultural Service of Relationships Australia in partnership with many hospitals and the Hepatitis C Council of South Australia. The clinic is a two-year pilot project that aims to use a holistic approach to address the higher prevalence of hepatitis B and C amongst Australians from culturally and linguistically diverse backgrounds. The clinic is staffed by bilingual workers and doctors.

Funds from the foundation are raised through generous donations, such as the annual ACMA Foundation gala dinner. The foundation also sponsors awards in the community, including: the Adelaide and Flinders University medical school academic awards; the Chinese Language Teachers Association of South Australia student awards; and, also, the matriculation examination Chinese language awards. The association is a vibrant, united and inclusive organisation, thanks to the strong leadership and hardworking committee, of course supported by its members and sponsors from the business and corporate sectors. Today, it is my privilege to be able to speak about ACMA in the Legislative Council, and I place on the record my sincere congratulations and thanks to ACMA for its wonderful work and generous contribution in making a positive and healthy impact on the South Australian community.

WORK INJURED RESOURCE CONNECTION

The Hon. A. BRESSINGTON (15:55): I rise to inform members once again of the extreme importance to the state of South Australia of the services known as Work Injured Resource Connection. This organisation was founded by Miss Rosemary McKenzie-Ferguson back in the 1990s, after she herself became an injured worker through no fault of her own. On entering the WorkCover system, she became totally confused and had no idea how the process worked or what her responsibilities were, which is not an uncommon situation.

After hitting a brick wall everywhere she turned, and after many months of rehabilitation and many bouts of depression, she decided that there had to be a better solution to the problems facing injured workers trapped in the WorkCover system. She obtained a copy of the act, which she then set about studying, which was a daunting task in itself. She believed that injured workers needed support outside of the system. This is not just a matter of guidance; it goes much further than that. Rosemary also attends meetings, interviews, doctor's appointments with injured workers and visits some in their home in city and country areas to explain exactly how to navigate the system.

She has on many occasions driven to the Riverland, the South-East and Yorke Peninsula to help injured workers. This relieves much of the stress for those injured workers and makes the whole experience a little more bearable. Rosemary also has attended funerals of suicide victims and even delivered a eulogy because the deceased worker's family were too distressed to read what they had written.

Another feather in Rosemary's cap is the Deceased Workers Memorial Forest, which is located in Bonython Park and which is the only one of its kind in the world. It is getting bigger every year as more trees are planted on the injured workers' International Day of Mourning. One tree has under it the ashes of a deceased worker and another was used for the wedding of a deceased worker's sister.

Rosemary was horrified to see that some of these people, after their cut-off period, were in such a terrible financial state that they could no longer put food on the table. She then came up with the idea of the Bags of Love emergency food project, which I have funded financially. Those

who are in desperate need, and there are many of them, have a food hamper delivered to their door by Rosemary.

There is also the final scenario where people have lost their home because they can no longer afford the mortgage. As Rosemary says, 'I can't do anything about their home, but I can try to make sure that they have food on the table.' One injured worker couple had sold everything that was not essential and were at the point of selling their wedding rings so that they could pay the bills and put food on the table. Rosemary then delivered enough food to last them for two weeks and assisted them to put other supports in place. She has been working tirelessly since 1997 and is looking to the future by setting up the work board, which is now trying to get some fundraising underway so that she can concrete the future.

Work Injured Resource Connection has grown substantially, and it is now necessary for the organisation to have an official premises for appointments, meetings and group support sessions. Rosemary urgently needs funding to continue this important service, to pick up the shortfall and help injured workers who are finding the WorkCover system a very hostile environment.

Rosemary was recognised for her dedication and never-ending support to injured workers on Thursday 3 November in the South Australian of the Year awards, winning the category of community leader. I congratulate her on her consistent tenacity and on continuing this important service and winning this much-deserved community leader award for 2011.

LEGISLATIVE REVIEW COMMITTEE: INQUIRY INTO STILLBIRTHS

The Hon. G.A. KANDELAARS (15:59): I move:

That the report of the committee, on its inquiry into stillbirths, be noted.

On 24 November 2010, the Legislative Review Committee resolved to inquire into and report on the adequacy of the current mechanism for the investigation of stillbirths and, in particular, in what circumstances the Coroner should be given jurisdiction to investigate them.

The committee held the inquiry in response to a motion initially moved by the Hon. Iain Evans in the other place in response to a petition from Ms Myf Maywald. Ms Maywald had publicly lobbied for a change to the law to allow the Coroner to investigate stillbirths after being informed that the Coroner did not have the jurisdiction to investigate the circumstances surrounding the stillbirth of her daughter Polly.

The jurisdiction of the Coroner is dependent upon there being the death of a person. Currently, the Coroner cannot investigate the circumstances surrounding a stillbirth because a stillborn child is not considered a person for the purpose of the Coroner's Act or, indeed, for the purpose of any other law of the state. Whether or not an infant is a person for the purpose of the law is determined by the common law 'born alive rule'. To satisfy the born alive rule an infant needs to have completely left the mother's body and exhibited some sign of life, either at or after birth.

The Supreme Court of South Australia most recently considered the born alive rule in June 2010 in the case of Barrett v the Coroner's Court of South Australia. It affirmed the decision of Deputy Coroner Schapel to hold an inquest into the circumstances surrounding the birth of an infant who reportedly did not take a breath after delivery. The court agreed that the pulseless electrical activity detected in the infant was a sign of life and enough to satisfy the born alive rule even though the infant did not take a breath.

In 2009, there were 140 stillbirths recorded in South Australia; 20 of those were from unknown causes. Currently, only stillbirths occurring in a hospital can be subject to formal investigation. This takes the form of either an internal hospital review or a root cause analysis under the Health Care Act 2008. Not all the information and recommendations from the investigation are available publicly or even to the concerned parents. Parents are entitled to request an autopsy, which is conducted by the State Perinatal Autopsy Service.

All stillbirths occurring in a hospital are examined by the Maternal, Perinatal and Infant Mortality Committee, and the committee consists of medical professionals and health practitioners who analyse and examine the clinical reasons behind infant deaths. The chair of the committee is appointed by the Minister for Health and its members are appointed by the chair on recommendation from professional representative bodies and healthcare providers. Its members include obstetricians, GPs, pathologists and midwives.

The Maternal, Perinatal and Infant Mortality Committee publishes statistics and general recommendations in its annual report. It is not required to report publicly or to examine systemic

issues that may have contributed to a stillbirth. The committee also does not have any formal reporting requirements to hospitals regarding the outcome of its investigations.

Evidence to the inquiry indicated that parents are not aware of the Maternal, Perinatal and Infant Mortality Committee, its role or its functions. In light of this, the committee recommended that the Minister for Health directs that any reports or recommendations from the Maternal, Perinatal and Infant Mortality Committee be formally provided to the relevant hospital for their response and that these reports be provided to parents on their request.

It also recommended that it be mandatory for annual reports to be published and tabled in both houses of parliament. The committee was also of the view that the expertise of the Maternal, Perinatal and Infant Mortality Committee should be utilised in any hospital investigation and, therefore, recommended that they participate in any root cause analysis undertaken under part 8 of the Health Care Act 2008.

Submissions regarding the need for coronial jurisdiction for stillbirths varied widely, as did opinions about the circumstances in which such an investigation should occur. The committee heard evidence from a range of representative organisations, such as the Law Society, the Australian Medical Association, the Australian Nursing and Midwifery Federation, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, Forensic Science SA, the Attorney-General, and the parents' support group Stillbirth and Neonatal Death Support (SANDS). The committee also received submissions and heard evidence from the State Coroner, Mark Johns, and the Deputy State Coroner, Anthony Schapel.

The committee heard first-hand evidence from many parents of stillborn children who were strongly in support of a coronial jurisdiction for stillbirths. They submitted that the current hospital-based investigation system was inadequate and lacked independence and transparency. They also submitted that there was a lack of information available to them. This heightened the grief and guilt they felt and did not assist in satisfying their need for answers as to the cause of their child's death. They were of the view that a coronial investigation would not only give them answers but would also prevent such deaths from occurring in the future.

The majority of submissions to the committee from parents were about stillbirths occurring in a hospital environment, not a home birth situation. As result of submissions from parents, the committee recommended that the health minister review hospital protocols and policies regarding the type and manner of support and information provided to parents who experience stillbirths.

The committee was also concerned to ensure that a system of hospital investigation of stillbirths is consistent in both public and private hospitals and that all other relevant healthcare providers, such as nurses and midwives, have clear protocols in place to deal with situations where a stillbirth occurs and are all well informed regarding the process of investigation of stillbirths. The committee therefore recommended that the minister for health liaise with relevant agencies and the federal minister for health to ensure that protocols and policies regarding the investigation of stillbirths are consistently applied to all healthcare institutions and by all healthcare providers.

Many of the parents expressed their shock and distress that their stillborn child was not considered a person for the purposes of the law. Given modern medical technology and the ability to monitor and ascertain information about a child's health in utero, such as heart rate and even visual images, they were also concerned that there seemed to be no independent investigation available to ascertain the cause of their child's death. It seemed to them an anomaly that medical science treated their child as a person, yet the law did not.

However, many submissions to the inquiry expressed the view that the current system of investigating stillbirths was adequate and that the Coroner should not be involved in any investigation. The Australian Nursing and Midwifery Federation's submission expressed concerns about the legal and other consequences of extending the Coroner's jurisdiction in terms of the potential effect on the rights of mothers and the legal status of the unborn child. They expressed the view that, rather than extending the coronial jurisdiction, the current functions and powers of the Maternal, Perinatal and Infant Mortality Committee should be extended to better meet the needs of parents.

The Stillbirth and Neonatal Death Support group (SANDS) outlined their concerns about the effect that coronial investigation may have on grieving parents and their ability to spend as much time with their child as possible. Some submissions encouraged coronial involvement but only for stillbirths occurring in certain limited circumstances, such as where an infant can be shown to be alive immediately before delivery or where the parents request an investigation.

The Department of Health and the Maternal, Perinatal and Infant Mortality Committee made a joint submission and gave evidence to the inquiry. Their view was that the current mechanism for investigating stillbirths occurring in hospitals was thorough and more than adequate to meet the needs of parents. They expressed the view that stillbirths occurring in home birth situations may benefit from coronial investigation as well as the so-called intrapartum stillbirths where the infant dies during delivery.

The Australian Medical Association's submission was strongly in support of extending coronial jurisdiction to stillbirths in certain circumstances, especially those occurring in the home births environment. Conversely, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists expressed the view that the current system of investigating stillbirths and other neonatal deaths was more than adequate and could not be improved by the involvement of the Coroner.

The view expressed in evidence varied as to the point at which coronial jurisdiction should commence, whether by reference to gestational age, stage of delivery, the expectation of a healthy baby, the viability of the infant or at the Coroner's discretion. In light of the evidence, the committee agreed that there was a need for some mechanism whereby the Coroner could investigate stillbirths in certain circumstances. The committee considered it was undesirable to extend to coronial jurisdiction by reference to the gestational age of the infant or by reference to other medical terminology, given the potential effect on other provisions in legislation and the potential to alter the born alive rule.

The committee notes that these concerns were shared by the Attorney-General in his submission who also indicated his support for an extension of the Coroner's jurisdiction to encompass stillbirths in certain circumstances. The committee, therefore, recommends that section 21(1)(b) of the Coroner's Act be amended to allow for an inquest into stillbirths of unexpected, unnatural, unusual, violent or unknown causes.

Currently, the Coroner must investigate reportable deaths which include state deaths from unexpected, unnatural, unusual, violent or unknown causes. The committee considers this language to be useful in describing the type of stillbirths which should require a coronial inquest. The Coroner and Deputy Coroner expressed the view in evidence to the committee that this formulation of investigating stillbirths of unnatural or unusual causes would be reasonable and would fit within the test already applied by the Coroner's Court in relation to investigating deaths.

Section 21(1)(b) of the Coroner's Act currently provides that an inquest is available if the State Coroner considers it necessary or desirable to do so or on the direction of the Attorney-General in the case of certain other events such as the disappearance of any person or a fire or accident that causes injury to a person or property. If this provision was amended to include stillbirths of unexpected, unnatural, unusual, violent or unknown cause, the Coroner would then have a discretion as to whether or not to hold an inquest. A person who considers that an inquest is warranted could then petition either the Coroner or the Attorney-General for an inquest into the stillbirth.

Having inquests at the Coroner's discretion, rather than categorising stillbirths as reportable deaths which require a mandatory investigation, will allow due consideration of the wishes of the parents who do not want any investigation. It would also give the Coroner the discretion to only inquest those matters which are in the public interest where the cause of the stillbirth is unknown, occurs in unusual circumstances, or where there were some circumstances which, in the opinion of the Coroner, warranted further investigation. It would also encompass stillbirths that occur in both a hospital and a home birth environment.

The committee highly regards the public interest role that the Coroner has in conducting inquests, especially where there have been systemic failures and in making recommendations which effect change. The committee also recommended that further resources be provided both to the Coroner's Court and hospitals to enable the committee's recommendations to be implemented.

On behalf of the committee, I express my thanks to all those who contributed to the inquiry, to the members of the committee, both in this place and the other place, and the committee staff. It was pleasing that this report was a bipartisan one (that is not always possible in this place, as we know) and that all members worked together and gave very careful consideration to the recommendations, given the sensitivity and often complexity of the issues involved. I would especially like to thank the parents and families who made submissions and gave evidence about

their personal experiences of the stillbirth of their children. I acknowledge how difficult it must have been to give evidence about such tragic and traumatic events. I commend the report to the council.

Debate adjourned on motion of Hon. J.M.A. Lensink.

REGULATED TREES

The Hon. J.M.A. LENSINK (16:16): I move:

That the regulations under the Development Act 1993, concerning regulated trees, made on 17 November 2011 and laid on the table of this council on 22 November 2011, be disallowed.

We have been talking about gestational issues, so I think it is fair to say that this piece of legislation has had a fairly long gestation, and it is probably not over yet. By way of summary in relation to the head legislation that is the act, the Development (Regulated Trees) Amendment Bill passed parliament in late 2009. It was under the carriage of Family First and supported by the Australian Labor Party. It was opposed by the Liberal opposition, the Greens and the Democrats.

Our major criticism of the bill at the time was that it continued to rely on the measure of girth size to determine if trees should be given particular protection, rather than other factors such as contribution to local amenity, biodiversity, value, height, historical significance and so forth. I admit that in saying that girth is an arbitrary size that that is something that was initiated under the former Liberal government, but I think time has moved on and there are other ways of valuing trees.

The draft regulations to the act, which spelt out a lot of the details, were published by minister Paul Holloway in August 2010. At that time, there was widespread criticism, particularly from the local government sector and the arborists. New minister John Rau was appointed minister for development in early 2011 and I think it is fair to say that there has not been a lot of conversation or indication from that minister as to what his thinking was.

These regulations have landed on us recently. A number of honourable members have expressed concern. The Hon. Mark Parnell, the member for Fisher in another place, the member for Norwood and the Hon. Dennis Hood in this place have certainly been active in agitating for a sensible resolution to the way we manage trees.

The regulations establish a two-tiered system of tree controls, such that significant trees are those which have a girth size of greater than three metres (currently, it is two metres), and an arborist's report will continue to be required to obtain council permission to remove one of those trees. For second tier regulated trees, which will have a girth size of greater than two metres or, in the case of multiple trunks, a circumference of two metres, with an average circumference of those individual trunks of 625 millimetres, no arborist's report is required but council permission is still required to remove them.

We still remain concerned that a large proportion of the legislation is reserved for the regulation, and that came out in the speeches in relation to the bill when it went through the parliament. We are concerned that the government can change those laws without full parliamentary oversight of many specific details of its operation. These concerns were certainly fulfilled when the draft regulations were published. We had the impression from minister Holloway's contributions in this place that qualitative criteria, such as visual amenity and the others I have mentioned, would be included in the regulations, but there is nothing about those whatsoever.

I made a matter of interest speech on this matter in June this year because I was concerned that the issue was drifting and that the concerns that had been raised would not be taken into consideration. I have to say it is not that the government has not been given forewarning of the issues that people have been concerned with. I wrote an email to the former minister's adviser in November last year and received replies in January, so all of those issues have been placed on the record as far as the minister's officers are concerned.

This year, the South Australian Society of Arboriculture (SASA) and the LGA have continued to be concerned about the regulations. SASA, in particular, is concerned about the threat to the urban forest and the removal of lots of river red gums, particularly in Mount Barker. Local government will largely be responsible for implementation of the legislation, yet they felt they were not adequately consulted at the time about the initial regulations.

The major failure of the draft regulations which were published, in our view, was not to value the unique attributes of trees and I will not raise all of those issues—I have done that on the

record in the past—but I would like to read some of the submissions on those draft regulations which I think are quite useful to inform us as to where we are going.

I should say, too, that the government has seen fit to amend some of the regulations in the draft. They really were a dog's breakfast when they came out, and there have been some improvements in them, but I think there are still some outstanding; and I am disappointed because the opportunity has been offered to engage in some active discussion about what aspects really could be improved. I think the Hon. Mark Parnell may well cover this in his contribution: the bill hit the two-year mark, so I think this has all been done in a rush. We have had different ministers overseeing it and they have really dropped the ball.

The SASA submission stated that the draft regulations are not considered to be appropriate in effectively managing the urban tree population in metropolitan Adelaide. They support the inclusion of a definition of a regulated tree, but they believe that the three-metre circumference is too large for a single-stemmed tree and that this figure should be 2.5 metres, in line with the original regulations. The step between two metres for a regulated tree and three metres for a significant tree is too large a gap. For multi-stemmed trees the three-metre total circumference should be retained. They agree with the principles behind measurement of multiple trunks. They state:

> The 10-metre measurement between trees and dwellings/pools is too prescriptive and would involve removal of many trees unnecessarily on the majority of existing allotments. When reducing allotment sizes is taken into account, this regulation would result in the removal of the majority of trees the Act was initially intended to protect. The removal of trees should be assessed on the individual circumstances at each site.
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> In some cases, this regulation may conflict with the tree protection zones applied under [Australian Standard] 4970-2009 [entitled] Protection of trees on development sites. Councils may elect to increase the distance between trees and swimming pools or other structures in order to preserve the tree. This may then have the effect of preventing urban consolidation where it otherwise might occur.

In relation to regulation 6A(5)(a) and (b), they say the use of species lists should be avoided, for a range of reasons. Personally, I disagree because I think some guidance would be useful. They say that species can be incorrectly identified, which is true, but one of the other submissions that I will refer to gives a solution to that. They say that all trees should be assessed on their individual merits and that the list, as it currently stands, is full of errors and is fundamentally flawed.

Pruning is one of the areas about which a lot of concern was expressed. The original regulations said that 30 per cent was acceptable, and that is something I put to the minister in my email of November last year. I asked what the basis was for using that definition, and the reply that came back was that many metropolitan councils had a policy that pruning of less than 10 per cent of a tree was regarded as maintenance pruning, that some did not have a policy, and that others determined the issue of maintenance pruning on a case-by-case basis, and that the regulation to define a set figure aimed to ensure there was a consistent approach across all councils.

I think there is another solution, which I will also refer to. In fact, it is in this SASA submission, which states that the proposed regulation of the draft is too prescriptive. They ask how you define 30 per cent, and suggest that it should refer to Australian Standard 4373-2007, entitled Pruning of Amenity Trees, which says, at 7.2.1:

> Crown maintenance is pruning according to the growth habit of the tree. It includes dead wooding, crown thinning, selective pruning and formative pruning...It does not reduce the volume of the crown and retains the structure and size of the tree.

I think the government has made some improvements to that, but I think it is worth examining, and certainly worth getting input from the stakeholders who are experts in this to determine whether the government has got it right yet. SASA also said that qualifications for an expert or technical report being set at level 3 was too low, and I note that the government has amended that to level 5, which is to be commended.

The LGA's submission, dated 2 December 2010, can be obtained from their website. Regarding the proposed trunk size of regulated and significant trees, the LGA said that 'the LGA understands that the number of trees in many council areas that would fall within this category is minimal'. So I think they are also reflecting the view that SASA expressed, that there would be a threat to the urban forest, in that the three-metre size is too high and would not provide protection for very many trees. They also say that the definition of a significant tree with multiple trunks is confusing, and they agree with SASA that significant trees should be amended from three metres to 2.5 metres for a single trunk and that three metres is appropriate for multiple trunks. They say that the 10-metre rule for existing dwellings and pools may result in:

...unnecessary and unwarranted removal of trees on existing allotments, and could be further exacerbated by the push for urban consolidation under the Plan for Greater Adelaide. The 10 metre threshold also seems to be an arbitrary distance...that 10 metres is not an appropriate benchmark for exemption from the definition...and...a lesser threshold needs to be considered.

They also say that the meaning of 'dwelling' is ambiguous.

The LGA also has a go at the issue of pruning, saying that 30 per cent is unworkable in practice:

Councils cannot regulate the activity if details are not provided prior to pruning taking place. The 30 per cent threshold appears to be an arbitrary number and does not comply with [the] current Australian Standard.

They also have issue with the amount of the fee to be paid into the Urban Tree Fund, which was $50 in the draft and which is now $75—whoopy do! They say this amount is considered to be:

...a significant undervaluation and not indicative of actual costs as it would be insufficient to fund appropriate replanting schemes and associated tree protection measures. A low figure such as proposed would limit a council's ability to maintain numbers of trees to be replanted and their diversity.

In relation to variations of schedule 3, which relate to the removal of trees in bushfire-prone areas, the LGA has been advised that 'in some situations trees with high canopies can assist in directing the bushfire flow to proceed over a dwelling thus avoiding possible direct flame contact with the dwelling'.

Dean Nicolle, the chap I referred to in my matter of interest in June, wrote quite a detailed submission, which I obtained under FOI. I think some of his concerns have been taken into consideration, particularly in relation to subregulation (5)(a), which I was told by the minister's office is a list of common natives requiring approval to be removed if within 10 metres. I was told that a lot of submissions were received on this particular aspect. Most of the species that Dean Nicolle wrote to the government about (and I will not use their botanical names) have been removed, which is pleasing, and include: cedar wattle, swamp she-oak, lemon-scented gums and bracelet honey-myrtles.

The eucalyptus remains as a species on the list, and I think there is reason to be concerned about this because these are not all indigenous to South Australia. I refer to Mr Nicolle's submission where he states:

The five species and one genus listed in Subregulation 5a [this refers to the draft regs] are only a very small sample of trees species which occur or are grown in Adelaide and are capable of reaching a trunk circumference of greater than two metres. The exclusion of numerous other species (many of which are generally safer and less problematic than the listed species) is perplexing. Such other species include locally indigenous genera such as she-oaks, banksias, native cypress pines, exotic but Australian native genera such as native apples, kurrajongs, bull oaks and overseas exotic genera, including cedars, oaks and elms.

The part where he refers to eucalyptus states:

The inclusion of eucalyptus, any species of the genus in subregulation 5a, is problematic as a number of eucalyptus species are poorly suited to urban environments in the greater metropolitan Adelaide area, most notably the commonly planted but exotic species Tasmanian blue gum and flooded gum, as well as a number of other less commonly planted eucalyptus species.

He goes on to say:

Subregulation 5a implies that most species of trees (i.e. all except those listed) within 10 metres of a dwelling or swimming pool are likely to represent an unacceptable risk to safety or property, while those beyond 10 metres are not—this assumption is erroneous and is not supported by any data or studies. In many cases a tree may represent a lower risk to safety if it is overhanging a dwelling rather than overhanging open space. A tree should be assessed on its merits and removed if it represents an unacceptable risk to safety or property, regardless of the distance between the tree and the nearest dwelling or swimming pool.

There is another species list, (5)(b), and Mr Nicolle says that a number of species should be omitted from this list. It is a list of common trees considered problematic because of limb drop or infrastructure damage they may cause. Mr Nicolle says:

A number of species listed in [this subregulation] should be omitted as they are well suited to urban environments in the Adelaide metropolitan area and they are generally low risk and non-problematic...

He recommends the following species not listed in subregulation (5)(b)—that is, camphor laurel, figs, London plane, Lombardy poplars and peppercorn trees—as well as being amongst the best large trees for urban environments in Adelaide are often linked to heritage sites and should not be listed for this reason.

He then goes on to say that a number of species should be added to the list because they are poorly suited to urban environments in metropolitan Adelaide and/or they very commonly represent an unacceptable risk to safety and/or to property. I will not read all of those for the sake of time. He then goes on to say—and this is the point SASA makes as well in relation to identification of species:

> Due to such difficulties in the species identification of a tree, confirmation from an appropriately qualified or experienced expert and/or council staff would be useful to confirm the species of the tree.

His summation is that there is substantial amendment of (5)(b), which the government has not touched, as far as I can tell from comparing the two sets of regulations.

He also seeks further clarity on the 10-metre rule, saying that we need to know what part of the dwelling or swimming pool from which to take a measurement and also to clarify what a dwelling is. Is it a wall, carport, veranda or deck, etc.? He also has a go at the issue of pruning. Rather than state a percentage amount, he says, which is open to unintended mismanagement of trees and intentional tree-damaging activities, he makes a suggested alternative to that as well. His final point is about dead trees, and there would be varying views about this, I am sure. He says:

> Although the definition of a 'dead' tree may initially seem straightforward, I often inspect trees that have been described to me as dead but which are certainly alive and, in some cases, healthy and sound.

He goes on to say:

> Due to such difficulties in the determination of a 'dead tree', confirmation from an appropriately qualified or experienced expert and/or council staff would be useful to confirm if a tree is in fact dead...In some cases, a dead tree can represent an acceptable risk to safety and to property and provide high value habitat in the form of avian hollows. In the Adelaide metropolitan area such trees are limited to certain indigenous eucalyptus species...

He includes in this river red gum, mountain white gum, pink gum, South Australian blue gum, grey box, peppermint box and manna gum. He goes on to say that he recommends that regulation 17(1)(d) be deleted.

The government is to be commended for having shifted from the dog's breakfast and making some amendments, but I think that there are some aspects the government has left out altogether or not really taken far enough, and I think that further improvements can be made. I will have a briefing with the minister's office, but I do urge them to take some of those considerations on board, which I think, for whatever reason, they have chosen to ignore. I commend the motion to the house.

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

SELECT COMMITTEE ON MATTERS RELATED TO THE GENERAL ELECTION OF 20 MARCH 2010

The Hon. J.M.A. LENSINK (16:38): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

BUDGET AND FINANCE COMMITTEE

The Hon. R.I. LUCAS (16:38): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON DISABILITY SERVICES FUNDING

The Hon. J.M.A. LENSINK (16:39): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON LONSDALE-BASED ADELAIDE DESALINATION PLANT

The Hon. T.A. FRANKS (16:39): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON DEPARTMENT OF CORRECTIONAL SERVICES

The Hon. T.J. STEPHENS (16:39): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON HARVESTING RIGHTS IN FORESTRYSA PLANTATION ESTATES

The Hon. D.G.E. HOOD (16:40): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA

The Hon. D.G.E. HOOD (16:40): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON THE INQUIRY INTO CORPORATION OF THE CITY OF BURNSIDE

The Hon. A. BRESSINGTON (16:40): I move:

That the committee have leave to sit during the recess and report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON ACCESS TO AND INTERACTION WITH THE SOUTH AUSTRALIAN JUSTICE SYSTEM FOR PEOPLE WITH DISABILITIES

The Hon. K.L. VINCENT (16:40): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON SCHOOL BUS CONTRACTS

The Hon. J.M.A. LENSINK (16:41): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

SELECT COMMITTEE ON LAND USES ON LEFEVRE PENINSULA

The Hon. M. PARNELL (16:41): I move:

That the committee have leave to sit during the recess and to report on Tuesday 14 February 2012.

Motion carried.

FISHERIES MANAGEMENT ACT

Order of the Day, Private Business, No. 12: Hon. G.A. Kandelaars to move:

That the regulations under the Fisheries Management Act 2007 concerning fees (schedule 1 part 1), made on 30 June 2011 and laid on the table of this council on 6 July 2011, be disallowed.

The Hon. G.A. KANDELAARS (16:41): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

FISHERIES MANAGEMENT ACT

Order of the Day, Private Business, No. 13: Hon. G.A. Kandelaars to move:

That the regulations under the Fisheries Management Act 2007 concerning fees (schedule 1 part 3), made on 30 June 2011 and laid on the table of this council on 6 July 2011, be disallowed.

The Hon. G.A. KANDELAARS (16:42): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

NATURAL RESOURCES COMMITTEE: ADELAIDE DESALINATION PLANT FACT FINDING VISIT

Adjourned debate on motion of Hon. G.A. Kandelaars:

That the report of the committee, on Adelaide Desalination Plant Fact Finding Visit, be noted.

(Continued from 9 November 2011.)

Motion carried.

FINANCIAL ADVICE CHANGES

Adjourned debate on motion of Hon. D.W. Ridgway:

That this council notes the future of financial advice proposed by federal minister Bill Shorten.

(Continued from 9 November 2011.)

The Hon. G.A. KANDELAARS (16:44): Members may recall that I was the director of the largest corporate superannuation fund, Telstra Super, for nine years. I do have some reasonable knowledge behind the reforms being proposed by the federal government in relation to the future of financial advice (FOFA). I feel compelled to respond to some of the comments made a fortnight ago by the Hon. David Ridgway, Leader of the Opposition in this place, on the federal government's proposed FOFA reforms.

The Hon. Mr Ridgway proclaimed that the Future of Financial Advice reforms were flawed and biased in favour of industry funds at the expense of small business. These matters warrant firm rebuttal but, before I begin, one has to know what has driven the federal government's FOFA reform. It basically comes down to changing the requirement of financial planners from giving advice based on a reasonable basis for the advice, as is currently the test, to giving advice in the best interests of clients. There is a distinct difference.

Let us cover some of the issues. Firstly, about the proposed ban on conflicted remuneration, the Hon. Mr Ridgway claimed that while he supports the abolition of product commissions, the ban on rebates from platform operators to dealer groups is unnecessary and represents an attack on small business. The ban on conflicted remuneration, including volume payments from platforms to dealer groups, is essential in order to shift the focus of financial advisers and dealer groups back to the consumer.

Financial advisers should only have one master—the consumer. For years, product providers have called the tune because they are the ones paying dealer groups and advisers through volume rebates, sales commissions and other kickbacks, like expensive conferences. An industry that depends for its survival on these types of payments will not be trusted by consumers. This lack of trust is one of the reasons why up to 80 per cent of Australians never use financial advisers.

The Hon. Mr Ridgway cannot argue that volume rebates do not conflict advice in the same way as product commissions. As a general rule, the more business a firm places with a platform, the greater the volume rebate the adviser or the firm receives. This clearly provides an incentive for advisers to place clients into financial products on platforms, even if it is not in the client's best interest. Despite all the legal semantics about whether a platform is a financial product or not, the treatment from FOFA is consistent—any payment from any source will be banned if it influences financial product advice.

This brings me to the next point. Under the current bill before the federal parliament, any payment based on volume will be considered conflicted unless the recipient can show that the receipt of that payment could not reasonably be expected to influence financial advice. In other words, if the Hon. Mr Ridgway implies that payments from platforms to dealer groups do not conflict advice, then FOFA will not ban receipt of such payments.

A lot has been said about opt-in and its cost to small business which I do not intend to repeat here, but I will emphasise that, if you are charging a client an ongoing fee for service and you do not see that client at least every two years, then, yes, opt-in will have an impact on your business. If, as the Hon. Mr Ridgway says, 'set and forget' arrangements are a thing of the past and advisers see their clients often (as often, for example, as they deduct money from their accounts), then opt-in will not be a large impost for advice businesses.

In addition, the changes are prospective. In other words, opt-in will apply to new arrangements and there is considerable flexibility in how it can be implemented, including the use of electronic channels such as email. This ensures that the implementation costs are minimised.

On the issue of bias towards industry funds, finally the Hon. Mr Ridgway made the extraordinary claim that industry consultation that has taken place over the past year or more has been a waste of time because the government has merely adopted the agenda of the Industry Super Network. This is a simplistic, cheap argument and could not be further from the truth.

The Industry Super Network has been an influential stakeholder during the consultation process but they are merely one of the influential stakeholders amongst many. For example, one aspect of the reform is to carve out some basic banking products. Does this mean the government has adopted the agenda of the banks? Other stakeholders that have contributed significantly to the consultation process include the Financial Planning Association, the Australian Bankers Association, the Financial Services Council and the consumer advocate Choice, to name a few. The views of all these stakeholders have helped shape the package in its current form.

It is pretty ridiculous stuff designed to obscure a central question: why doesn't the Liberal Party stand up for consumers? This is particularly disappointing when we look at the impact of the collapse of TRIO on so many South Australians. You would think that South Australian parliamentarians would be determined to take a stand and improve the financial planning industry.

Now the case for FOFA: I would like to conclude my remarks by briefly emphasising the overwhelming positive impact of FOFA reforms. This is in stark contrast to the federal coalition's Financial Sector Reform Act (FSR Act) changes. The FSR Act changes took almost five years to deliver, created red tape along the way and did not create any new market. Worse still, they did not make the hard decisions like banning sales commissions. The FOFA reforms make financial advice more accessible and more affordable so that as many Australians as possible can reap the benefits. By building the trust and confidence of the general public and enhancing the professionalism of the financial advice industry, demand for advice will grow.

Research conducted by ASIC shows that the cost and mistrust prevents many Australians from seeking financial advice. As well, there is a mismatch between the holistic advice actively promoted by the financial advice industry and the type of advice many Australians want. FOFA reforms will create new markets for financial planners, including and enabling the provision of lower cost advice by removing the red tape that has prevented the provision of more affordable forms of advice, particularly piece-by-piece or scaled advice. The reforms are creating a level playing field so that scaled advice can be provided by a range of providers, including superannuation trustees, financial planners and potentially accountants.

Scaled advice will allow financial advisers to grow their existing customer base by offering limited-scope advice for those with less complex needs, such as young people, at an affordable cost. Scaled advice will also be attractive to those people who do not currently have access to financial advice. By providing consumers with the type of advice they need, when they need it, financial advisers will be able to create a relationship with a new customer base, one that may well seek more comprehensive advice as they accumulate more wealth and need more sophisticated advice. Ultimately, the FOFA reforms will encourage more Australians to seek financial advice and open up new revenue streams for financial planners.

In conclusion, reform is always difficult. It may seem that the easier option is to maintain the status quo. However, after the collapse of Storm Financial and Opes Prime, and the losses suffered by many retail investors, it is clear that the regulation of financial planning activities needed to be enhanced.

For the many firms that already service their clients ethically and professionally, I can understand that some consider such reform to be inconvenient. However, it is my strong view that FOFA is a positive force for the good of the industry and will provide a strong foundation for years to come. To this end, I am optimistic about the future and quality of financial advice in Australia.

Debate adjourned on motion of Hon. T.J. Stephens.

EDUCATION (CLOSURE AND AMALGAMATION OF GOVERNMENT SCHOOLS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November 2011.)

The Hon. T.A. FRANKS (16:57): I understand that all contributions have now been made, so I would like to thank those members who contributed. As we were waiting on an amendment which had yet to be drafted on the last Wednesday of sitting, this has been a debate that has been extended, so I will give members a moment to bring themselves up to speed. As many members would be aware, from their local school communities who are currently facing forced amalgamations, against the will of those school communities, this is in fact a pressing issue for those particular schools. I would like to thank those members who have indicated both support and opposition for taking an interest in the plight of those schools. What I hope is that this bill ensures that the minister will, similarly, take an interest in the plight and opinions of those schools.

Bill read a second time.

In committee.

Clause 1.

The Hon. A. BRESSINGTON: I rise to indicate that I support this bill introduced by the Hon. Tammy Franks. As the honourable member detailed, the bill seeks to make the decision to close or amalgamate a government school the subject of a parliamentary resolution in addition to and rather than a ministerial decision.

Currently, in deciding whether to close or amalgamate a public school, the minister must initiate a review by a committee consisting of education department representatives, a union representative and principals of the affected schools, amongst others. That review must focus on the viability and necessity of all the schools in the affected area and on the educational, social and economic needs of the local community and the state more broadly. Upon receiving that report, and regardless of its recommendations, the minister may then determine whether to close or amalgamate the government school concerned.

How the decision to close or amalgamate a government school should occur, and by whom, is the subject of a ream of *Hansard*. This existing review process is the result of numerous amendments over the years that have sought to provide greater transparency and accountability to what is often a highly contentious and divisive decision. The bill will finally move the responsibility for the closure or amalgamation to this parliament, where I believe it ultimately should be.

The education minister is currently accountable in a tokenistic way to the parliament in the sense that the minister must, within three sitting days of giving notice of a decision to close or amalgamate a school, table a copy of the review committee's report and an explanation of the minister's decision in both houses of parliament. Whilst this exposes the minister's decision to public scrutiny, particularly if the report did not recommend closure or amalgamation, it nonetheless comes too late for the schools concerned.

The bill also creates a new pathway to closure or amalgamation of a government school without going through the current review process of a majority of parents or, if it is an adult school, a majority of students agree with the proposed closure. While this will not occur often where there is community support, I believe it to be a sensible approach.

The bill is timely, given the government's intention to amalgamate a significant number of junior primary and primary schools, each of which is currently undergoing the review process outlined. This is being driven by budgetary considerations, not educational outcomes, an entirely unacceptable reason. Although I very much doubt the bill will pass today, I nonetheless hope it does before these amalgamations come to be.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. R.I. LUCAS: I move:

Page 3, after line 15 [clause 5, inserted section 14G]—After its present contents (now to be designated as subsection (1)) insert:

(2) This section expires on 30 June 2013.

The shadow minister, the member for Unley, has publicly explained the background to this particular amendment but, on his behalf, I read his statement to the committee this afternoon as follows:

It has become apparent that the government's decision to forcibly amalgamate junior primary and primary schools is fundamentally about cost cutting in education services, not improved education outcomes. For individual schools these cuts will equate to approximately $250,000 per year as well as the loss of senior leadership staff and SSO support. Their decision of course flows from recommendations made by the Sustainable Budget Commission to amalgamate 67 co-located schools and announced in the 2010 budget.

Through the efforts of local school communities and with support from the Liberal opposition Labor plans to forcibly amalgamate primary and high schools without the offer of a proper review process—in effect creating R-12 super schools—was prevented, the then Minister for Education, now Premier Jay Weatherill stating in the parliament that:

> The truth is that the high school amalgamations do not actually provide much by way of savings in relation to the amalgamation process. What I have said to those schools...is that we will not be forcing them to amalgamate. (*Hansard*, 23/02/2011)

As the new and former education ministers have refused to give similar assurances that the results of the review process (a review process costing over $370,000) and wishes of school communities will be respected this amendment will serve to hold the government accountable with regard to the current round of amalgamations.

The shadow minister has advised that the Liberal Party did support the second reading and that if this amendment were successful it would support the third reading of the bill. If the amendment is unsuccessful, the Liberal Party will not support the third reading of the bill.

The Hon. T.A. FRANKS: I rise to indicate that the Greens will support this amendment. While it is disappointing that it grandfathers the bill to 30 June 2013, we believe that this particular situation warrants the bill being made into an act and so are happy to accept that grandfathering. We would hope that it also serves as a cautionary tale for any government not to make similar decisions about closures and amalgamations of schools not on educational grounds in the future.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. T.A. FRANKS (17:08): I move:

That this bill be now read a third time.

Bill read a third time and passed.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: ANNUAL REPORT

Adjourned debate on motion of Hon. J.M. Gazzola:

That the annual report of the committee 2009-10 be noted.

(Continued from 14 September 2011.)

The Hon. T.J. STEPHENS (17:09): I rise to support the motion of the Hon. J.M. Gazzola. I was part of the Aboriginal Lands Parliamentary Standing Committee during this particular period, along with some members who did not continue, those being the Hon. Lyn Breuer, Duncan McFetridge MP, the Hon. Robert Brokenshire and the Hon. Lea Stevens. I would certainly like to acknowledge the work of that committee and the tripartisan way in which we worked on the committee at that particular time.

We travelled far and wide. We visited communities such as Oak Valley, Yalata, Oodnadatta and Coober Pedy, and I am sure that on one of those trips we called into Maralinga and had a good look at the lands there. A highlight was that some of the committee attended the hand-back ceremony of the Maralinga Tjarutja lands to the traditional owners in December 2009.

Much has been said about travel this week. I can certainly talk about how I was living high on the hog on the trip to Oak Valley, where I was sharing a house with Duncan McFetridge. He had the double bed, being the shadow minister for Aboriginal affairs at the time, and I was camped on a two-seater lounge. It was really living high on the hog, in the lap of luxury. It is certainly not all beer and skittles.

The Hon. J.S.L. Dawkins: You could have shared a double bed.

The Hon. T.J. STEPHENS: On the interjection that we could have shared a double bed: over my dead body, gentlemen—thanks for your help!

Whilst the committee worked extremely well together and I certainly commend the report, there was certainly debate over how appropriate it was to have the minister as chair of the

committee. I know at the time the now Premier was chair of the committee and did attend some meetings and certainly showed some genuine interest. I am sure it was Lyn Breuer and Lea Stevens who were both quite adamant, with the support of Duncan McFetridge and the Hon. Robert Brokenshire, that we wanted the concept of the minister being the chair, and how appropriate that was, looked at.

It is probably not right for me to talk during this motion of how the next minister, the Hon. Grace Portolesi, rarely attended. That could be something for the next motion on the Aboriginal Lands Standing Committee annual report. With those few words, I commend the motion to the house.

Motion carried.

MOVEABLE SIGNS

Orders of the Day, Private Business, No.49: Hon. R.P. Wortley to Move:

That by-law No.2 of the District Council of Peterborough concerning moveable signs, made on 20 December 2010 and laid on the table of this council on 10 February 2011, be disallowed.

The Hon. G.A. KANDELAARS (17:13): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

CHILDREN'S PROTECTION (LAWFUL SURRENDER OF NEWBORN CHILD) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 April 2011.)

The Hon. T.J. STEPHENS (17:14): I rise on behalf of the Liberal Party to indicate our position on this bill. We are prepared to support the second reading of the bill. The Victorian government is currently leading research on behalf of the Community and Disability Services Ministerial Council to identify options currently available to respond to the issue of abandoned and relinquished babies. I understand that this research will assess the options of the value of the baby safe havens proposed by this bill. The Liberal Party is prepared to wait and look at the outcome of that particular research. At this point, we are prepared to support the second reading, but we would like to see what the outcome of that research is before we commit to supporting the third reading.

The Hon. T.A. FRANKS (17:15): I rise on behalf of the Greens to similarly support the second reading of this bill and to commend the Hon. Ann Bressington for bringing this issue to this place. This bill seeks to establish for South Australians a means by which a mother can safely, anonymously and legally relinquish her newborn baby, that is, a baby safe haven scheme. Similar schemes are currently in place in Germany, Switzerland, Japan, Portugal and, I understand, every state in America.

Under this bill, babies who are surrendered would automatically be placed under the guardianship of the minister and registered under the Births, Deaths and Marriages Registration Act 1996. Under the circumstances that will be introduced by this bill, the mother of a newborn child would not be liable to prosecution for an offence arising from that act should she relinquish that child into a baby safe haven.

The mother would not be required to provide identification information in relation to the child or herself. The mother is to be encouraged to provide information that may be of relevance to the current or future health of the child and to seek medical treatment or other support services for herself, anonymously or otherwise. I understand, according to the information we have been able to gather, that some 12 babies are abandoned each year in Australia, certainly in the states of New South Wales, Victoria and South Australia combined. An objective of this bill is to ensure that the surrendered baby returns to its mother or father or family, and certainly this bill does put the best interests of the infant as its paramount concern.

One can understand that there are situations where babies are abandoned and often left vulnerable, and we have seen some horrific situations where those infants have died as a result of that abandonment. That abandonment can occur in times of extreme pressure for the mother, and often that pressure can pass with time. This bill would ensure that that mother would not be forced into acting in a way that not only she would regret but could never be undone. It is a scheme that

has the support of the President of the South Australian Medical Association, Dr Andrew Lavender, and it also has the support of Reproductive Choice Australia and notable feminists such as Dr Leslie Cannold.

As I have said, the Greens commend the Hon. Ann Bressington for putting this idea before the parliament. We sympathise with the opposition's contention that this is an issue that is being investigated in other legislatures, and I think a federal approach to such an issue should be greatly encouraged. With those brief words, we support the second reading of this bill.

The Hon. G.A. KANDELAARS (17:19): I rise to provide the government's response, which is to oppose the Hon. Ann Bressington's bill. The Hon. Ann Bressington introduced the Children's Protection (Lawful Surrender of Newborn Child) Amendment Bill 2011. The bill aims to help women relinquish the care of their infant anonymously and provides protection from criminal charges.

This bill proposes that the child is surrendered to a medical clinic or hospital and then placed under the guardianship of the minister. The honourable member then proposes that, if the mother or father does not make an application to reclaim the infant within six weeks, the child will be placed under supervision for three months before being put up for adoption.

It goes without saying that our government shares the honourable member's concerns for parents who feel that they cannot care for their children and, importantly, for children they relinquish. That is why, since coming to office, we have reformed the child protection system and implemented a range of strategies designed to keep our children safe and to better address the needs of those who are vulnerable. While we acknowledge the honourable member's good intentions, her bill will not build on this work or benefit parents or children in such situations. In addition, anonymous infant abandonment has been very low within South Australia.

I am aware that over the past five years the media has reported that there have been three newborn infants abandoned anonymously in South Australia. In addition, I am aware that the number of children who were abandoned to Families SA in the previous five years (the period 2005-06 to 2009-10) is low. The statistical details are as follows: in the context of alternative care, 18 infants aged under 12 months required a placement due to 'child abandoned'; the examination of the records indicate that nine infants (50 per cent) were left in hospitals almost immediately after birth; five infants were placed in the care of extended family members; and three infants required alternative care placements following previous Families SA involvement. The remaining record was not strictly an abandonment but parental inability to care due to substance abuse.

Analysis of the data indicates parental inability or unwillingness to provide care in the context of neglect of the child rather than anonymous abandonment of the infant. This shows that while most parents may have been unwilling or unable to provide care for their children, they did not anonymously abandon them. This fact makes it very difficult to justify the honourable member's argument for implementing a process for anonymous abandonment.

Not only have there been very few children anonymously abandoned in South Australia in the past five years, but I am advised that Families SA have found no research to support the suggestion that a mother is more likely to abandon an infant in a baby safe haven as opposed to other locations. Indeed, in her second reading speech, the honourable member acknowledged the paucity of research generally on child abandonment. She makes reference to mainly anecdotal evidence and advises that it is impossible to know accurately how many babies each year are abandoned here in South Australia or nationally.

I submit that the lack of research and dependence on anecdotal evidence is the most flimsy basis for drafting this bill. I also submit that it could be argued that the provision of baby safe havens could encourage anonymous abandonment of babies rather than having parents contact Families SA for support or to arrange alternative care for the child. Legalising abandonment is certainly not a solution. In the second reading speech, in providing evidence to support her bill, the honourable member also makes reference to two tragic cases in South Australia: one of a baby who died of exposure on a driveway and another where the body of a baby boy was found in a TAFE bathroom.

To build on the information and research regarding abandoned and relinquished infants, ministers at the Community and Disability Services Ministers Conference meeting on the 19 April 2011 agreed to Victoria leading work to identify options that are currently available to respond to the issue of abandoned and relinquished babies. The decision was taken to broaden the scope of the investigation from a focus only on baby safe havens to ensure that due consideration was given

to all current options and legislative processes, and evidence explored that may support parents who abandon or relinquish their babies or support families to prevent this from occurring.

The loss of a child's life is tragic but we also understand when considering this bill that it is important to make a distinction between neonaticide, which is defined as child homicide within the first year of life, and abandonment. Cases of neonaticide are very rare in South Australia. As I stated earlier, in the past five years the media have reported only three cases in South Australia where the bodies of newborn babies have been discovered abandoned. In two of these cases, the mother was later identified. I note, too, that in an article on neonaticide in *The Examiner* in Tasmania in December last year, Professor of Forensic Psychiatry at Monash University, Mairead Dolan, is quoted as saying that there is no data to support the effectiveness of baby safe havens law in reducing the risk of neonaticide.

Another most important matter that needs to be considered is that the honourable member does not address how a child who was anonymously abandoned and later adopted could access the information about their birth parents. This is information which, under the Adoption Act 1998, other children who have been adopted would be able to access. For some children who never meet or know anything about their birth parents, this can cause long-term psychological trauma and issues. It can also prevent the child knowing the important details about their family medical history.

It is also critical to acknowledge the existing and very effective services already in place to support new parents who are struggling to care for their children for a range of reasons. Right now, if a mother can no longer provide care for a child and wants to relinquish the child, she can do so through Families SA. Families SA can also provide information, advice and support to strengthen parenting skills and provide the opportunity for reuniting with the infant in the future.

Staff, including high-risk infant workers and the Families SA Safe Babies team, are specially trained to provide intensive support to parents. The Stronger Families, Safer Children program, implemented in 2009, also supports vulnerable families and children and seeks to prevent their progression through the child protection system and/or the removal of children. It also provides reunification services to families where children have been removed. As of 31 December 2010, the program has received 414 referrals, with 1,115 children helped.

There is no doubt that the best practice for any child is a home with their parents as long as they are being cared for properly and safely. Supporting mums and dads to look after their infants is the best way to prevent abandonment and promote a lasting connection between babies and their birth family.

I encourage all those present not to support the proposed bill on the following grounds. Very few infants have been anonymously abandoned in the past five years. Families who have abandoned children to Families SA in the past five years did so based on parental inability or unwillingness to provide care in the context of the neglect of the child, rather than anonymously abandoning their infants. There is no research or evidence to support the viability of the benefits of baby safe havens or similar processes in South Australia, or that they would prevent neonaticide.

Establishing facilities such as baby safe havens could actually increase the number of anonymous child abandonments. By promoting anonymity, the bill fails to address how, if the relinquished child ends up being adopted, he or she could ever contact or access information about their birth parents. This bill encourages the separation of children from their families without any opportunity for reconciliation, and the bill does not add to the whole-of-government and non-government approach to prevention and early intervention where children, including infants, are at risk.

The Hon. A. BRESSINGTON (17:30): I thank all members for their contributions. In light of the commitment that I have received from the Liberal Party, I indicate that I am willing to hold off on the committee stage of this bill until the report has come back from the research that is being undertaken, as the Hons Mr Kandelaars and Mr Stephens mentioned, because there is a lack of research in this area.

I will make a couple of points. The first one is that low statistics of abandoned babies in bins, driveways, under trees and God knows where else is no reason to take no action. As I said in my second reading speech, one baby in a bin is way too many. We also know that the Australian Institute of Health and Welfare notes a significant number of marginalised women each year, and it was about 40 in South Australia in 2009 who did not access any prenatal service, hence their pregnancies go unreported. Now, they are the 40 we know about. How many of these women are out there who are in terrible circumstances? One can only imagine what life is like for them, if they

do not have medical attention during the birth or after the birth, and they may well abandon those babies and nobody would ever know.

As the story of baby Willow in Sydney shows, that baby's body was discovered in a park in Sydney not so long ago. At had been estimated that the little baby girl had been there for a month before she was discovered. Research shows that 28 babies are dumped in Australia every year; that is Australia wide. But every state to do its bit on this, I believe is one of the most important things that we could do, not only to try to preserve the baby's life but also to try to assist those mothers who are, as the Hon. Tammy Franks and others have mentioned, in terrible situations where there are very few choices left to them.

This is not a sole issue about law, practicality, the bottom line and the dollar. This is about social conscience. Where is our moral compass? Apparently, we are way off north at the moment. We also know that Senator Helen Polley in Tasmania has been trying now for three years to have the implementation of baby safe havens in Australia. She has worked diligently with other groups. There are Facebook pages set up for exactly this topic. There are numerous websites also that are calling for some steps to be taken to give both the mothers of these babies a chance and these babies a chance at life.

I am disappointed that the government would just dismiss this rather than consider that the research may just find that the federal government could possibly assist in implementing this in each state and have pilot programs in each state that monitor what the results have been. We may just find that, rather than the fact that we have only had one or two babies in the last couple of years, if these havens are actually made available, we may find that there are more babies that are put into these havens than perhaps are thrown away and never discovered. That is a reality of what may just be happening out there.

As usual, we stick our head in the sand and sit there on our hands and say, 'No, we have only had one or two, so there is no real issue here. There is no real need.' This government boasts about its measures that it has taken to protect children, and I still do not see any evidence of any of that yet. I still do not have anybody ringing up my office saying, 'Families SA saved my granddaughter's life.' It does not happen. I have 680 cases of children who have, more than likely, been wrongly removed, who were not battered babies, who were not abandoned babies, but have been removed on (sometimes) cases of minor dysfunction in a family.

This government boasts of its record every time a child protection bill is put up. I will say this again and again, the first step towards change is acknowledging that we have a problem. If we never acknowledge it, then we are never going to fix it. There is no political will in this state to want to do it any better. With that, I thank all members and I thank the Liberal Party, I know they have moved their position significantly on this. To be prepared to consider this bill after the research is in is commendable. We will wait and see how it goes. Thank you.

Bill read a second time.

WORKERS REHABILITATION AND COMPENSATION (EMPLOYER PAYMENTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 November 2011.)

The Hon. R.I. LUCAS (17:37): In rising to speak to the second reading of the Workers Rehabilitation and Compensation (Employer Payments) Amendment Bill, it is worthwhile noting the background to this; that is, that the process upon which we have arrived at this position today has been a bit of a mess from the government's viewpoint. There has certainly been much consternation from some stakeholders in relation to how this whole process has been handled and managed.

There was, as the government has indicated, significant discussion and consultation through the early and middle part of this year in relation to the introduction of this bill. The first point to make is that the reason we are having this debate is that some two years or so ago the government and the WorkCover board agreed to get rid of the old bonus penalty scheme which existed with WorkCover. Put simply, the bonus penalty scheme was there to provide some incentive for good performance from employers and business and to penalise poor performance. I think just about everybody supported the fact that a bonus penalty scheme existed within the WorkCover scheme.

For some reason, the government abolished the scheme but did not replace it with an alternative scheme. The government's position, as we understand it—and I guess the government when we get to the committee stage of the debate or in the reply to the second reading can outline the reasons for this—was arguing it was costing the scheme $40 million a year. I think that was their argument. The stakeholders who have spoken to me about it have said that that is essentially a problem for the government and WorkCover because, when the bonus penalty scheme was brought in, it was intended to be, and stated to be, revenue neutral.

The aggregate sum, generally, of the bonuses would be equivalent to the aggregate sum generally of the penalties, so you would have a bonus penalty scheme but, in essence, by and large, it would be revenue neutral on the operation of the scheme. For some reason, and somehow, that did not occur. What the reasons were for that, as I said, we will be asking questions of the government, and we ask the question now: what did happen with the arrangements with the old bonus penalty scheme?

As I said, it is the prerogative of the government and the WorkCover board to get rid of the scheme, but no-one could understand why you would actually get rid of the scheme and not have anything to replace it with. This scheme, I think if it is to be introduced, will not be introduced until mid-2012 so we will have been without some sort of bonus penalty scheme for a period of at least a couple of years.

I think they are reasonable questions that stakeholders are asking; that is, how could we have got ourselves into such a position? We have talked about the range of other calamitous decisions this government and the WorkCover board have taken, such as the monopoly claims manager arrangement; but, at last, it would appear the government and the WorkCover board might have realised the folly of their ways and are in the process of possibly reversing the decision. Their other calamitous decision in relation to savings was they were going to save $30 million through a monopoly legal services provider and, again, it may be that they are in the process of reversing that decision.

To get rid of the bonus penalty scheme and not be in a position to replace it with some incentive-based scheme to encourage good occupational health and safety practice within our worksites in South Australia is part of that package of calamitous decisions. This government, I am sure we will hear, through the Work Health and Safety Bill, likes to pat itself on the back and puff its chest out at the same time saying it is interested in the safety of workers, etc., but, on fundamental issues like this, it drops the ball and leaves our workers and worksites exposed for at least a couple of years without any incentive-based scheme available for WorkCover.

The government went out and consulted on it and most industry groups are generally supportive of the notion of including some sort of bonus penalty scheme. What then happened was that the government approved, together with WorkCover, in essence, sneaking into the bill a whole range of other issues which had not been consulted upon with stakeholders.

The Hon. A. Bressington: How unusual.

The Hon. R.I. LUCAS: The Hon. Ann Bressington says, 'How unusual.' She is aware of this practice by the government and these ministers and, sadly, it was reflected again in this particular bill. I think we are fortunate that the executive officer of the Self Insurers of South Australia (SISA), Robin Shaw, is a former senior executive of WorkCover. He knows where the bodies lie within WorkCover. He knows how the scheme operates. He is aware of the detail of the legislation. He twigged immediately, and I am sure others did as well, what the government and WorkCover were up to. They had consulted widely—which I am sure the government will remind us of during this debate—about a bonus penalty scheme, but then they introduced a whole range of other, onerous provisions, for example, to try to crush the self-insurance industry in South Australia.

They were going to give virtually unlimited powers to the government and to WorkCover to ratchet up the costs for anyone who might want to leave the WorkCover scheme and become a self-insurer. A whole range of other, unspecified costs within WorkCover could be included in the calculations that WorkCover could make when calculating what an exit fee might be for a company wanting to leave and become a self-insurer. What has driven this palpable hatred from the government and from WorkCover towards self-insurers I do not know.

The Hon. T.J. Stephens: It's an ideology.

The Hon. R.I. LUCAS: My colleague the Hon. Mr Stephens says it is ideological, and I suspect he is right. However, a number of us have served on the WorkCover inquiry through the Statutory Authorities Review Committee, and I currently sit on the occupational health and safety standing committee of the parliament, which is taking evidence on return to work, and our return-to-work figures in South Australia are appalling under the WorkCover scheme. They are the worst in the nation.

The Hon. A. Bressington interjecting:

The Hon. R.I. LUCAS: The Hon. Ms Bressington says that I do not listen to the FIVEaa ads. Well, I am suitably admonished; I will go away and listen to them. I am sure the point that the Hon. Ms Bressington is making is that WorkCover is throwing good money after bad, saying how fabulous its scheme is in relation to return to work.

The brutal reality is that inquiry after inquiry, both parliamentary and consultants' inquiries, where we spent hundreds of thousands of dollars, have all reported that we have an appalling record, an appalling performance, in relation to return to work. We have an appalling performance in relation to levy rates and a whole range of other things as well, but let us talk about worker safety and return to work. We have an appalling record, appalling performance, in relation to return to work.

We then have a position where this government—as I said, for whatever reason—says, 'We are going to do whatever we can to prevent anyone going to a self-insurance arrangement,' when the record shows their return-to-work figures are measurably better than under WorkCover. There are a whole variety of reasons why that might be the case, and I am not going to enter the debate at the moment, but there seems to be some pathological hatred from the Labor government and from the WorkCover board and management to the notion of self-insurance.

It has got to the stage at the moment where, even though under previous regimes SISA has been consulted as a stakeholder on a range of things, I am told that they are being deliberately excluded by this government and by WorkCover from a whole range of consultations. That seems ludicrous, but it is symptomatic—

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

The Hon. R.I. LUCAS: I am not sure why we would not sit tonight when we are in the last sitting week. The government minister seems desperate to get home and not sit and do the government business. We are here wanting to do government business—

The PRESIDENT: Order! Away we go; I'm ready to go.

The Hon. R.I. LUCAS: You are crying, Mr President; are you alright?

The PRESIDENT: Yes, I'm crying.

The Hon. R.I. LUCAS: It was a moving speech, I know, but I didn't realise it was that moving! I will turn down the emotion, Mr President. Goodness gracious, I have never made a president cry before. You wanted to go home with the government ministers as well, did you, Mr President?

The PRESIDENT: It's my anniversary, yes.

The Hon. R.I. LUCAS: I have been diverted. What with tears and government ministers wanting to go home and not work tonight, it is very hard for me to keep up with exactly where I was up to.

Highlighting the problems, I am sure I remember the words 'pathological hatred', and I was obviously describing the position of the government towards the self-insurers. There is a whole range of decisions the self-insurers association identified in the bill which had never been consulted upon with either them or indeed other stakeholders. But it was not just in relation to self-insurers. A number of other stakeholders indicated that there were elements in the government bill, when it was first introduced into the House of Assembly, that had not been in the consultation bill which had been put out.

I and other members I am sure started to receive a flood of correspondence from Southern Cross Care, Ingham Enterprises, Yalumba, Intercast & Forge, and the Civil Contractors Federation of South Australia, amongst others, who all in a flurry started contacting the opposition to say, 'Hey, be aware, it's the end of the session, the government is trying to jam this bill through in the last few

weeks, and they are trying to jam through a bill that includes provisions which we haven't seen and haven't been consulted on during the drafting stages of the bill.' That is the background to it.

It got to the stage, because of the public campaign that had been mounted primarily by SISA but supported by others, that the government decided that the only way it could get some bill through this session of the parliament was to do an embarrassing backflip, welcome though it may be, and in essence gut the bill of much that was offensive to the Self Insurers of South Australia and a number of the other employer bodies and employer associations in South Australia.

What happened then was that the government asked WorkCover to amend the bill. We have seen an amended bill and, because of the fact that we are close to the end of this parliamentary session, we have seen this amended bill introduced in the Legislative Council first, even though the minister is obviously in the House of Assembly. That is where we started and where we have arrived this evening in terms of the current bill.

It was just over two weeks ago that employer organisations received the latest draft and latest copy of the bill. We immediately contacted all stakeholders who had been in contact with us saying, 'Hey, have a look at this; see what is your response.' As of today—and we are debating this bill on Wednesday evening—I still have not received the response from the organisation that the government believes is the true representative of businesses in South Australia, that is, Business SA. We have been pursuing a response from Business SA for some period of time, and we are told that we will get its view possibly tomorrow or Friday.

We have received some views from other stakeholders, and I intend this evening to put on the record some of the questions they are raising with me; some I have only received in the last 48 hours, raising further questions about the drafting of the bill. Certainly from the Liberal Party's viewpoint I propose this evening, given the lateness of the receipt of the submissions, to put on the record the questions that these business associations and stakeholders are asking of me to ask of the government.

I am hoping that the government tomorrow will be able to bring down a reply to most of those questions and maybe correspond with us by Friday with the rest of the answers, which will then allow certainly the Liberal Party to consider the government's response and then, in the time between now and next Tuesday, when we commence the committee stage of the debate, from our viewpoint look at the potential for drafting any amendments in relation to the bill if amendments need to be drafted.

We note that already the Hon. Dennis Hood, I think, has flagged an amendment. We as a Liberal party room have not had the opportunity to take that to our party room. It will go to the joint party room for us next Monday, together with any other Liberal amendments, if any, that we might propose to move when the committee recommences on Tuesday. I highlight that to the government to indicate that that is the process we are proposing to go through.

Our policy position is that we support bonus penalty schemes, so the notion of having a version of a bonus penalty scheme is something we support. We were critical of the removal of the last one, and we therefore support a proposition that it be replaced with something—and that, indeed, was our policy in the 2010 election. We are now in a position of receiving further questions from stakeholders about both the operation of the scheme and also some other elements in the bill they want us to clarify as well.

In one case, the Australian Industry Group has had long discussions with WorkCover, and it has been given certain assurances by WorkCover, and WorkCover has indicated that the minister will give certain assurances on behalf of the government in the house and publicly. Nevertheless, the Australian Industry Group has sought for me to raise those issues with the minister and to see whether the same assurances are given publicly that the Australian Industry Group had been given privately by WorkCover management, I think it was, last Friday.

The only other general point I make before going through the individual submissions is that a consistent theme from all the industry associations so far is that they do not believe the bill is actually required. They have argued that the old bonus penalty scheme existed without its being specifically provided for in legislation. Their legal advice is that the government could replace the bonus penalty scheme with this scheme without needing legislation to be rushed through the house.

The government's position is that it argues against that and believes that it does require legislation. Nevertheless, it is a government policy decision that it should be included in legislation.

From the Liberal Party's viewpoint, we do not object to that; the general principle of having it in legislation is not something we are opposed to, although stakeholders have acknowledged that the old scheme existed without it being specifically provided for in legislation. With those words, I seek leave to conclude my remarks.

Leave granted; debate adjourned.

JOINT PARLIAMENTARY SERVICE COMMITTEE

The House of Assembly informed the Legislative Council that, pursuant to section 5 of the Parliament (Joint Services) Act 1985, it had appointed Mr Piccolo to be the alternate member to the Speaker (Hon. L.R. Breuer).

[Sitting suspended from 17:59 to 19:49]

WORKERS REHABILITATION AND COMPENSATION (EMPLOYER PAYMENTS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. R.I. LUCAS (19:49): The first of the employer associations to raise a series of issues about the bill is the Australian Industry Group. I think they met with the representatives of WorkCover late last week and received various assurances and have asked me to—all right, team, just lower it a bit—

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —just down to a dull roar.

The PRESIDENT: Show your colleague some respect, please.

The Hon. R.I. LUCAS: The Australian Industry Group, I am sure, would like its contribution to be recorded. The first issue it has raised is in relation to transitional arrangements. I read from its letter, which states:

> We have closely considered the discussion in respect of Transitional arrangements at Part 3.4 of the Position Paper.
>
> It is apparent from the Corporation's comments that as part of the implementation of Experience Rating, some employers will see an increase in the amount of premium that they pay. It is critical in our view, that these employers are carefully transitioned to the new regime, over a period of time.
>
> We note that the Position Paper envisages transitional arrangements for the first four years of the new approach, and that any increase in an employer's premium rate is to be capped at 125% of the previous year's rate in the period 1 July 2012 and 30 June 2016.
>
> We note that these provisions are not part of the legislation itself and do not feature in the Bill. Our understanding is that they will be part of the next phase of implementation by the Corporation, and critically will be consulted upon with stakeholders.
>
> Ai Group has sought and been provided with assurances from the Corporation to this effect covering both the quantum of the transitional cap and the period of time over which it will operate. We would like to see these assurances read onto the record by the Minister when the issue is considered by the Parliament.

The next issue raised by the Ai Group is, 'Fines and supplementary payments throughout the Bill', as follows:

> The Corporation have clarified for us that wherever penalties (as opposed to fines) are proposed, they are to be levied after due process, by an appropriate court. We understand that such penalties are not to be levied by the Corporation and that justice and equity will be afforded as part of the formal court processes.

They seek assurances from the minister in relation to those undertakings. I might interpose that some other stakeholders have also raised that particular issue with the opposition. The Ai Group's next point is the liability to pay premiums. I quote from its letter:

> After discussions with the Corporation, we understand that the penalty outlined in this section—

this is section 67—

> would be administratively applied by the Corporation. We have clarified with the Corporation that it retains a discretion as to whether it would pursue such a fine and are satisfied that this would only be exercised where warranted, and not on an arbitrary basis.

I seek clarification from the minister as to exactly what assurance the corporation has given the Ai Group in terms of the corporation's interpretation of section 67—Liability to pay premiums? The next point raised by the Ai Group is section 71—Premiums. I quote:

> Ai Group has discussed with the Corporation the arrangements around the implementation of the Premium Orders. On this basis, we would not propose any amendment to this section.

That is fine. It continues with section 72—Premium stages. I quote:

> Under [section] 72(3) the Corporation may adjust a premium at any time during the relevant period, any amount that becomes due on account of that adjustment. Any sum owing by an employer is then payable by the date specified by the Corporation.
>
> In our view, this discretion of the Corporation needs to be exercised reasonably to provide the certainty that is necessary for employers to properly run their businesses. Ai Group would prefer that any exercise of this discretion be qualified by the words 'for any proper reason' (as proposed in [section] 67(5)).

My questions to the minister are:

1. What assurances has the corporation given groups like Ai Group in relation to section 72?

2. Does the government agree that this is a new power that is being provided to the corporation, and what is the corporation's justification for needing this particular new power?

3. If an amendment was to be moved along the lines that Ai Group has suggested, what would be the government's response to such an amendment being moved to the legislation?

That is one of the amendments that the opposition is considering for the committee discussions next week in this council. I note that this particular issue was also raised with some of the other stakeholders, and when I refer to their submissions there is some consistency on this particular point. The next issue that the Ai Group raises is section 72A—Grouping provisions, and they write:

> In relation to Grouping Provisions, we understand that the Amendment Bill largely reflects the existing provisions in the Act. We note that there is presently a power in the Act for the Corporation to implement Grouping Provisions outside of that which exists in the Payroll Tax Act.

Just on that, I interpose: can the minister clarify whether in fact that is actually correct, because a number of other stakeholders have argued the view to the opposition that that is not the case and that this is in fact significantly different to the payroll tax grouping provisions and also different to the existing provisions in the act.

Clearly the corporation, as I understand it, has advised Ai Group that WorkCover believes that the provisions in this bill are largely the same as the existing provisions in the act, so I seek the minister's response and legal advice in relation to that. Ai Group goes on to say:

> Our major concern with these provisions is that there is the introduction of a jointly and severally liable reference. Ai Group does not agree with this formulation and would prefer, as outlined in the Position Paper, that 'the costs of claims and remuneration of a group member who closes or does not renew their policy [may] be proportionately allocated among remaining members of the group...'

I seek from the minister a response as to why the government moved from that position as outlined in the position paper to the position outlined in the bill before us and, if an amendment were to be moved to more closely reflect the position paper's stance on this particular issue, what would be the government's response to an amendment along those lines? The next section raised by Ai Group is 72E—Provision of information (initial calculations):

> Ai Group has sought clarification from the Corporation to confirm that only information that is required to determine the statutory payment will be demanded of employers and that the requirement for statutory declarations will be exercised reasonably. We have asked the Minister to confirm these assurances on the record when the Bill progresses through the Parliament, or consider that statutory declarations only be required by the Corporation 'for a proper reason'.

Again, I ask the minister to confirm or not the assurances that have been given to Ai Group but also to indicate, if an amendment were to be moved to this particular section to insert the words 'for a proper reason' or some similar amendment, what would be the government's response to such an amendment? The next section raised by Ai Group is section 72F—Provision of information. They say:

> We are satisfied with the clarifications that the Corporation has provided us in this respect for this proposal and note that this power will be essential for the operation of hindsight adjustments to employer premiums etc.

Again, we have asked that the Minister confirm these assurances on the record when the Bill progresses through the Parliament.

The next section is 72M, relating to review of premiums and the current levy review panel:

Ai Group sought clarification from the Corporation that a body equivalent to the existing Levy Review Panel will continue to perform this important role in regard to this part of the Act. The Corporation have satisfied us in this respect. However, we have asked that the Minister confirm these assurances on the record when the Bill progresses through the Parliament.

They are the essential points that Ai Group have asked me to raise on their behalf and I happily do so. In broad terms, they have indicated their support for experience rating and, in broad terms, with the possibility of some minor amendment, they have indicated that, if the assurances are given, they would be prepared to support the passage of the bill.

The next group that contacted the opposition, which was again late on Friday, was the Housing Industry Association (HIA). They only have two brief issues to raise. One was in relation to section 3(13) which is now clause 4(9) of the proposed bill, and that relates to the deletion of 'minister' and the substitution of 'corporation'.

The question that they want answered is: can the minister outline to the house the reasons why the government has agreed to this particular issue and whether there is any concern of too much power being given to the corporation in this particular section?

The other issue that the HIA has asked me to raise is in relation to section 71 of the proposed bill. Again, this is in relation to the premium provisions of the bill. Their comment to me is that this appears to give very wide powers to the corporation to set premiums for classes of industry with no independent review and not subject to any parliamentary oversight, and also to discriminate against individual employers by premium. I seek the government's response to the concerns that the HIA has raised in relation to section 71 of the bill.

The next group that contacted the opposition is the South Australian Wine Industry Association Incorporated, and I have a letter from Brian Smedley as the chief executive. I refer to their letter to me. The first point they make is in relation to proposed section 72K(1)—Penalty for late payment. Their comment is:

We were of the understanding that the penalty of $10,000 associated with a breach of this section was to be removed. This does not appear to be the case in the Revised Bill.

I seek the minister's response to that. Is this industry group correct in terms of their understanding and, if so, what has been the reason for the government's changed position in relation to the bill?

The second point they have raised with me is proposed section 76(3)—Certificates of registration. Again they say:

We were of the understanding that the penalty of $1,000 associated with a breach of this section was to be removed. This does not appear to be the case in the Revised Bill.

Again I seek from the minister the government's response to the South Australian wine industry's understanding of the penalty being removed, and any reason why the government has changed its position in the revised bill. The third point they have raised is:

Both the initial Bill and the Revised Bill have removed the current Section 66(8), which provides guidelines or principles for the Corporation where it is fixing the percentage applicable to a particular class of industry (either pursuant to Sections 66(7) or 66(9) of the Act). We believe these 'guidelines or principles' should be retained otherwise they could much more easily be changed or removed once they are contained within the regulations, as is proposed under the Revised Bill.

I seek the government's response to that particular concern raised by the South Australian wine industry and what the government's response would be if the current section 66(8) was to be retained in the legislation in the way the South Australian wine industry has suggested. We ask what the government's response is to what the problem would be with that.

The final point that the South Australian wine industry has raised is in relation to section 70(5):

…lastly, we noted the wording in this sub-clause was slightly different from what currently appears in the Act at Section 66(9). The same provision in the Act currently reads as follows:

'The corporation may fix a percentage in excess of 7.5 per cent in relation to a particular class of industry if in each of two consecutive years the Corporation's estimate of the aggregate cost of claims in respect of disabilities attributable to traumas occurring in the year in the relevant class exceeds 30 per cent of the aggregate leviable remuneration paid to workers in that class.'

In the Revised Bill (and the initial Bill) the wording is exactly the same except for the omission of the 'leviable'. The effect of this is to change the test and make the threshold amount more achievable for the Corporation.

I seek the government's response to that particular concern expressed by the South Australian wine industry. Can the government outline whether they accept that this is a significant change—the omission of the word leviable—and does the government agree with the South Australian wine industry's interpretation that this makes the threshold amount more achievable for the corporation? They were the concerns raised by the South Australian wine industry.

The Motor Trade Association also contacted the opposition late on Friday afternoon as well. There was a lot of activity late on Friday afternoon. To be fair to the Motor Trade Association, they say:

As a general proposition MTA is supportive of a cost neutral employer payments scheme which rewards employers for effective injury prevention, management and return to work.

But then they go on to say:

Notwithstanding these positive concessions our broad concerns with the remainder of the proposed changes can be summarized as follows:

1. The capacity of the Corporation to impose additional fines in a range of provisions where there is already provision to impose additional levies (premium adjustments) and supplementary payments;

2. The unfettered discretion sought by the Corporation to group businesses upon any basis left to be determined for liability purposes even where the risks, business activities, management or operations are separate and distinct;

3. The introduction of joint and several liability provisions for payment of premiums within a group of related employers at the absolute discretion of the corporation;

4. The ability of the Corporation to fix premiums at any time during a period;

5. The ability of the Corporation to impose additional cost recoveries on a broad range of business transfers without reference to the particular circumstances of the respective businesses.

I am sure that for all those very attentive members of the Legislative Council they will notice that some of those concerns raised by the Motor Trade Association reflect some of the concerns raised by some of the other industry groups I quoted earlier.

I want to refer to a couple of the Motor Trade Association's concerns to seek further specific responses. At the outset, I asked the minister to respond to each of the concerns that the Motor Trade Association has listed and what the government's response is. These are some of the issues on which the opposition will consider the possibility of further amendment between now and the committee stage next week, dependent on the minister's replies to the concerns that have been raised by these employer groups.

The second issue that the Motor Trade Association has raised is in essence about the grouping provisions which relate to the amendment of section 72A—Grouping provisions 1(b), 2(b) and (c). I quote some further comment from them:

This matter in being drawn to our attention, gives rise to concern over the broad discretion. It is suggested the provision be debated, to justify why it is needed in this form. If too broad, it should be narrowed to address the key concern/s. For example, employer claims experience in one site or industry sector should not be unilaterally applied across the Group without good and cogent reason

I raise the detail of that particular concern and give some examples. There are a number of companies, for example, that buy diversified businesses. I know the company has now changed but I am familiar with the operations of Orica, for example. Orica has manufacturing plants in terms of chemicals, obviously, and now explosives, but at one stage they also owned Dulux paint stores, distribution outlets and a variety of things like that.

I would imagine that the potential occupational health and safety issues and workers compensation claims experience in a range of retail distribution outlets is potentially significantly different to that of an explosives manufacturing plant, for example, yet there is the one company which owns, in essence, diversified businesses.

I think we have to get beyond the mindset that one company does one thing and that is it; there have always been, and continue to be, some businesses that own a range of diversified business which do different things and will have different exposures to occupational health and safety issues, and workers compensation and claims experience.

It would appear that the issue that is being raised here by the Motor Trade Association and other employer groups that have also raised this with me is this issue that, in essence, these grouping provisions will be averaged right across the board. The question that I put to the minister is what is the thinking of the corporation with a diversified group like that in my example, where the claims experience for the explosives factory would be worked out in terms of the premium paid on the work that is undertaken in the explosives factory? Also, if you have a completely different industry grouping within the same company structure (for example, a paint distribution outlet) which is mainly retail, why could the premiums not be levied in accordance with the general premium outcomes, or the average premium outcomes, for that type of industry?

I have only used Orica as an example; I think all of us could think of other businesses that have diversified operations from manufacturing through to a distribution or retail outlet, and perhaps a range of experiences or operations in between. There are a number of other businesses which have agriculture and mining, but also might have investments in manufacturing businesses as well, each with their own different compensation profile, one would imagine, in terms of experience.

I give those as examples as to why I think the motor traders and some other stakeholders have raised this particular issue and have raised concerns regarding particular provisions in the bill. My question goes back to whether these interpretations and decisions are any different to the existing arrangements in the current legislation. Some employer groups believe that it is significantly different. That is the first question I think the minister and the government need to answer. I have only raised that as one example; there are the other four broad questions that the Motor Trade Association has raised, and I ask for the minister's response to each of those as well.

The opposition received some considerable input from the Self Insurers of South Australia (SISA), and we are grateful for that, but essentially, in the end, their grievances, as I indicated before dinner, have been resolved, and there are no significant issues from their viewpoint as it relates to the operations of self-insurers that remain to be resolved.

As I indicated before the dinner break, the opposition has still not received a submission from the government's employer association of choice, Business SA. The government has put on the record that they believe Business SA is the true representative of all employers in South Australia. That is not a proposition the Liberal Party adopts or supports, but we at least note the government's view in relation to Business SA and as I said, at this stage we have not received their submission.

We are aware that they, as all other stakeholders, broadly support bonus penalty-type schemes, so I am sure that will be the case, but I am not in a position to inform either the government or the chamber as to whether they have any further issues or concerns they want us to raise. When we get to the committee stage next week, hopefully we will have received their submission and if there is anything that necessitates a potential amendment then we will need to explore those issues during the committee stage of the debate.

With that, I indicate the Liberal Party's support for the second reading of the bill. I indicate that we are not yet in a position to determine a view about the amendment that has been flagged by the Hon. Mr Hood. We will discuss that at our joint party meeting on Monday. We flag the possibility that, subject to the response we receive from the minister tomorrow, we may or may not move amendments in the committee stage of the bill next week to reflect some of the concerns that have been raised with us by some industry stakeholders.

The Hon. A. BRESSINGTON (20:15): I rise to indicate my support for the second reading of the Workers Rehabilitation and Compensation (Employer Payments) Amendment Bill. Having heard the concerns expressed by self-insurers, I had initially prepared myself for yet another fight in this place on behalf of those companies. As we all know, self-insurers are seemingly targeted by this government despite achieving far better outcomes for return-to-work figures and for injured workers in general than WorkCover and EML. The Hon. Mr Lucas, in his contribution, referred to that as an almost pathological hatred of the self-insured industry. I have to say that has pretty much been my interpretation of this government's attitude as well.

However, prior to its introduction in this place, the bill has been significantly amended by the Treasurer and the Minister for Workers Rehabilitation to remove all of the contentious provisions. While this is welcomed, I take the opportunity to convey that I would have supported the proposed amendments to death benefits in which a lump sum payment would be made to the estate of an employee with no dependents who is tragically killed whilst at work. While such a

payment is routine to dependents, currently, if the employee does not have children or a spouse then the scheme has no liability to their estate. This is shameful and I look forward to it being rectified in the next amendment bill that no doubt will be before us before my time in here is done.

As I understand it, the bill before us proposes to reform the existing employer levy which is currently set across industry types into a premium structure more closely resembling traditional insurance, termed 'experience rating system', in which an employer's premium will be determined on the number of claims by their workers and the cost of those claims. This will be mandatory for all medium to large businesses and it is intended to provide an incentive to employers to improve their claims history, especially by returning an injured worker to work, either in their former position on modified duties or a different role in the company and, importantly, reducing the number of claims by improving work safety and injury prevention.

I believe the proposed amendments have broad support from stakeholders, and this is understandably so. Employers will no doubt welcome the opportunity to directly influence their own levy, which will now be termed a 'premium' rather than be tied to the industry average. Unions and injured worker advocacy groups will recognise that any reduction to a business's premium will be as a result of improved outcomes for injured workers and employees, or at least that is the intention.

This is a reform that should have been put forward by the government three years ago when we were debating the Workers Rehabilitation and Compensation (Scheme Review) Amendment Act, instead of the provisions that further scaled back injured workers' entitlements which have been universally denounced as draconian. Creating an incentive for employers to work with a claims agent to reduce the cost of claims and, importantly, reduce the number of claims by improving occupational health and safety is just common sense and is far more likely to achieve the desired outcome than the stick approach that was at the core of the 2008 act. This is particularly true given that that stick was used to beat injured workers, rather than being directed at employers who were in a position to influence outcomes.

The bill also proposes to rename a workplace injury from 'disability' to 'injury' to better reflect the fact that people can and do recover. As I said as an interjection to the Hon. Rob Lucas, we only have to listen to the advertisements on FIVEaa to know that injured workers, as far as WorkCover is concerned, only really have to learn to use a saw again before they are back off to work and all is well and good.

Whilst I do not fully subscribe to the notion that barriers to injured workers' return to work is solely psychological, given the failings of rehabilitation services and the like, I can see how viewing yourself as disabled rather than injured could hinder your recovery. In recognising that many injured workers do recover and return to work, the act will subsequently cease to acknowledge that many injured workers do not.

Whilst I know it is only semantics, it will mean a great deal to permanently disabled workers, such as Mr Alex Mericka. From memory, he raised in the Workers Compensation Tribunal the issue of him being called an 'injured worker', which to his mind implies that he could recover. Despite wanting nothing more than to go back to work, Mr Mericka has come to accept that he is permanently disabled, has sought recognition of this, and to be addressed as such in the tribunal. Recognition will now only come when permanently-disabled workers are pushed off the scheme onto the disability pension, as so often occurs.

I use this opportunity to once again congratulate Mr Mericka on his recent victory in the Workers Compensation Tribunal, a judgement I would encourage all members to read. I express my disappointment at the WorkCover Corporation's decision to appeal this, after a decade. I believe it has been announced today that Mr Mericka has gained legal representation for his appeal by Mr Rino Zollo from Coates Lawyers in Port Lincoln. I am hopeful that Mr Zollo will rekindle Mr Mericka's confidence in the legal profession, which sorely let him down in the past. This is something that our Premier could perhaps review.

I am aware that the Liberal Party intends to put questions to the minister relating to assurances that different employer groups have received from the government, and will consider amendments if answers are not forthcoming. I indicate that I am happy to accommodate this and will look closely at any amendments that they move. If the government can give a key stakeholder an assurance on a particular issue in a back room, then it is only right that that assurance is made known to the parliament and to the public. With that said, I support the second reading and very much look forward to the committee stage.

The Hon. T.A. FRANKS (20:22): I rise on behalf of the Greens to support the second reading of this bill. In summary, this bill seeks to enable a new approach to employer payments in the South Australian workers compensation scheme and seeks to provide a financial incentive to employers to achieve better occupational health and safety practices, and hopefully fewer workplace injuries.

As it stands currently, employers pay a levy based on their industry classification and the amount of remuneration paid to employees. The total amount collected from those registered employers is about 2.75 per cent of the total remuneration paid to employees by registered employers. The average levy rate is set by the WorkCover board each year on actuarial evaluations.

This bill that has been introduced by the minister and current Treasurer is certainly a change in approach. As the Hon. Ann Bressington mentioned, it is a welcome approach to see a carrot rather than a stick being used when it comes to issues of WorkCover. The changes seek to influence employer behaviour by rewarding good performers (those with low injury rates) and by penalising poor performers (those with high injury rates). It is a design that is based on similar systems in New South Wales, Victoria and Queensland.

I understand, from the briefings given to us, that the bill has been well consulted. I would like to pay particular attention to the fact that the minister afforded us not just one but two briefings on this bill, and I do thank the minister for that. I particularly thank minister Jack Snelling, the Minister for Workers Rehabilitation, not only for making the information of the stakeholder consultations available in verbal form but also for giving us the written documentation that supported the presentation that we were given by government.

I would also like to thank the ministerial adviser to Hon. Jack Snelling, Joshua Rayner, the WorkCover CEO, Rob Thompson, and Emma Siami, director of policy at WorkCover, for their briefings. I say that because it has actually been a pleasure to work with a minister who has provided information whenever we have asked for it and gone out of his way to be, I think, reasonably transparent about how this bill comes before us and what the information is that supports this bill.

One essential amendment in this bill is that, where a worker dies as a result of a compensable injury, the act makes provision for compensation in the form of weekly payments to a dependent partner or child. The act will provide a lump sum payment to a dependent child, and I note that, currently, where a worker does not leave a financial dependant, neither the lump sum nor the weekly payments are made.

I understand it is fixing an error of drafting that has previously existed, and it is a technical amendment but I think an important one to fix a 2008 drafting error. I understand that WorkCover currently does not necessarily discriminate in the way that this drafting error is sought to be fixed, but certainly it is good to have the surety that this will clear up that matter. I also note that this, of course, is separate from any penalty that might apply resulting from an investigation by SafeWork SA.

I note that this bill before us could open up opportunities to address the WorkCover scheme in this state and, certainly, it is tempting to use it as an opportunity to raise the raft of issues that could be raised when it comes to WorkCover in this state. This is a scheme which does not currently serve injured workers, and it is certainly not serving the South Australian people. However, I am assured that the government under the new regime is aware of the many flaws of the current WorkCover scheme, and I remain hopeful that we will see a further bill before us which is far more comprehensive and certainly affords an opportunity to improve this very flawed system. That said, if the government does not put one up, I am sure opposition members and, certainly, the Greens will do so in the new year.

The importance of passing this bill before the end of the year is understood by the Greens. There is a need for the timely introduction of the new employer payments approach, and that is why this bill has come to us in a scaled-down form from the format in which it was originally tabled in the House of Assembly the first time round. As I say, this is a bill which has been consulted on by all stakeholders, and it is the agreed bill; and the Greens certainly note that, while it does not have everything that everyone might have wanted, it does have the things that everybody agreed to.

I note that, while some things are yet to reach that agreement and this is a very streamlined bill, it does need to be passed by the end of this year to allow for the proper

establishment of the new arrangements for the employer payments scheme. This will allow for both industry and employers to be properly prepared and put their systems in place to take effect in the 2012-13 financial year. Certainly, from the Greens' perspective, we will not be using it as an opportunity to move substantial amendments to the scheme overall but, with that warning to government that should they not look at reviewing and reforming the WorkCover scheme, certainly the Greens will be taking that up in the new year. I commend the bill at its second reading stage.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

EDUCATION AND EARLY CHILDHOOD SERVICES (REGISTRATION AND STANDARDS) BILL

In committee.

(Continued from 22 November 2011).

Clause 1.

The Hon. R.I. LUCAS: The minister's second reading explanation indicates that one of the key initiatives in this bill relates to publicly rating services against the new National Quality Standard. Can the minister indicate on which clauses it would be appropriate to put questions in relation to the government's policy on rating early childhood services, in particular in schools, against the National Quality Standard?

The Hon. I.K. HUNTER: I am advised that the ratings are covered by the national law and that the appropriate place to ask questions about that will be at schedule 1.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. R.I. LUCAS: In the explanation of clauses, the government outlines that the definition of in-home care services (which is defined as early childhood services) includes babysitting services, so that the regulatory regime that the government envisages is to cover all babysitting services. Can the minister indicate what babysitting services the government is proposing to regulate? That is the first question, and we will take it from there.

The Hon. I.K. HUNTER: In developing the bill it was intended that the definition of 'in-home care services' would capture those services that are currently licensed as babysitting agencies. These services are currently regulated under the Children's Services Act 1985. The legislation will not capture individuals operating as babysitters; rather, the legislation will continue to regulate businesses operating as babysitting agencies.

The Hon. R.I. LUCAS: What in the legislation prevents the government from limiting the regulation of babysitting services? I note that the explanation of clauses does not refer to babysitting agencies: it refers to babysitting services specifically. I refer the minister to the explanation of clauses, which provides:

> This clause defines 'early childhood services' for the purposes of the Act. Those services include in-home care services (i.e. babysitting services)...

What is it in the legislation, in this national regulatory regime, that would prevent the government, if it so chose, to extend beyond the category of services it calls a babysitting agency?

The Hon. I.K. HUNTER: I am advised that under clause 4, in this section 'in-home care services' means services of a kind specified by the regulations for the purpose of this definition. The regulations will be determined in the normal process at the state level, but they will be subject to the usual parliamentary scrutiny. So they will come back through the parliamentary process.

The Hon. R.I. LUCAS: Are those regulations, in relation to the definition of 'in-home care services' currently finalised? Have they been put out for consultation?

The Hon. I.K. HUNTER: My advice is that the government is consulting with the sector, and that will continue. The next meeting, I think, is next week.

The Hon. R.I. LUCAS: Under the proposed arrangements, clearly commercial agencies operating from commercial premises will be covered, so one assumes that they will be licensed under the regulations. However, if an individual babysitter who provides a babysitting service on a commercial basis—because he or she is charging for it—has an ABN number, will that bring that particular babysitter or babysitting service within the purview of the proposed regulations?

The Hon. I.K. HUNTER: My advice is that the answer is no, because it will depend on the definition that is inserted into regulations, which, as I said, will come through parliamentary process.

The Hon. R.I. LUCAS: We do not have those regulations yet, so my question is: the government is saying that it will be a babysitting agency, it will not be a babysitter, but what if a babysitter is doing this on a commercial basis for a number of people? Any of us who have had children go through babysitters will know of people who do this on a very regular, professional basis. In our own personal circumstances we had the services of a babysitter who, on occasions, would look after the child for perhaps a week if the family were away, and I know that same babysitter would travel interstate to work for people there, looking after children, for three or four weeks at a time, and then come back to South Australia and look after our children and other children as well. Is the minister indicating that a babysitter providing that sort of babysitting service on a commercial basis will not be subject to the regulations?

The Hon. I.K. HUNTER: Clearly, from what I have said previously, it is not the government's intention to cover a person in that situation. It is to cover babysitting agencies, not individuals.

The Hon. R.I. LUCAS: If that is the case how does the government, in the proposed regulations, seek to distinguish between someone who is operating as a commercial babysitter each and every week as opposed to what the government says is an agency? What is the distinguishing feature between an agency and the babysitting service that I have just outlined to the minister?

The Hon. I.K. HUNTER: My advice is that we would do it in exactly the same way as we do it now under the current Children's Services Act, that is, by regulation—a regulation which is being consulted on now with the sector and which will come back through the parliamentary process.

The Hon. R.I. LUCAS: How is the distinction made at the moment, then, because in both circumstances a commercial transaction is being transacted? Clearly the babysitter is providing a babysitting service. He or she is being paid for that service. How do the current regulations distinguish between that person and what the minister is saying is an agency?

The Hon. I.K. HUNTER: The definition says that if it is in the child's own home, it is not covered by that regulation. However, if it is in the home of the babysitter, it might be considered to be a family day care service provided by a single educator who is not part of the FDC scheme, and they would be covered.

The Hon. R.I. LUCAS: In the circumstances with which many of us would be familiar, where sometimes your child does go to the babysitter's place for babysitting, the minister is saying that that is proposed to be regulated under the government's regulatory regime?

The Hon. I.K. HUNTER: My advice is that it depends really on the number of children in care and also the number of hours of care. It can be defined however we choose under the regulations, and that is why we are consulting with the sector now on how those regulations should be drafted.

The Hon. R.I. LUCAS: Is the minister indicating that, if I run a commercial operation of babysitters and employ them but I send the babysitters into the homes of the families, that will not be covered under the regulations?

The Hon. I.K. HUNTER: No, because that is business conducted as an agency.

The Hon. R.I. LUCAS: The minister indicated earlier that the distinction was going to be whether or not the care was provided in your home. In the circumstances I have just outlined, the care is being provided in the home of the family. The commercial agency or business is employing babysitters, perhaps taking a commission, and those babysitters provide the service in the home of the family as, indeed, the individual babysitter who may well come to your home and take some payment for the babysitting service as well. How do the current regulations distinguish between those two circumstances?

The Hon. I.K. HUNTER: The Hon. Mr Lucas may not have understood my earlier answer because the situation he was posing talked about a sole operator, not an agency employing several people, which is exactly what happens now, I am advised. The agency is regulated, and it is the responsibility of the agency as its role to regulate its employees.

The Hon. R.I. LUCAS: I guess that, from my viewpoint, the issue will ultimately be determined when we see the final shape and structure of the government's regulation on this issue. This issue has been raised with me. Given that the explanation of clauses does refer to babysitting services, concern has been expressed as to what the government's regulatory regime will in fact mean.

I take the minister on the basis of the advice that he has been given, that is, that it will be no different to the current set of circumstances, and certainly I think that people working in the industry would hope that that will be the case. At this stage, I guess, no purpose is going to be served by getting any further responses from the minister other than we will need to wait and see the actual regulation and the implementation of the regulatory regime to see whether or not the assurance the minister has given members in the house that there will be no change in terms of the current arrangements, whether that in practice is what we see under the proposed national regulatory regime.

There are some who have some doubts. They have seen these proposed national regulatory regimes. They have heard the assurance but then, to their cost, see what happens at the end. The issues have been raised. The minister has given an assurance on behalf of the government. All we can do is accept that at this stage and monitor the shape and structure of the government's regulation when it is finally promulgated.

The Hon. I.K. HUNTER: I concur with most of what the honourable member had to say. I remind the committee that the sector strongly supports our approach in our consultation process that we have had with them.

Clause passed.

Clauses 5 and 6 passed.

Clause 7.

The Hon. R.I. LUCAS: This issue has been raised with me as well from people associated with school councils (as I knew them) or governing councils. This clause is 'Limitation of liability for volunteer members of governing authorities'. The explanation of the clauses says:

> This clause limits when a volunteer member of a school's governing authority can be liable for a prescribed offence (defined in subsection (2) of the section). For a volunteer to be liable, a prosecutor must first prove that the volunteer acted in a manner contemplated by the clause.

When one looks at subclause (2), prescribed offence means:

> (a) an offence against section 42, 63(1), 75(2) or 76; or
>
> (b) any other offence prescribed by the regulations for the purposes of this section;

Clearly, from the first response we do not know what the regulations will specify, so that could be a multitude of offences that may well be prescribed by the regulations. Subclause (2) goes on to say:

> volunteer member of the governing authority of a school means a person who is acting as a member of the governing authority on a voluntary basis (whether or not the person receives out-of-pocket expenses).

I seek an assurance from the minister that the liability provisions, as they relate to volunteer members of governing councils or governing authorities, are exactly the same as the existing liability provisions that apply to school council or governing council members.

The Hon. I.K. HUNTER: While I am awaiting a response from parliamentary counsel on that specific question, can I just say that the state government values the contribution that volunteers make in our schools, particularly those who support the governance of our schools by being members of our school governing councils. For this reason, the bill does not provide for volunteer members of a governing council or school board to be held liable for breaches under the legislation, except where their individual council or board is deemed to be the governing authority of a school.

Unless a voluntary member of a school governing authority knowingly or actively colludes in committing a prescribed offence under the bill, they have the protection from liability for prescribed offences, such as operating an unregistered school or noncompliance with a board-imposed condition, or an unregistered school purports to be registered, or noncompliance with a ministerial exemption condition, or any other offence prescribed by the regulations. They are very specific and they are designed to protect those voluntary members of the governing authority. We

are just checking with parliamentary counsel about whether there is any difference or whether those provisions are identical, and we will have that shortly.

The Hon. R.I. LUCAS: While the minister is awaiting that advice, I note that he used the words, 'the volunteer member of the governing council knowingly knew or was actively involved' from the briefing note he just read from. I note that paragraph (c) provides:

> the volunteer member failed to exercise due diligence to prevent the commission of the offence.

That raises issues of perhaps not knowing and not being active but just having failed to exercise due diligence. That may or may not be appropriate; I am not arguing the toss. If that is the existing situation, then so be it, but I think paragraph (c) tends to throw a different light on it than the words minister has just talked about where he used words such as 'knowingly' and 'actively', etc.

Paragraph (c) raises the clear implication that, if you fail to exercise due diligence to prevent a commission of an offence, you can be held liable. What I seek from the minister is in relation to that, but, in the construction of this total liability for volunteers on councils, this is exactly the same as the existing liability provisions for volunteers on school councils. If it is more onerous on school councils then, clearly, I think there will be some concerns from school councillors. They would seek from the minister his justification as to why it should be made more onerous for a volunteer on a school council than it already is. If the assurance is that it is exactly the same or less onerous, then I would have thought that there could be no criticism from volunteer parent members of school councils.

The Hon. I.K. HUNTER: I will answer the honourable member's question in two parts. I, too, would be concerned if his proposal was correct, but what you cannot do is read paragraphs (a), (b) and (c) alone; they are actually to be read in conjunction because, at the end of paragraph (a) and (b) is the operative word 'and'. So, they have to occur together. Paragraph (a) provides:

> (a) the volunteer member knew, or ought reasonably to have known, that there was a significant risk that such an offence would be committed; and
>
> (b) the volunteer member was in a position to influence the conduct of the governing authority in relation to the commission of such an offence; and
>
> (c) the volunteer member failed to exercise due diligence to prevent the commission of the offence.

In relation to the earlier question, my advice is that the provisions in this act are entirely different from the provisions in another act. The provisions in this act were drafted specifically for this legislation and designed to protect volunteer members. Provisions in another act, which might have some bearing on volunteer members in relation to governing councils, were drafted with the primary objective of the regulation of schools.

The Hon. R.I. LUCAS: That does not answer the question at all. I appreciate the fact that the Education Act or current pieces of legislation as they relate to the members of governing councils of schools have been drafted for whatever is their particular purpose.

This has been drafted to cover a whole variety of bodies, and that is one of the problems with this type of overarching national regulatory regime; that is, you are covering a multitude of sins, if I can put it that way. That is why I am specifically asking about volunteers on school councils. I repeat my question, that is, can the minister give us an assurance tonight that these are no more onerous liability provisions on parent members of school councils than those that exist under current statutes? I think that is not an unreasonable question to put to a minister who is asking us to support a new regulatory regime, which he said he has been consulted upon and supported by everybody. I am not entirely sure of that.

In my brief discussions in the last couple weeks, as I indicated in the second reading, I found that there are some elements of the package that certainly surprised some people when I spoke to them. They raised the question, in the discussions I had, as to what, if any, difference there was in relation to this. As I said, I make no assertion, but it is a not an unreasonable question, and I seek the minister's response.

The Hon. I.K. HUNTER: My advice with respect to that question is that it cannot be answered in the way in which the Hon. Mr Lucas would like it to be because the role played by voluntary members on governing councils is different in respect of this act from any other act where they may be mentioned. The role that voluntary council members play in this legislation is distinctively different from the role they would play in governing a school.

The Hon. R.I. LUCAS: I was going to propose a course of action that might allow us to move on and still, I guess, take further advice on this issue. Can the minister indicate how, in this legislation, the role for the parent on a school council is different from the current role of a parent on a school council under the various other existing state statutes?

The Hon. I.K. HUNTER: I will give it a bash. Voluntary members of a governing council, under the Education Act, are jointly responsible with the principal for the governance of the school. As such, the liability protection afforded to them relates to that role. Under this act, the role they play relates to the regulation and provision of education services, and so the liability protection under this act relates purely to that part of their respective duties.

The Hon. R.I. LUCAS: I have some sympathy for the minister. This is essentially a legal question. I suspect the minister's adviser is clearly not a legal adviser but is more in the education domain. I think this is an important issue and I was going to propose a course of action the minister may or may not be attracted to.

I think it is not an unreasonable question that I am putting on behalf of parents and school councils. When I come to some issues in relation to rating schools, etc., which are part of this regulatory regime, I am assuming there will be some responsibility, clearly on behalf of the principal and the teachers in relation to this, but also some responsibility for governing authorities as well, or certainly some involvement.

I am wondering whether a sensible course of action, minister, might be—and I do not want to delay this bill—that we move beyond this particular clause but, overnight, the minister seeks legal advice to the questions that I have put and that we conclude all the other clauses because I think there are only two amendments to be moved this evening. If the minister was prepared to report progress at the conclusion of the committee stage, with the prospect of recommitting this particular clause once he has received any legal advice that he might get, we could have a brief discussion at that stage and that may well then not unduly delay the passage of the legislation.

If the minister was minded to agree to that course of action, that would certainly resolve my issues. I would be happy to receive the government's legal advice on the question that I have put, and I accept the fact that the minister does not have somebody in the position at the moment providing that sort of specific legal advice that I have sought.

The Hon. I.K. HUNTER: I thank the honourable member for that advice on how to proceed; it is not something that I am attracted to. It is important to say that schools are not rated. The rating and assessment only applies to a nationally regulated early childhood centre, and what we are proposing here is a minimal regulation regime for schools. I do take on notice the part of his question that seeks further advice and I will try to get that advice to him as early as possible.

The Hon. R.I. LUCAS: I will ask most of my questions on rating later on, but schools are rated. I am sure the minister is aware of the fact that the federal government and the state government have signed up to regulatory regimes in relation to My School ratings. This bill refers to education services. I will be asking specific questions when we get to—my colleague tells me—clause 10 and then schedule 1, when we talk about the application of the education and care services national law provision.

I am just unclear on what the minister suggests. The minister says he is going to take legal advice, but he says he is not attracted to the notion that I am putting. Is the minister proposing that he is going to take legal advice and what, receive it tonight, is he? My proposition was that we would recommit this clause tomorrow, having done the whole of the rest of the clauses. He said he is not attracted to that notion. I am not sure what he is suggesting, if he is going to take legal advice.

The Hon. I.K. HUNTER: Whilst I am waiting for advice I should reiterate my point: schools are not rated in the way the Hon. Mr Lucas believes that they are. They are perpetually registered. The rating the Hon. Mr Lucas speaks to is part of another system entirely and not related to this bill. I indicate that I will still seek the advice that the Hon. Mr Lucas asks for, but my intention tonight is to make progress on this bill.

The Hon. R.I. LUCAS: If we go past this clause now how do we then address the issue when the minister gets the advice later on in the evening? How does the minister propose to do that? If we pass through this particular clause and the minister gets the legal advice later on tonight how does he propose that we then return to the issue?

The Hon. I.K. HUNTER: I am advised that the liability that pertains, or could pertain, to volunteers relates to any offences they may commit and it can be discussed at any of the clauses that deal with any of the offences in the bill.

Clause passed.

Clauses 8 and 9 passed.

Clause 10.

The Hon. R.I. LUCAS: My colleague, the shadow attorney-general, advises me that this issue of the national law is in schedule 1 and that in clause 10 we actually apply the Education and Care Services National Law. So the issues that I was wanting to raise about the National Quality Standard and rating, I understand, can be now raised under this particular provision. I refer the minister to minister Weatherill's (or whoever the minister is handling the bill now, but originally it was minister Weatherill) second reading speech, which states:

> The National Law establishes the elements of the National Quality Framework, including adoption and transition processes, application processes and monitoring and compliance requirements. The National Law also sets out the roles and responsibilities of the Australian Children's Education and Care Quality Authority (ACECQA) and the Regulatory Authorities for the States and Territories. The new South Australian regulatory authority will be responsible for matters including approving persons and services that provide education and care, monitoring compliance with the National Law and assessing and publicly rating services against the new National Quality Standard.

I refer the minister specifically to the last sentence of the minister's second reading speech. He says that this regulatory authority will be responsible for two services: one is education and one is care. Education relates to government and non-government schools. The minister also says that this authority will assess publicly rating those services—that is, education services—against the new National Quality Standard.

Can the minister explain how he reconciles the minister who championed this bill, who basically said in the second reading that the authority will publicly rate educational school services against the new National Quality Standard, with the advice he gave the committee just a few moments ago, when he said the rating will only be in relation to childcare services?

The Hon. I.K. HUNTER: I am advised that under the national law those services that are covered include: preschool, long day care, family day care and out of school hours care, and they are referred to as education and care services. There is an Education and Early Childhood Services Registration Standards Board which covers three separate and different regulatory areas.

The Hon. R.I. LUCAS: The definitions of education and care service talks about a school providing full-time education to children up to the age of 13. It provides:

> education care service means any service providing or intended to provide education and care on a regular basis to children under 13 years of age other than—
>
> (a) a school providing full-time education to children, including children attending in the year before grade 1...

Is the minister indicating that this regulatory authority will have no oversight over schools, both primary and secondary?

The Hon. I.K. HUNTER: My advice is that the Education and Early Childhood Services Registration Standards Board of South Australia will have responsibility for non-government schools and government schools under the South Australian regulatory authority for schools. Under the national law, they have responsibility for other areas, as I mentioned before: the centre-based child care and family day care schemes and out of school hours care and preschool.

My advice is that the national law applies to, as I said: family day care, long day care, preschool, out of hours school care, rural and mobile care services, occasional care services, and in-home care services. The bill before us, the Education and Early Childhood Services (Registration and Standards) Bill 2011 provides for all government and non-government schools in South Australia.

The Hon. R.I. LUCAS: That is my question: it does provide for all government and non-government schools in South Australia. The minister's second reading says that the new South Australian regulatory authority will be responsible for matters in relation to education and care and publicly rating services against the new National Quality Standard. It is still not clear to me why the

minister is arguing that this new regulatory authority will not have oversight of government schools and non-government schools and that in some way it will only be for childcare services.

The Hon. I.K. HUNTER: The board will have responsibility for those services, but it will be under different regulations. The national regulations will apply to those areas that I talked about earlier: family day care, long day care, preschool, etc. They have those regulations covered under the national law. The bill before us today, which puts down different regulations, will apply to government and non-government schools registered in South Australia.

The Hon. R.I. LUCAS: In terms of the new National Quality Standard that the minister has talked about, is the minister indicating that it only relates to childcare services?

The Hon. I.K. HUNTER: That is correct, but that includes those services I mentioned earlier: family day care, long day care, preschool and out of school hours care.

The Hon. R.I. LUCAS: The minister is indicating that, in the current rating regimes for schools that the federal and state governments have entered into, there will be no oversight of those rating regimes by this regulatory authority that is referred to in this bill?

The Hon. I.K. HUNTER: My advice is that that is correct.

The Hon. R.I. LUCAS: In relation to the rating services for childcare and preschool services, can the minister outline the government's proposition as to how preschool services, for example, will be rated? Will there be the equivalent of a My School or a MyCare website where these particular services are rated in accordance with the National Quality Standard and made publicly available to parents?

The Hon. I.K. HUNTER: My advice is yes, and they will be done on the MyChild website.

The Hon. R.I. LUCAS: Will oversight of that website be the responsibility of the South Australian regulatory authority?

The Hon. I.K. HUNTER: My advice is that the actual regulation of the services will be done in this state, whilst there will be some cooperation between the national body and the state body to ensure that there is a seamless transition of information.

The Hon. R.I. LUCAS: Yes, but my question remains: who, in essence, will control the information that goes up on the MyChild website? Is that the regulatory authority? Is that the federal government agency or is that the South Australian government agency that will ultimately determine what information goes up on the MyChild website?

The Hon. I.K. HUNTER: My advice is that it will be done jointly. The national body will work with the board here. Under the national law, both have responsibilities for provision of accurate information.

The Hon. R.I. LUCAS: Yes, but ultimately, somebody has to put the information up on the website. Who has that control on a day-to-day basis? Is that the state department and agency or is it the federal department and agency? I understand this bit about how everyone is going to cooperate with everyone and we will all hold hands and sing *Kumbaya* together, but ultimately somebody has to have the authority and the responsibility to load up information to say that this particular service is five star or three star or whatever the rating is going to be. Somebody has the authority to put up the rating for the particular childcare service. What I am seeking from the minister is whether that is the state body or the federal body?

The Hon. I.K. HUNTER: My advice is that that function will lie with the national authority under clause 225(1)(i). Their responsibility is to publish, monitor and review ratings of approved education and care services. The proposed national regulations outline the five star rating levels: these are excellent, exceeding national quality standards, meeting national quality standards, working towards national quality standards or significant improvement required. These terms were settled on following feedback during the national public and sector consultations held earlier this year.

ACECQA, as it is known, is a national authority with responsibility for overseeing and coordinating the new national early years quality system. It is comprised of 13 members nominated by each state and territory and the Australian government and will have early childhood education and care and other relevant expertise from across Australia. Members were agreed to by all commonwealth, state and territory ministers before the then ministerial council for education and

early childhood development and youth affairs, now the Standing Council for School Education and Early Childhood.

The Hon. R.I. LUCAS: Please do not tell me that the South Australian acronym is SACECQA. I assume it probably will be. Is it the intention of the government that, for example, the babysitting services that we talked about earlier, which is an early childhood service, will also be rated by this national agency? Similarly, where individual family day care services are provided, is it the government's intention that each of those individual family day care services will be rated in accordance with the rating framework?

The Hon. I.K. HUNTER: My advice is no.

The Hon. R.I. LUCAS: To both?

The Hon. I.K. HUNTER: To both.

The Hon. R.I. LUCAS: So the indication is that the government will not be rating family day care and will not be rating babysitting services. I assume it will be rating long day care, and I assume it is going to be rating preschool services. Will it, for example, be rating out of school hours care services and vacation care services?

The Hon. I.K. HUNTER: My advice is that family day care schemes will be rated, but that individual providers will—

The Hon. R.I. LUCAS: You just said they would not be.

The Hon. I.K. HUNTER: No; family day care schemes will be rated, but the individual providers will not be.

The Hon. R.I. LUCAS: What is the value of rating a scheme? If you are having kids looked after it is in a family day care provider, it is not a scheme. Let me seek further clarification of what the government intends in relation to this. The minister originally said in response to my question that family day care service providers would not be rated; he is now saying the family day care scheme will be.

If I am sending my child to a family daycare service, I am sending it to an individual who is providing family day care in his or her home for a small number of children. That is a family day care service provider and there is a range of family day care service providers, each providing different categories or qualities of service, one would imagine. Can the minister explain what the government means by rating a family day care service scheme?

The Hon. I.K. HUNTER: What I mean is precisely what is in place now. They now are accredited by the National Childcare Accreditation Council, which currently accredits schemes, That same provision will flow through to the rating service for the scheme, but not for the individual providers.

The Hon. R.I. LUCAS: What is the scheme?

The Hon. I.K. HUNTER: The scheme is the coordination unit that monitors and supports the individual providers.

The Hon. R.I. LUCAS: So is the minister saying that the bureaucrats within the government department are going to be rated in terms of how well they coordinate, as opposed to the quality of the five-star service in the individual family day care service provider?

The Hon. I.K. HUNTER: Yes, as they are currently done.

The Hon. R.I. LUCAS: What is the current rating of the family day care service provider scheme in South Australia?

The Hon. I.K. HUNTER: Currently it means they either meet the accreditation standards or they do not.

The Hon. R.I. LUCAS: The minister earlier indicated the rating was going to be a five-star rating, so is the minister now conceding there is not a five-star rating at the moment; it is just either you are accredited or you are not?

The Hon. I.K. HUNTER: There is a range of levels, I am advised, in the accreditation standards, but they are not as comprehensive as what is envisioned in this act. The new provisions

in terms of the ratings are designed to provide parents with more and better information about the service quality to be provided.

The Hon. R.I. LUCAS: I take it that is code for 'It is not rated five-star at the moment. It is either that you are registered or you are not.' In the minister's second reading explanation he said that the bill also provides for the regulation of individual family day care educators who are not part of a scheme. The minister has just explained that we are not going to rate the individual family day care educators. Can the minister indicate what the government is intending or means by that?

The Hon. I.K. HUNTER: My advice is the national law defines a family day care scheme as two or more family day care providers. If there is an individual provider that is not supervised by a coordination unit, they may be captured as would be, for example, in-home care services, occasional care services, rural and mobile care services. They are captured under state regulations.

Clause passed.

Clause 11 passed.

Clause 12.

The Hon. I.K. HUNTER: I move:

Page 25, line 3—Delete 'section 10' and substitute 'section 11'

This is a technical amendment. I understand that it was included in the early amendments of the Hon. Michelle Lensink which were then withdrawn. It corrects a clerical error which stemmed from an amendment to the bill in the House of Assembly.

The Hon. J.M.A. LENSINK: Yes, that is correct. It was in an earlier version of one of the Lensink amendments. It arises, I understand, from amendments that were moved and accepted in the other place by my colleague the member for Unley, Mr David Pisoni. So, we support the amendment.

Amendment carried; clause as amended passed.

Clauses 13 to 15 passed.

New clauses 15A to 15C.

The Hon. J.M.A. LENSINK: Just by way of explanation to the committee, there have been three sets of amendments in my name. The first set sought to pursue three policy areas, one being a general delay in a number of provisions for a two-year period. Those are not included in version 3.

The other two points were to include the minister's commitments which were made to Childcare SA; those being that firstly she agreed when she met with them on 4 November that the class ratios for toddlers—that is, children aged from 24 to 36 months—would be 1:8 until 2020 and thereafter would revert to the default which is 1:5; also to clarify the issue of ratios where staff go on breaks; and also that staff who are working towards particular qualifications would be considered as participating towards those qualifications. Those final issues that I have discussed (not the general two-year delay) are what we have sought to have included. I would like to thank the government for allowing a delay in debate from the previous sitting week. I think it has probably been useful for all honourable members in this place.

One of the issues that I think has been of contention with the sector—it is always very difficult when you are dealing with a sector that does not come with a unified voice—was whether the consultation was adequate, and I would have to say that there varying views from various parts of the sector, probably reflecting the areas from which they come.

I would like to thank the people who have come to see me personally; I understand they would have sought to have meetings with other honourable members as well. They have all been very, very passionate advocates for their particular position, and some have advocated that we not pursue these amendments.

I thank those who have emailed me—and I apologise to those to whom I have not replied—have asked that we not pursue the two-year timeframe, so they will be pleased that we are not. There have been a number of different stakeholders, whether they be Childcare SA (who I think initially raised the issues in the media), Early Childhood Australia, a number of directors who largely represent the community sector, and United Voice.

The second set of amendments had some technical corrections, so 1 and 2 have been dropped in favour of the third set, which is before us. I have spoken about the minister's commitment, and I would just like to read into the record what the minister said on the Sonya Feldhoff program on 4 November when she said:

> I'm told that a lot of the pressure will be felt by the sector in the 2 to 3 year old age group. Our current ratio there is one to 10, and the proposed ratio is one to five...nobody argues about the 1 to 10 being an unacceptable level, and in fact nobody argues in principle really about the fact that we need to do as much as we can to improve the quality of care...what I've done this morning is I met with these representatives and what I offered in acknowledgement of their concerns was to push out that ratio. Instead of having it complied with by January 2016 we'll aim for a ratio of one to eight by 2016 and we'll push out that ratio to one to five by 2020.

I think it is fair to say that there are probably professional differences in the sector. It is something that I was familiar with while dealing with aged care; there are some tensions—I think that is probably the polite way to put it—between the private providers and some of the not-for-profit or community areas, and I think the concern of costs still remains with certain providers.

A good friend of mine who has a three year old and a four year old who are frequently in child care was raving to me on the weekend about the cost of child care, so I think I think that some childcare operators who say that the cost of child care is no longer an issue for parents need to be introduced to my friend.

I would also like to table some information that was provided by one of the private childcare providers from Childcare SA in relation to their costs which their sector faces which are probably not faced by the other sectors. So, I asked them to provide that to us so that we could have an idea of the differential. I will not name the childcare centre, because it may be commercially confidential, but he says:

> Hi Michelle
>
> With respect to your question regarding costs which may not be bourne by Community Centres I detail below these costs...as an example:
>
> | | |
> |---|---|
> | Payroll Tax per annum | $12,350 |
> | Land Tax per annum | $9,932 |
> | Council rates per annum | $7,056 |
> | Water rates per annum | $3,374 (not sure if Community Centres pay this) |
> | Rent per annum | $101,156 (we recently bought the property but previously paid rent to a landlord as many centres do) |
> | Total | $133,868 |
>
> Also, Community Centres receive capital grants from government, [and] are eligible for grants from Councils etc for which the private sector cannot participate. Other organisations such as banks etc often have a lower fee structure for not for profit organisations.
>
> Keep in mind that despite these additional costs for the non-government private Centres our fees are similar to those charged by Community Centres—sometimes lower, sometimes higher, often the same.

So, I think it is worth giving that part of the sector the benefit of the doubt. I do not think it is in the interests of anybody for childcare centres to close based on cost. I do not think it is in the interest of any families to not be able to continue to avail themselves of child care because they are pushed beyond that tipping point, which is one of the things that I fear.

While that may be dismissed by some parts of the sector, I am very, very well aware of the bias—I think that is fair to say—that occurs among some sectors. Certainly, the ABC childcare issue, with that service going broke, has put a bad slant on the private sector, but I think there are a lot of very good providers. I would like to name in particular Barb Langford, who runs a number of Montessori centres, which are certainly not cheap to operate. She does an exemplary job. I think we should make room for all players within the sector and allow parents a choice. I therefore commend these amendments to the chamber. I move:

New Division, page 29, after line 17—Insert:

Division 2—Modifications

15A—Interpretation

A term or phrase used in this Division and that is defined in the *Education and Care Services National Law (South Australia)* or the national regulations has the same meaning as in that Law or those regulations, or in the relevant provision of that Law or those regulations (as the case requires).

15B—General provision

The *Education and Care Services National Law (South Australia)* and the national regulations made under that Law are modified to the extent necessary to ensure consistency with this Division.

15C—Modifications

(1) When calculating the educator to child ratio at a centre-based service, any time (not exceeding 15 minutes) during which a particular educator is present on the premises of the service will be taken to be time spent by the educator working directly with children at the service or time in attendance at the service (as the case requires and whether or not the educator is replaced during such time).

(2) A requirement under the *Education and Care Services National Law (South Australia)* or the national regulations that a particular educator hold an approved diploma level education and care qualification will, in relation to any meal break (not exceeding 1 hour) taken by the educator, be taken to be satisfied if the educator is replaced during the meal break by an educator who holds—

(a) an approved certificate III level education and care qualification; or

(b) any other qualification approved by the Minister for the purposes of this subsection.

Note—

See regulation 126.

(3) A provision in the national regulations (being a specific provision applying to South Australia) setting out educator to child ratios for children over 24 months and less than 36 months of age at a centre-based service applies in place of regulation 123(1)(b) until 31 December 2019.

Note—

See regulation 326.

(4) A requirement under a provision in the national regulations (being a specific provision applying to South Australia) that a person hold a particular acceptable tertiary qualification in children's services or early childhood education will be taken to be satisfied if the person is actively working towards such a qualification.

Note—

See regulation 328.

Regulation 10 of the national regulations sets out what it means to be actively working towards a qualification.

The Hon. I.K. HUNTER: The government does not support the amendments in the name of the Hon. Ms Lensink. First of all, can I say that I am grateful to the Hon. Ms Lensink for the cooperative way that we have been able to manage this bill. It is important that I go back and make these points about the national nature of the bill.

The bill before the house today is about improving and ensuring the quality of South Australian child care. It enables South Australia's commitments made under the National Partnership Agreement on Early Childhood Education and care, agreed to by all Australian jurisdictions. It gives effect to the Council of Australian Governments' decision made in December 2009 to establish a jointly governed unified National Quality Framework for early childhood education and care and outside school hours care.

This new framework that the bill enables South Australia to participate in replaces existing separate licensing and quality assurance processes. It will ensure high quality early childhood education and care and will contribute to improving outcomes for all children, especially those from disadvantaged or at-risk backgrounds. The framework agreed to by COAG and committed to by South Australia provides for a streamlined unified regulatory system with a national act and national regulations.

The opposition's proposed amendments do not assist the establishment of the framework committed to by all states and territories and the commonwealth. The legal infrastructure for this is now in place in all other jurisdictions, except one, which I am advised will be introducing legislation this week. The South Australian government cannot support, and neither should anyone in the council support, the amendments which will detract from the national legislative framework agreed to under COAG.

In relation to the second amendment moved by the Hon. Michelle Lensink, the government does not support that amendment either. What has been agreed to by COAG and what has been delivered by this bill, without amendments, is the establishment of a nationally consistent scheme. This will be of benefit to all children. This will fundamentally improve outcomes for them and support families in choosing and having access to quality care, no matter where they live or work in Australia.

Agreeing to the amendments would be to use the South Australian act to modify specific provisions in the national regulations for a period of time. With a national system with clear national regulations, this is not required and, I understand, not needed because the minister will amend the national regulations. It is important to say that the sector strongly supports the bill before us proceeding unamended.

All those who provide education and care services to Australian families deserve the improvements delivered by a nationally consistent framework, which is one national law and one set of national regulations which contain all the information they require about the regulation of their services. In the interests of better governance and Australia's interests as a whole, South Australia, through this parliament, has achieved improvements and consistent outcomes in the areas of health and licensing regulation.

If passed unamended, this bill will achieve another significant milestone by delivering an improved nationally consistent outcome for education and care regulation. While the South Australian government has agreed (in the other place) to ensure our parliament retains oversight of national regulations, it is unnecessary, cumbersome and confusing to place some of the detail within the South Australian act that will result from agreement to this amendment. Not only that, because these provisions are transitional in nature, the parliament will need to, unnecessarily, go to the trouble of amending the act to repeal these provisions when they are null and void and no longer required.

This bill, if passed unamended, will support the delivery of an integrated unified national system for early childhood education and care which is jointly governed and which drives continuous improvement in the quality of services and improves educational and developmental outcomes for children attending regulated services.

The national regulations allow the needs of all jurisdictions to be taken into account in the transition to full implementation of the National Quality Framework. For the last three years, during consultation on the development of the national law and regulations, providers of the education and care services that will be regulated have supported the streamlining of the licensing and accreditation systems within one national act and one set of national regulations. These providers will not appreciate this house's attempt to duplicate provisions which will be contained in the South Australian chapter of the national regulations. I repeat that the opposition's proposed amendments are unnecessary and, we believe, ill considered. They are an example of why South Australia's transitional provisions should be written specifically in the national regulations, not in the act.

The amendment before this house would amend the national regulations in three areas. The first relates to staff breaks, which are already provided for under the national law, with the policy detail having been released recently. The second concerns the staff-to-child ratio for two-year-old children in care. Agreement to this amendment would severely disadvantage the children of South Australia, who already have the worst ratio in this age group in the nation. If this house agreed to the opposition's amendment, it would maintain South Australia's current, worst-in-Australia ratio of one staff member to every 10 children for another eight years, until the start of 2020. All South Australians and all those two year olds deserve much better than that from this parliament. This amendment will put South Australia at a significant disadvantage to all other two-year-old children in Australia.

Again, I am advised that the Minister for Education and Child Development has raised the concerns of the childcare sector with the Australian government and her ministerial colleagues, including the possibility of a longer transitional time, with reductions in the current ratio in 2016, with the aim of assisting services to move to the new national standards of 1:5 in 2020. However, as I have stated, these are matters for the national regulations, they are not matters for this bill.

The third part of the amendment would again force an unnecessary change to the national regulations in regard to staff qualifications. If this house agrees to the opposition's proposed amendment, it would take South Australia backward and lessen the current staff qualification requirements mandated in the South Australian childcare regulations. The national regulations, as

drafted, maintain South Australia's current standard. The opposition is seeking to weaken the qualifications of staff. Again, this amendment will put South Australia's children at a disadvantage when compared not only to their peers in other states but also with their predecessors. This is simply unacceptable.

Since the establishment of the South Australian regulations in 1997, our contact staff and South Australia's licensed services must hold the appropriate qualification. The transitional regulation will maintain that until the new requirement commences in 2014. Agreeing to the amendment will allow those who have not completed their qualification to be counted as if they had. This is not necessary and will take the state backwards. The opposition's proposed amendments will not benefit the sector and will not reduce regulatory burden for education and care service providers, but may in fact result in confusion.

In South Australia, this bill, if passed unamended, will provide consistent national standards within a nationally cohesive scheme, embedded in the national law and its regulations. South Australia, and those who provide and use education and care services in this state, deserves transparent and easily accessible regulations. Under the national system, everyone else in Australia will be able to look to the national regulations and have access in one place to the detail about their operating requirements, including their transitional provisions.

South Australian providers and families will not be well served if this state's parliament unwisely details some ad hoc transitional regulations in this act which are replicated in the national regulations, together with all other requirements, as will be the case if the house agrees to this amendment. The opposition's proposed amendments clearly demonstrate why the national regulations are the appropriate place to describe the complex operational requirements that services must meet, particularly transitional provisions, which interact with the primary provision in the national regulations. These should not be dislocated and placed on the face of South Australia's act.

I urge members to listen to the voice of the Australian education and care sector, who have indicated strong support for the national regulations as developed. The national regulations, which include transitional arrangements for each state and territory, will assist services in maintaining and improving quality as they transition into the new system. The national regulations acknowledge and support the specific needs of different services in each jurisdiction. If members truly have the best interests of children, families and those who provide education and care services to them at heart, they will not support the amendments proposed by the opposition.

The Hon. J.M.A. LENSINK: They are strong words, minister. I think you may be over-egging the omelette. All we have sought to do is hold the minister accountable for her commitment to the sector. In the content of these national regulations, I do not see where her commitments are. Even the minister's explanation this evening has pulled back somewhat from the fairly strong commitment the minister gave to the sector on 4 November in saying that possibly these things can be amended.

My question is: how can the minister amend the national regulations? What is the date of the next ministerial council meeting? What sort of iron-clad commitment has the minister given, given that there is nothing in black and white, even in her letter to the industry that says she would do what she said in the paper and on radio?

The Hon. I.K. HUNTER: My advice is the minister has taken her concerns, first, to the Australian government for consideration, as she committed to representers of the sector. Other jurisdictions have sought changes to some transition provisions as well. The minister will also ensure that these concerns are fully considered as part of the national review of these reforms in 2014, which will occur prior to the implementation of the new ratios that are of concern to some child care providers.

The government is confident that the issues can and will be addressed, as has occurred in other jurisdictions. For example, the jurisdiction-specific draft transitional regulations for Queensland provide for staffing arrangements during rest periods or short absences and, in instances relating to ratios, for providers to maintain their current ratio for an additional period of time through applications to the regulatory authority. South Australia can take the same route.

The Hon. J.M.A. LENSINK: I thank the minister for that explanation, which I do not find satisfying at all, but I will leave other members to determine whether or not they do. But I would also like to address this issue about national arguments and COAG, and so forth, and having to have everything the same in every jurisdiction. We have had this debate before in this place. This

parliament is sovereign to the people of South Australia and other states have not been so silly as to put blind faith in COAG processes and fall like lemmings over the cliff to ensure that they are identical to every other state. My understanding is that Queensland and Western Australia will not necessarily be adopting everything holus bolus, so I do not accept that argument.

There has been a bit of a moralistic argument advanced in this debate that if you really care about the best interests of children you will not support these amendments or you will ensure that this bill comes into force on 1 January. I say that I do not appreciate that sort of argument. I reject it. I think we are here to determine what is good policy, and what is good policy for one group is not necessarily good policy for all.

I could use the moral argument if the government wants to see child care centres close. There may be only one or two of them. I understand the one associated with Playford council is already not going to be able to fulfil the national standards so it is tendering out, and so forth. So we could use that argument, too. But I do not appreciate that sort of moralising, that somehow these amendments are going to severely disadvantage South Australian children and that South Australia would go backwards. I think that is an inappropriate argument to use.

Of course we are all here for the best interests of South Australians, but that does not mean we all have to fall into lock step and not allow some parts of the sector. As I said, the sector does not speak with one voice. The private sector may be only 20 per cent. In other states they are more, in fact. I was lobbied fairly recently by operators in New South Wales not to even pass the legislation here because that would enable them to have some additional force because they are not happy with what is happening there, to which I said I am not accountable to New South Wales operators: I am accountable to South Australian operators.

I do not think it is all hunky-dory. I do not think it is all happiness and goodness and light. People who read *The Australian* would have seen articles in *The Weekend Australian* where people are very concerned about increasing costs. I cannot see that these minor measures that may well ensure some operators are able to keep going and have a little bit of time to adjust are going to cause death and destruction in the childcare sector, particularly when all we are doing is seeking to hold the minister to account for what she is committed to, which she seems to be backsliding from.

The Hon. I.K. HUNTER: The minister is not backsliding in any way at all. In response to the honourable member's assertion that some providers may close, there is absolutely no reason any service needs to close. If they cannot meet a standard they can seek a waiver, and the system is one of continuous improvement to encourage and help providers improve their services over time.

The Hon. R.I. LUCAS: Can the minister clarify one of the questions that the Hon. Michelle has Lensink put? I disagree with the minister. I think she has got five reverse gears at the moment, rather than any forward gears. When would we in South Australia see the changes along the lines of the commitment she has given to the industry sector? Under the proposal that the minister has just outlined, in what year would we see the commitment she has given to the sector in terms of the transitional arrangements?

The Hon. I.K. HUNTER: My advice is that we will see them when the national regulations are made. They are currently in draft form. They are being consulted on with the sector and will appear in chapter 7 of the draft regulations.

The Hon. R.I. LUCAS: Is that early next year? Is it definitely in 2012?

The Hon. I.K. HUNTER: We anticipate that the regulations will be made before the end of this year.

The Hon. R.I. LUCAS: When those regulations are made, I assume the minister is saying she cannot guarantee that the minister's commitment to the industry that the Hon. Michelle Lensink has quoted will be in the regulations, but that she will be fighting to have them included in the national regulations? Is that the best or most favourable summation of the minister's position at the moment?

The Hon. I.K. HUNTER: I am advised that every jurisdiction has transitional provisions and they would have every reason to understand our transitional provisions. If Queensland has transitional provisions that can be agreed to, then why can't we as a state? The aim of it is to move all states and territories from where they are now in 2012, progressively, through to the end of this process in 2020.

The Hon. R.I. LUCAS: If the minister is unsuccessful in her endeavours does this state parliament retain the authority to disallow the national regulations?

The Hon. I.K. HUNTER: My advice is yes.

The committee divided on the new clauses:

AYES (9)

Bressington, A.	Brokenshire, R.L.	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	Lensink, J.M.A. (teller)
Lucas, R.I.	Stephens, T.J.	Wade, S.G.

NOES (10)

Darley, J.A.	Finnigan, B.V.	Franks, T.A.
Gazzola, J.M.	Hunter, I.K. (teller)	Kandelaars, G.A.
Parnell, M.	Vincent, K.L.	Wortley, R.P.
Zollo, C.		

PAIRS (2)

Ridgway, D.W.	Gago, G.E.

Majority of 1 for the noes.

New clauses thus negatived.

Clauses 16 to 20 passed.

Clause 21.

The Hon. R.I. LUCAS: In the second reading I raised a series of issues in relation to the establishment of the new Education and Early Childhood Services Registration and Standards Board of South Australia and its role and responsibilities. When one looks at this section, the functions of the board are to regulate the provision of education services and to prepare and endorse codes of conduct for registered schools. Then there are various offences later on, when one comes to the disciplinary proceedings section, part 7, where a cause for disciplinary action is 'the school has contravened or failed to comply with a code of conduct applying to the school under this act'. There are the various offence provisions as well.

My question is: when the function of this particular board is the regulation and provision of education services, can the minister outline specifically what the government has agreed to in terms of its regulatory regime? Is it solely limited to issues of registration and the management of codes of conduct? There are other advisory functions that I am talking about to the minister but, in terms of its role in relation to schools in particular, is it solely related to the issue of registration and the issues of codes of conduct, or does the government intend, with the very broad first section which says 'regulate the provision of education services', to cover a much wider ambit than just that?

The Hon. I.K. HUNTER: My advice is, no, it is not intended to cover a wider ambit.

The Hon. R.I. LUCAS: Do the government's advisors accept that, if a future government sought to cover a wider ambit, it would be possible to do so given that the function is as broad as 'to regulate the provision of education services'?

The Hon. I.K. HUNTER: The function is regulated in regard to the requirements for registration; so, it is limited by that function.

The Hon. R.I. LUCAS: How does the minister justify that advice when clause 29 says:

The functions of the Board are as follows:

(a) to regulate the provision of education services and early childhood services;

There is a separate function, which is to approve the requirements for endorsement of registration, and a separate requirement to establish and maintain registers. The registration provisions are under paragraphs (b) and (c). Paragraph (a) stands alone in relation to the provision of education services. Does the government accept that a future government could widen the ambit of this particular registration and standards board more broadly than is currently intended?

The Hon. I.K. HUNTER: My advice is that paragraph (a) is not intended to stand alone. We do not believe that it does. Those regulations are governed through clause 43, which deals with registrations of schools. If there were any other requirements to be laid out in the regulations they would, of course, be subject to parliamentary scrutiny.

The Hon. R.I. LUCAS: With due respect to the minister and his advisors, I think that he is wrong, and time will tell. It is quite clear under clause 29:

> The functions of the Board are as follows:
>
> (a) to regulate the provision of education services...

It is not dependent on paragraphs (b) and (c). It stands alone. When one looks at the definition of 'education services' in the definitional clauses, it means:

> (a) courses of instruction in primary or secondary education; and
>
> (b) any other service declared by the regulations to be included in the ambit of this definition...

It is quite clear that the function of this board is to regulate the provision of courses of instruction in primary or secondary school. With due respect (I will not say 'with the greatest respect'), minister, it is my view that his advice is wrong—wrong in law and potentially wrong in practice. I will leave it at that in relation to that particular issue.

My specific question—and I am really approaching these clauses as a group; I am happy to do them individually if you want to—relates to clause 29, which is the code of conduct provision. Can the minister just confirm whether a code of conduct is disallowable by the parliament?

The Hon. I.K. HUNTER: The code of conduct, I am advised, is prepared or endorsed by the board. It cannot come into operation except with the written approval of the minister and a majority of the peak bodies prescribed by regulations for the purpose. It is therefore not disallowable. Under the bill, the board can prepare a code of conduct or endorse a code of conduct that has already been developed.

The authority to require a code of conduct is currently provided in the Education Act. However, this is approved by the minister, and the non-government schools registration board role is to ensure schools' compliance. For example, the National Code of Practice for registration of authorities and providers of education and training to overseas students currently applies to non-government schools under the Education Act.

What the bill does is appropriately locate responsibility for the development or endorsement of the code with the board in consultation with the broader education community and with the endorsement of the majority of the three centres it regulates: the Association of Independent Schools, Catholic Education SA and the Department for Education and Child Development.

To go back a step to comments the Hon. Mr Lucas said that he would leave for now, it is important that we say that the way that clause is to be read is that those issues are to be regulated through registration. That is how they are to be dealt with. The phrase 'endorsement' is defined in the act. Endorsement of a school's registration means an endorsement of a school's registration to enrol full fee-paying overseas students under section 49. It is a separate clause.

The Hon. R.I. LUCAS: It is my strong view that the minister is wrong and that his advice is wrong, and I guess it will be an issue for a future government or administration to ultimately determine that particular issue. I think he is wrong in terms of the advice he has just given the committee.

In relation to the code of conduct, I asked a question in the second reading and I think the minister has indirectly provided an answer to it. Where it says under clause 29 'a majority of the peak bodies prescribed by the regulations', is the minister indicating that those peak bodies will just be the three bodies to which he has just referred, that is, the Catholic education authority, the independent schools authority and the department for education? It will not include other peak bodies such as teacher unions, principal associations or parent associations, for example?

The Hon. I.K. HUNTER: The short answer is yes. The peak bodies the honourable member refers to are those bodies that will be prescribed under the legislation in clause 29(2)(b), specifically to approve, along with the minister, a code of conduct by registered schools that has been prepared or submitted for endorsement by the board.

The Hon. R.I. LUCAS: That is those three bodies you mentioned?

The Hon. I.K. HUNTER: That is correct.

Clause passed.

Clauses 22 to 28 passed.

Clause 29.

The Hon. R.I. LUCAS: I raised questions in the second reading and received a response, but I will quickly raise them again. Specifically, under clause 29 we are talking about preparing and endorsing codes of conduct. Under clause 30 and onwards there are issues about complaints being made by parents or others to the board. Under clause 30, if they get a complaint from a parent about how a child is being treated at a school, in the first instance the board would seek to refer it to the school. Subclause (2) states:

> (2) However, if the Board is of the opinion that the subject matter...
>
> (a) would...constitute a proper cause for disciplinary action under Part 7; and
>
> (b) is of such seriousness that the matter should instead be the subject of a complaint laid under section 62,
>
> the Board may direct the relevant Registrar to lay a complaint...

That is, the board would then handle the issue with the registrar for that particular area. The cause for disciplinary action is where the school has failed to comply with the code of conduct and, in paragraph (g), the school has not provided adequate protection for the safety, health or welfare of a student. I raised the question in the second reading and I raise it now in committee.

In the circumstances we have seen recently, where a secondary-aged student was assaulted on school premises by another student—injured badly, hospitalised, etc.—clearly that would in my view constitute a course of disciplinary action under clause 60 (or at least where an allegation that that is the case, that the school has not provided adequate protection for safety, health and welfare). Can I have confirmed from the minister that it is the government's understanding of the legislation before us that in those circumstances the board and the registrar would be a body charged with the responsibility to investigate such a complaint from a parent against the way a school has managed the occupational health and safety protection issues of students at that school?

The Hon. I.K. HUNTER: Bullying is an issue that affects the whole community, obviously including schools, and is something the government and Department for Education and Child Development takes very seriously. The department requires all government schools to have an anti-bullying policy in place and that all staff and students are aware and understand the mechanics of the policy. These policies are developed with the school governing councils, parents and student representative councils.

Research conducted by Edith Cowan University shows that SA has the lowest rate of bullying in the nation. Nevertheless, the incident to which the honourable member refers at a high school in the northern area resulted in a report being commissioned by the minister which reviewed the department's processes and procedures relating to bullying in schools, known as the Cossey Review.

A number of recommendations made by this review are now being implemented in our government schools which target ways of reducing bullying in schools, including: keeping safe child protection curriculum to teach students about respectful relationships and how to remain safe (this is the department's key preventative program to target bullying and violence); training of more than 170,000 teachers focusing on teaching respectful relationships, which is important in reducing bullying; support for schools to manage bullying; 273 school counsellors' salaries; 37 behaviour specialists; a parent complaint unit to assist families with concerns; and an enhanced focus on cyber safety initiatives through $100,000 of cyber safety grants provided to 45 government and non-government schools to support innovative ideas to keep students safe from cyber bullying.

In instances where the board determines it is a matter related to registration, or it contravenes the condition of registration, re clause 43(1)(b), or provide adequate protection, and the matter is of sufficient gravity, the board's decision to take any action under clause 62 is subject to the requirements that the board must act fairly and in good conscience. It must work with the sector and must take into consideration the prescribed principles in determining an outcome. Any actions taken by the board must be consistent with the intent of the legislation and hold up to judicial scrutiny and review.

Notably, the test used by the board is a balance of probabilities, as it would be inappropriate for the board, in its capacity, to apply the other test of 'beyond a reasonable doubt'. This test pertains to matters of a criminal nature. These clauses operate and must be considered in line with the objects and principles of the act, which include that providers of education services and early childhood services should not be burdened by regulation more than is reasonably necessary and the actions of the board in relation to minimising or responding to a particular risk should be proportionate to the potential harm posed by the risk.

It should be noted that complaints in government schools follow an escalation process. The usual course is for the school to handle the complaint in the first instance and take any reasonable action to help resolve the issues. The complaint may then be escalated to the regional office for further consideration or review. If the issues remain unresolved, the department—usually the school operations unit—may liaise with both the regional office and the school leadership to facilitate appropriate resolutions. The board may be aware of or come across certain types of complaint; however, it is not aimed to hold inquiries or interfere with a decision or directions made at the local level.

The necessary protections are available. There may be instances where formal action is required, and there could be instances where the complaint needs to be referred to the board for consideration; for example, as a disciplinary matter or a registration issue. However, the school remains first point of call to determine and facilitate the courses of action best suited to handling the complaint in the interests of the children and the school community.

The Hon. R.I. LUCAS: It is admirable what the government is doing in its policies in relation to bullying, but can I just clarify? My question is: in the circumstances I have outlined, under the bill—if it is passed—can a parent take such a complaint to the board, and is there a possibility that the board itself and the registrar would, under the proposed regime, conduct the inquiry which, of course, would be different to the current circumstances where one can just go to the police or to the district superintendent, someone else within the government department?

The Hon. I.K. HUNTER: My advice is that all complaints will first go to the school in the first instance, unless the complaint is related to the registration of services. If the complaint is related to the provision of educational services and if it is serious and would, if proved, constitute a proper course for disciplinary action, the board may consider the issue. However, in the first instance, the complaints are referred back to the school and the school will work with police and the department to work out who is most appropriate to address the issue.

The Hon. R.I. LUCAS: That is code for, yes, it is possible. I think it is important that parents are aware—and I think many are not—of what the implications of some of the provisions in the legislation are. I think that it is clear from the way in which this has been drafted that parents in the position of the incident to which I have referred (and there have been many others of a similar nature) do not want to go to the education department. Under this arrangement that the government is providing, this board does have the power and authority to conduct investigations of those circumstances and can take disciplinary action against schools, and I will come to that when we get to clause 62. I might as well raise that now because the minister has referred to that in response, I think, as well. We might as well handle it altogether.

The powers of the board having grounds for an inquiry for disciplinary action under clause 62, the board has the power, on the balance of probabilities, to cancel the registration of a school. Can I clarify that the minister is acknowledging that, if the board conducts an inquiry and, on all the tests and on the balance of probabilities, finds proper cause, the board can cancel the registration of a government school in South Australia?

The Hon. I.K. HUNTER: I am advised that clause 62 includes giving power to the board, if after conducting inquiries in accordance with the act it is satisfied that there is proper cause for disciplinary action against the respondent (a school, for example), to do a number of things,

including impose conditions, cancel a registration or suspend the registration for not more than one year.

The Hon. R.I. LUCAS: The board can also disqualify the respondent from being registered under the act, as I understand it.

The Hon. I.K. HUNTER: I need to add that its actions have to be proportionate to the problem that it is addressing.

The Hon. R.I. LUCAS: I accept that, but does the minister acknowledge that the board, as long as it is proportionate and whatever else the minister has just said, does have the power to disqualify a government school from being registered under the act, or under subclause (4), and can cancel a government school's registration?

The Hon. I.K. HUNTER: That is clearly the case.

Clause passed.

Clauses 30 to 90 passed.

Schedules 1 to 3.

The CHAIR: Are there any questions on any of the schedules?

The Hon. R.I. LUCAS: My only remaining question is under clause 7. The minister was going to get legal advice. He indicated to me that there were any number of clauses during the committee stage where he would be able to provide me with the legal advice in relation to the question I asked on parent members on school councils.

The Hon. I.K. HUNTER: My advice is that the liability provisions in this bill are appropriate to the offences.

The Hon. R.I. LUCAS: That is a non-answer, and the minister knows it. That is not the legal advice. It does not clarify the position at all. All that is saying is that the government is standing on its hind legs and saying that it is appropriate to the offences. The government has that view, and it is fair enough; it can have that view. The question was explicit, and that was: is the government placing any additional liability—

The Hon. I.K. HUNTER: Can you ask the question again?

The Hon. R.I. LUCAS: The question I put back on clause 7 was whether the liability provisions that we are imposing in clause 7 of the bill, going on memory, on parent members of school councils is any more onerous than the existing liability provisions that apply to parents on school councils at the moment under existing statutes.

The Hon. I.K. HUNTER: My advice is they are not more onerous. These are liability protections: they are not liability provisions. They are protections for the volunteer members of school councils. They are not more onerous than that which currently pertains, is my advice.

The Hon. R.I. LUCAS: I thank the minister for that advice. The fact that they are protections is just the reverse or the mirror argument. If the protections are actually lower, then they clearly become more onerous, but if the minister is assuring the committee and the chamber that they are no more onerous on parents who are currently members of school councils, then that was the answer to the question that I am seeking. Thank you.

Schedules passed.

Title passed.

Bill reported with amendment.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (22:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

PARLIAMENTARY REMUNERATION (BASIC SALARY) AMENDMENT BILL

Second reading.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (22:23): I move:

That this bill be now read a second time.

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

Leave granted.

The *Parliamentary Remuneration Act 1990* provides that State parliamentarians have a base salary that is automatically linked to the base salary payable to a Federal parliamentarian, less $2,000 per annum. Other entitlements payable to State parliamentarians, such as electoral allowances, are determined by the Remuneration Tribunal of South Australia.

It is understood that the Commonwealth Remuneration Tribunal, who are responsible for setting Federal parliamentarians' base salary, are considering whether electorate allowances should be regarded as salary, principally for reasons of clarity and transparency.

If the Commonwealth Tribunal determines that electorate allowances are to be incorporated into Commonwealth parliamentarians' base salary there would be a direct flow on effect to the base salary of South Australian parliamentarians, without an offsetting reduction in allowances.

This Bill seeks to suspend until 30 June 2012, the existing arrangement under which the basic salary paid to a Member of Parliament is automatically linked to the annual salary allowance paid to a member of the House of Representatives of the Parliament of the Commonwealth. It will ensure that any move to incorporate electorate allowances into Commonwealth parliamentarians' base salary will not result in any unintended consequences to pay and other benefits from an automatic increase in the basic salary of South Australian parliamentarians.

A decision on whether any changes are required to the *Parliamentary Remuneration Act 1990* can then be made following the outcome of the Commonwealth Remuneration Tribunal's review.

Given the expected timing of a decision by the Commonwealth Tribunal later this year, this Bill will need to pass the Parliament in this session.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Parliamentary Remuneration Act 1990*

3—Amendment of section 3—Interpretation

This clause provides a new definition of *basic salary* to apply for the period between commencement of the measure and 30 June 2012 (being the basic salary payable immediately before commencement of the measure).

Debate adjourned on motion of Hon. R.I. Lucas.

At 22:24 the council adjourned until Thursday 24 November 2011 at 11:00.